

**MEETING MINUTES  
FOR THE  
BOARD OF LAND AND NATURAL RESOURCES**

DATE: FRIDAY, JUNE 23, 2017  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAI'I 96813

**MEMBERS**

Suzanne Case  
Thomas Oi  
Stanley Roehrig  
Sam "Olu" Gon

James Member Gomes  
Chris Yuen  
Keone Downing

**STAFF**

Russell Tsuji-LAND  
David Smith-DOFAW  
Ed Underwood-DOBOR  
Ross Smith-DOT-AIR

Alton Miyasaka-DAR  
Kevin Moore-LAND  
Megan Statts-DOBOR  
Candace Martin-LAND

**OTHERS**

Cindy Young/AG  
Samuel Perez/B1  
Abbey Mayer/D5  
Erin Oleson/F2  
Kaleo Valesco/F1  
Carl Geringer/J1

Kalani Fronda/D3  
Pua Borges/F3  
Jolie Yim/F1  
Manuel Shelly/J3  
Aileen Ulterdyke/E3

Chair Case called the meeting to order at 9:00 a.m. She read the contested case advisory. The next meeting time will be changed to 9:30 a.m. to accommodate outer island flights.

*Items M-11 and Item E-1 will be withdrawn from this meeting.*

**Item M-17** Issuance of a Revocable Permit to the Department of Land and Natural Resources at Honolulu Harbor, Oahu, Tax Map Key no: (1) 1-5-038: Portion of 5.

Joy Allelie, DOT-Harbors Division, presented staff submittal for the use of a storage shed

Board Discussion- None

Public Testimony- None

Motion

**Approved as submitted, (Gon/Gomes) unanimously.**

**Item M-10** Issuance of a Revocable Permit for Office Space in the Main Terminal, Japan Airlines Co., Ltd., Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.

Rob Smith DOT-Airports summarized the space and monthly rent.

Board Discussion- None

Public Testimony- None

Motion

**Approved as submitted, (Gon/Roehrig) unanimously.**

**Item M-14** Cancellation and Re-Issuance of Revocable Permits Situated at Kalaeloa Barbers Point, Island of O’ahu. Exhibit A attached.

Calvert Chun, DOT-Harbors presented staff submittal.

Board Discussion- None

Public Testimony- None

Motion

**Approved as submitted, (Roehrig/Gomes) unanimously.**

**Item M-15** Request for Land Board Authorization and Approval to Consolidate, Re-subdivide, Designate Easements, and Designate Restriction of Vehicular Access Rights As to that Certain 28.026 Acres, more or less, of Lands at Honolulu Harbor, Currently under Management of Department of Transportation between Piers 24 and 29 of Honolulu Harbor (Land Court, State of Hawaii, Land Court Consolidation 82, Section “B”). Tax Map Key No(s): (1) 1-5-038: Por 1, (1) 1-5-038-:011, (1) 1-5-038:017, (1) 1-5-038:023, (1) 1-5-038:068, (1) 1-5-038:072, (1) 1-5-038:073, (1) 1-5-038:074, (1) 1-5-038:077, and (1) 1-5-038:078.

Calvert Chun, summarized consolidating and subdividing under a joint development that was approved by the city.

Board Discussion- None

Public Testimony- None

Motion

**Approved as submitted, (Gon/Oi) unanimously.**

**Item D-9** Issuance of Right-of-Entry Permit to United States on Encumbered Land Onshore at Makua Beach and Unencumbered Submerged Lands Offshore of Makua Beach at Kahanahaiki, Waianae, Island of Oahu, Tax Map Key: (1) 8-1-001: portion of 008 and seaward of 008.

Russell Tsuji, Land Division, explained the submittal was amended to reflect staff's memorandum dated Jun 23, 2017, indicating the land area to be more accurately approximately 4.817 acres, more or less and the submerged land area to more accurately be approximately 22.084 acres more or less. Request came from Army Garrison to search area for any unexploded ordinances.

Board Discussion

Member Roehrig asked that if they were going to detonate any ordinances in the ocean to come to the Board to decide whether to detonate in place, that may be a very sensitive issue, detonation in shallow areas present all kinds of safety and health issues. As trustees of the land we need to know exactly what their plans are as a matter of public policy.

Member Gomes said he spoke to Tsuji briefly and that discussed reporting what they found and how they remediated it. Tsuji said they had planned to report back to the Department, and they can bring it back to the Board.

Cary Nelson, Army Garrison, detonation in the water would occur only if munition was found to be unsafe to move. The plan is munitions that are safe to move we would bring to the land and detonate. Chair Case said it is her understanding that if you feel it is important not to move it, and detonate in the water you would consult with DLNR Division of Aquatic Resources (DAR). Nelson said yes in addition to NOAA.

Member Downing said, setting it off in the water, what is the protocol? Is encapsulated or just open? Nelson replied it is not encapsulated. A small donor charge is attached to it and it is detonated like that. Downing asked how far does the blast go. Nelson said it is hard to tell, depending on the size and how much energetic is in the munition.

Public Testimony-None



### Motion

Member Roehrig made a motion to approve with an amendment that if there is to be a detonation in the ocean, they come back to the Board for approval.

Member Yuen commented against the amendment. He said there is a professional organization that does this. They make a determination that the munition cannot be removed and should detonate in place. Roehrig said he was not opposed to that. Yuen said, then they should just do it, rather than have to come back before the Board and have staff prepare a submittal which takes almost a month. He felt there was no need to create a delay in removing a safety hazard. Roehrig said his objection is not their professional judgment, if the ordinance is large and the blast zone is large and there is no alternative but to do it there I think it is prudent for us to weigh in on safety conditions on the day and time based on the size of the ordinance. Yuen said that is what he assumes they would do, as part of their job. They would come back with a recommendation, I do not think we have the background to challenge their judgment. Leaving the ordinance in place is a potential hazard.

Member Gomes said he agrees with Yuen, the only thing he is asking is that they come back and report to the Board after its done to say, this is what we found, this is what we did. This is what has been coming back to me from the public wanting to know what was done. He agrees, they are the professionals.

Chair Case said that the Aquatic division asked that we have consultation in advance and they have committed to that. Member Oi said he would not want to be approving something like that. It puts liability on the Board. No one on this Board has expertise detonating ordinances.

Chair Case said there is a motion with a proposed amendment. Roehrig would like to change his motion with Gomes amendment of reporting back. Chair Case said Roehrig's proposed amendment to the motion is for Land Division and Army Garrison to come back and report on the results.

### ***Amendment:***

***Army Garrison to come back with staff and report on what, if any munitions were found and how they were disposed of.***

### **Approved as amended**

**Item D-5** Withdrawal from Governor's Executive Order No. 571 to Department of Public Safety for the Territorial Penitentiary; Issuance of Right-of-Entry Permit to the City and County of Honolulu for Honolulu Authority for Rapid Transportation; Kalihi-Kai, Honolulu, Oahu, Tax Map Key: (1) 1-2-013: portion of 002.

Russell Tsuji explained to that the requested ROE on Dillingham Avenue is needed for the Rail Project. Abbey Mayer, Planning & Permitting for HART is present to answer any questions. Mayer said they have come to terms with OCCC with mitigation to their fence line, improvements to their parking area is that will be impacted.



### Board Discussion

Member Gomes asked Mayer if OCCC agreed to all of your conditions. Mayer said yes, the execution of the agreement is dependent on the action of the Board. The projected start date is July 15, 2018, all protocols are in place. Member Oi asked if taking this strip affect the ability to build a new prison on the site? Mayer replied from HART's perspective they have not analyzed that, but presumes that OCCC has in their consideration of our request. Oi said he heard that they were trying to fast track EIS or EA for some of different sites they are using. Would this strip be part of that EIS or EA? Mayer replied Hart is asking for an 10-foot buffer easement. There may be some sound from the guideway. The strip does not warrant either one.

Member Downing asked, the Dillingham corridor, the section you want to take, the Diamond Head side, has that been approved? Or is this going to stop because you still have to get approvals? Mayer said they will be seeking that by August of 2018. We are in the process of the Right-of-way, securing all the property rights. Downing asked about the Blood Bank of Hawaii. Mayer said they have already relocated to Young Street.

### Public Testimony

### Motion

### **Approve as submitted (Gon/Gomes)**

**Item D-4** Authorize the Chairperson to Enter into Memorandum of Agreement Between the Office of Planning and the Department of Land and Natural Resources for the Use of Transit Oriented Development CIP Funds for the East Kapolei Strategic Master Development Plan.

Russell Tsuji, Land Division, presented the staff submittal. He summarized the Master Plan and the Office of Planning was available to answer questions.

### Board Discussion

Member Gomes asked who Tsuji who scopes the size of the water tank? Do they take into consideration who is going to use the water on these parcels? Tsuji replied that currently there is a fresh water tank and second tank would be for irrigation. Gomes asked if it was R-1 water or portable. Tsuji said yes, he believes it is R-1 water BWS). It supposed to be available to irrigate that region. DHHL has their housing and their Headquarters. Gomes said that was why he was asking how they acquire or come to so called putting a water tank up and what capacity. Tsuji said he was not prepared to answer. They take up less than 5-acres.

Member Roehrig said these 4-parcels combined are about a 165-acres is that correct? Tsuji said about there. Roehrig commented that one of the purposes the Land Board and Land Division is to generate operating income for the department. Tsuji said that is what we designated those parcels for, together with other public purposes. Roehrig said RM Towill Corporation is working on a Master Plan, it appears to be a major potential Urban Core Development in

Leeward Oahu on State Land. Shouldn't the Master Plan come before the Board? Tsuji, said, "yes" it would come to the Board, it is in the preliminary stages of conception at this moment. They are working on infrastructure to try to get the basics done first. Should we have some kind of expertise on the financial level for the development to utilize the (2) parcels. Tsuji said, they are working on different scenario's.

Chair Case provided some back-ground information, she looked at parcel by parcel. There is a lot of focus of transit oriented planning. This is one of the few pieces of land that is vacant, closely connected to the end of the Rail and this is the process we are going through to try do planning for what is the right use of these parcels that is consistent for transit-oriented development, consistent with the University of Hawaii, consistent with that area and can generate some revenue for the Department. This is the planning process you are contemplating, and in particular funding is available through the Office of Planning to support that process.

Roehrig asked about the timing of the development. He mentioned that the Board should be fully informed. We want to make sure the funds come back to DLNR. Tsuji said these parcels have been looked at for several years, and there is a possibility at affordable housing that HCDA could develop.

Chair Case said the challenge is when the State has land, DLNR is responsible for, that has urban land potential it is our obligation to try to maximize revenue generating possibilities. You have to look at what the overall public benefit is going to be. Affordable housing or Department Revenue. In order to have revenue, you have to have a cap, it is subject to review by the Legislature. Legislature sometimes directs us to spend the money a certain way.

Gomes asked if there were any parcels in agriculture, are we taking away from farms? Tsuji said there have been discussions. Aloun Farms have moved to Kunia. Member Yuen ask if anyone have a Master Plan? Tsuji said UH has theirs, D.R. Horton has theirs. Yuen asked if Tsuji knew if the City and County Land Use has a sustainable/development plan? Tsuji replied, they do for these parcels. Yuen clarified that this is a conceptual plan. Tsuji said yes. Yuen said the Board should have some input and would like a plan briefing.

Gomes has concerns about the fill-in of the gulch. The percolation of the soil, channelizing, covering the ditch that was formally ag-land, and if there is going to be development there, what are the effects of where is the water going to come out? Is it going to come out into the oceans? How will affect our reefs? Part of planning when they come back to us, I would like to see the issue addressed. Tsuji said they are looking at alternatives.

Gon commented that all these considerations notwithstanding, we are looking at rail terminus, rail line, UH presence, the general populace of Kapolei. What you are seeing is the potential excitement by various Board members over what could be done. Housing, commercial, rail infrastructure, education, all the conceptual environmental consequences of development. Anticipating because of the location development will be happening. The Board sees all the consequences and potential for wonderful things to happen.



Public Testimony-None

Motion

Gon moved to approve.

Member Roehrig suggested that Board members (3) be included in the conceptual planning. Chair said we will put that under consideration for the future.

Yuen added the following amendment:

***The Board's recommendation is to add the condition that the Staff return to the Board with the Conceptual Master Plan for Review and Approval.***

Motion

**Approved as amended (Gon, Gomes)**

**Item J-1** Issuance of a Revocable Permit to Orca SRL, for Purposes of Storing the Vessel Maserati, Situated at Ala Wai Small Boat Harbor, Honolulu, Island of Oahu, Hawaii Identified by Tax Map Key: (1) 2-6-010:003, 005 and 016 (portion).

Dana Yoshimura, DOBOR presented the submittal.

Board Discussion

Member Roehrig suggested that due to the value of the vessel that they have an agent in Hawaii representing the owner. Consider them agreeing to be subject to local jurisdiction. Consult with the AG's office. Yoshimura said that the local representative Karl Geringer is present to answer any questions.

Chair Case commented that it was a great use for the space. It is temporary use and does not affect any development in the area.

Member Downing asked where was this boat before? It is coming from California, it is participating in Transpac. Downing asked that after Transpac they are going to dry-dock it, until they take it to Hong Kong? Yoshimura said it is storage. We are not allowing major maintenance. It is for refit/supply only. Downing asked if they were going to dismantle it to take to Hong Kong or sailing it? Yoshimura was unsure. The request is just for storage, they will have security, a 40-foot container, perhaps. Limited use.

Downing asked Carl Geringer, representing Orca SRL, if they will be dismantling to take to Hong Kong? Geringer said that there will be some rigging work and the mast may come out. The boat will be sailing to Hong Kong. Part of the reason for taking it out of the water is the hurricane season in the central Pacific and the typhoon season in the western Pacific. The plan is to leave in October. Member Gon asked if he would be here the whole time. He said yes, he lives in Hawaii.



Member Gomes wanted to be clear that there will be no major work, taking something out and spray painting it, no fluids leaking because you have no apron under the boat, no fluids going into the ocean. Geringer replied that is correct.

Public Testimony-None

Motion

**Approved as submitted (Gon, Gomes) unanimously.**

**Item M-16** Consent to Lease Lands under Governor's Executive Order No. 3503 to The Food Basket, Inc., Honalo, North Kona, Island of Hawaii, Tax Map Key: (3) 7-9-016:018 and 19.

Randy Teruya, Department of Agriculture summarized the submittal.

Board Discussion

Member Roehrig asked if this is only for Kona (west side). Teruya said yes.

Public Testimony-None

Motion

**Approved as submitted (Gon, Downing) unanimously.**

Break: 10:30 am

Back in session: 10:40 am

**Item B-1** Administrative Enforcement Action for Violation of Hawaii Administrative Rules sections: 13-221-35; 13-221-46; 13-256-3; 13-256-4, Against Mr. Samuel Perez Hults for Engaging in Illegal Commercial Activity on State Lands and in State Waters Adjacent to Kailua Beach Park, Requested Cumulative Fines in the Amount of \$11,000 pursuant to HAR § 13-221-3 and HRS § 200-14.5.

Ed Underwood-DOBOR was present to answer questions.

Public Testimony

Kim Hults submitted written and oral testimony regarding trying to obtain a City and County permit. She spoke to Megan Statts, DOBOR, and submitted an application in 2015 and was told at that time they could not obtain a permit. They reapplied again and receive no response. We do not deny the violation, we are asking for leniency. We already have shut down.

Hults replied, Kailua is not permitted. We have not received any written violation, someone came to house in uniform

Yuen asked about the history of DOBOR submissions. Hults replied they request one for Ala Moana, got no response. Went in physically to apply for Lanikai. We were looking for public access points. We asked for a permit for Waikiki, Haaula or Kuliouou, Laie beach park and got no response. We narrowed it down to an area.

#### Board Discussion

Member Yuen asked if there are other commercial operators permitted to use Kailua Bay waters? Underwood said there are currently (5). Three of them do 6-man outrigger canoe rides and there are (2) kayak operators. Yuen asked how do the kayak operators work. Underwood said the main kayak operator rents off-site and the customer walks the kayak down to the beach, uses it and brings it back. For guided tours, the instructor will go out and stage on the water, then the customers will meet them in the water. Everything is done on the water. County is clear that they do not want any commercial activity on Kailua Beach.

Yuen asked about the ingress/egress zone for wind-surfers at the end of the beach that is the on-board zone? Underwood said yes, it does not encompass the land at all. It is from the shoreline out to sea designated zone. Yuen asked for clarification on use of unencumbered land and commercial activity. Tsuji explained the difference.

Downing asked, we can only give a water permit if they show us they have access? Underwood said if they are going to be setting up on the beach prior to the activity commencing in the water, we want to see they have permission from the landowner, either the Hawaii or City & County of Honolulu. Downing asked if that was the pre-requisite. Can I give a permit for the water because that is what I have jurisdiction on versus coming from land where we have no jurisdiction on? Why can't it be that the State can give the permit for the ocean and let City and County deal with it if they come off County land? Underwood replied that one of the provisions state you need to be in compliance with all federal, state and county rules.

Gomes said the Hult's stated there was no follow up on their application, not only Kailua beach, there were other areas. Why has that not been resolved. Underwood said that Miss Statts forwarded the e-mail string to him and that she explained to them in April 2016 what was needed. The last email we received from them was on April 21, 2016, stating they would get back to us once they gathered the information. They submitted a new permit application in May 2017, we would need the same information to process the permit. We need to see you have permission to do what you want to do at the county beach parks.

There was a robust discussion regarding commercial activities on the beach and access to the water. Member Oi asked if they were ever warned that they were not supposed to be engaging in commercial activity on the beach?

DOCARE Officer Jane Carvalos said received complaints of commercial activity in the area. Upon our observations and investigation, in which we found Mr. Hults to be a person of interest. Through further investigations, collecting all the documentation we needed, making checks through City and County commercial permits as well as DOBOR for water permits we found that they did not have the necessary permits. With two uniformed officers, we visited Mr. Hults



home, we informed Mr. Hults of the violations he would be charged with through the Administrative process. We also verbally informed him that during the submittal process to the Board it was in his best interest to cease and desist activity at Kailua Beach Park. Member Oi asked if they issued a cease and desist letter. Carvalos said no, he was advised of the pending charges, apprised that there would be a civil process pending submittal to the Board.

Chair Case said to clarify, was there a warning before the action? Carvalos was not aware if there was. What you did do was given a verbal outline of this proceeding process. Carvalos said yes. Gomes said while you were investigating or giving violations at Kailua Beach, did you observe any other violations from other vendors or organizations at that time besides this particular party? Carvalos said she observed other kite-surfers and what appeared based on my experience, I am not an instructor, what appeared to be the potential for instruction as far as the commercial element to that, I could not say that it was. I did not see an established pattern.

Member Roehrig asked if they have a form letter stating violations that stated if they continue what would happen. Chair Case said on page 7 of the submittal, the statute on administrative penalties does provide (3) different levels of potential penalties for first, second and third violations. Roehrig said we have that information if you broke the law. Whether or not it is a criminal matter, it is a grey area. We are here to do what is fair and not here to punish unreasonably. We are here to do what's fair under the circumstances. Every case is different.

Yuen made a motion to fine them in violation but reduce the amount to \$2,500. They were aware of the permits needed. It should be enough to dissuade people from conducting commercial activities without permit. Gomes added that we are not here to dispute any of this owners of Sammy's professionalism, integrity, what he does for the community, even the Kite Board Association. The out pouring of aloha from everyone, says how great of a gentleman he is or the family. I agree with Member Yuen, there are some issues we need to address, such as signage. Moving forward to set some kind of precedence is one thing, but to deter anyone else to try to do commercial activity without proper permits is really what we want to look for. To help with enforcement, if the public would download the DOCARE app (DLNRtip). The testimonies that came forward said I seen this and I see that. Maybe now is the time to help out the department and say this is what I seen, here are some pictures to help the department with enforcement. Now if we DOCARE does not act on that, we have some serious problems. Gomes second the motion.

Oi said there are too many grey areas here. He related an experience he had when he was with the Land Division. There was a violation on unencumbered State land. We went there with a letter signed by the Chair to cease and desist to stop now. We were accompanied by DOCARE officers to give the cease and desist letter. That way you give them something formal saying you are doing this wrong. There should be a way to do this and asked Underwood to develop a procedure where it is easier for us to make a decision.

Roehrig said that when you bring a docket of this nature, at least for me, I want to see the mitigating circumstances in the presentation. By the time it comes to us, it is all sanitized.



Member Downing thanked Mr. Hults for being a good steward of the ocean. It is important to me and for you and the gentleman you rescued. It was above and beyond. Yes, you should have a fine, yes, you did things illegal and I think you have learned, and as a family you have tried to look and search areas where you can create a business so that you could live here. I feel \$2,500 for me is high, I think \$1,000 is fair. You should look on the other side of the coin and ask how can we do something to that beach. Create your own non-profit you have these people here that support you. Now looking at other area is and searching, please be careful that when you search other areas to do your activities that you have knowledge of the area.

Chair Case thanked everyone who showed up and obviously cares for this family. And also thank the DOCARE officers and DOBOR, I am sure this was a huge amount of work for you, I know one of the challenges is enforcing the law. This area for the people of Kailua has been challenging there have been extensive proceedings on the County side to come up with the rules prohibiting commercial activity, it is for safety reasons, congestion in the area. So, you cannot conduct commercial activity on the beach, you cannot conduct activities without the proper permits.

Member Roehrig wanted to make an amendment to the motion to reduce the fine from \$2,500 to \$2,000. Member Yuen said he was fine with that.

***Amendment:***

***Reduce fine to \$2,000.00***

**Motion**

**Approved as amended (Yuen, Gomes) unanimous.**

*Chair Case also relayed to the violator, that they have the option to request a contested case verbally by the end of the meeting and follow-up in writing within 10-days. Mrs. Hults said they would decline.*

Lunch: 1:20 pm

Return: 2:00 pm

**Item D-3** Issuance of Right-of-Entry Permit to Trustees of the Estate of Bernice Pauahi Bishop for Removal of Shoreline Encroachment, Keawanui, Molokai, Tax Map Key: (2) 5-6-006: seaward of 008.

Tsuji explained the use of the ROE. Kalani Fonda and Rick Koss are here to answer any question regarding the work they are doing at the fish pond. Fonda gave testimony that KSBE. The current use of the property is an aquaculture facility.

**Board Discussion**

Member Downing asked how deep are you going? Eric Genters, Consultant, said that most of it is a few feet and blue rock gravel. They basically want to remove the concrete and asphalt which has deteriorated over time. Member Gomes asked if the asphalt was in salt water. Genters said that this is an old fishpond and the walls over the years have disappeared/reduced which allowed

the waves to hit this part of the shore where the road was. The asphalt that he saw was no bigger than 12" x 12" Gomes asked how many yards are talking about. Genters said what is in the recommendation could easily fit in a pick-up truck.

Public Testimony-None

Motion

**Approved as submitted (Gon, Downing) unanimously.**

Ross Smith, DOT-Airports presented Items M-1 through M-9 and M-12 & M-13 not previously heard staff submittals.

- Item M-1** Consent to amendment to a Sublease for Non-Retail Space, In-Bond (Duty Free) Concession Agreement No. DOT-A-07-0001, DFS Group, L.P. to TRS Hawaii dba Prada, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-03: Portion of 001.
- Item M-2** Issuance of a Revocable Permit to NAN, Inc. for a Construction Staging Area for Equipment and Materials, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-070: 007, and 043 (Portions).
- Item M-3** Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Larry G. Jefts, Kalaeloa Airport, Tax Map Key: (1) 9-1-13: Portion of 32.
- Item M-4** Consent to Sublease Amendment, State Lease No. DOT-A-11-0005, DFS Group L.P. to Island Shoppers, Inc., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19 and 236.
- Item M-5** Amendment No. 8 to Concession Agreement No. DOT-A-92-0014, for Additional Space, Host International, Inc., Restaurant and Lounge Concession, Kahului Airport, Tax Map Key: (2) 3-8-1: Portion of 19.
- Item M-6** Amendment No. 2 to State Lease No. DOT-A-06-0014, Request to Extend Lease Term to June 30, 2018, U.S. Department of Agriculture, Animal, Plant and Health Inspection Services, Plant Protection and Quarantine, Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.
- Item M-7** Amendment No. 2 to State Lease No. DOT-A-06-0015, Request to Extend Lease Term to June 30, 2018, U.S. Department of Agriculture, Wildlife Services, Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.
- Item M-8** Amendment No. 8 to Concession Agreement No. DOT-A-07-0001, for Addition of Three Kiosks, DFS Group, L.P., In-Bond (Duty Free) Concession, Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 3.

**Item M-9** Issuance of a Revocable Permit for Ramp Space for Airline Offices and the Storage of Aircraft Ground Service Equipment, Japan Airlines Co., Ltd., Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.

**Item M-13** Issuance of a Revocable Permit for a Preferential Hold room at Gate 7, Main Terminal Building, Hawaii Island Air, Inc., Lihue Airport, Tax Map Key: (4) 3-5-01: Portion of 8.

#### Board Discussion

Member Gon asked regarding M-6 and M-7, they requested only a year, do you expect them to come back due to federal funding? Yes, depending on when the Federal Budget comes out and if they have the money on hand.

Member Oi asked what is a preferential holding room (M-13). Smith replied it is the area right outside the gate where passengers wait to Board the plane. You need to show that you have (6) turns, arrivals and departures. Which provides a monthly rate rather than a daily rate. Oi said he noticed that Gate 4 was not used a couple of months ago. Hawaiian was using Gates 5 & 6. Smith replied that Hawaiian increased its services. Oi said Gate 4 is usually used during the summer for mainland flights, how does that work? Smith said they can put another airline into a preferential gate provided there is time for a turn around.

Public Testimony-None

#### Motion

**Approved aforementioned items as submitted (Gon, Gomes) unanimously.**

**Item E-3** Request per HRS§171-43.1 (2013) a direct negotiation with Pacific Historic Parks, an eleemosynary organization, for a Proposed Three-Year Lease for the Operation of an Interpretive and Merchandising Kiosk in Diamond Head State Monument, O'ahu.

Curt Cottrell summarized the proposal for a 3-year lease for kiosk at Diamond Head State Monument.

#### Board Discussion

Member Downing asked if we are supposed to go out to public auction? Cottrell replied, if we were going to do it with the private sector we would. Under statute we could do direct negotiation eleemosynary organization a 501(c)3, so the answer is no, they are not required because they are a 501(c)3.

Downing asked if this percentage is going to kill them? Are you taking that kind of percentage of the gross? Cottrell invited Aileen Ulterdyke from PHP to answer questions. Ulterdyke said what they are hoping to accomplish at the end of this year is close to 1- million dollars in gross



revenue. Our goal for the coming 3-years would definitely higher. We are in the process of forecasting what the next 12 months would be like, putting promotional items in there. Our intention is to higher than a million.

Downing said if you take 15% of their gross and you really want them to be there, I would think of restructuring your first year. I know what a million-dollar business does and if someone took 15% of my gross I would not be able to be creative. I would be worried just making bottom-line. Downing commented that you need to give them a chance to be creative. Downing said again, he felt that restricting the first year and then setting parameters going forward. Cottrell replied they are open to that. The partnership is more important than the revenue. We are trying to find that sweet spot of fairness. It is the heart of Diamond Head, it is a prime retail space.

Downing asked Ulterdyke, what would suggest the first year? Ulterdyke said, I do believe we need to increase. One of the unique challenges of a 501(c)3, if I am bring in money for a particular park, it is my requirement to take the net and return it to you. Whether I put in the rent percentage, if I can make a solid bottom-line, then what I have at the bottom-line I am required to reinvest it in the park in programmatic as aid. The money would still come back to the State. We would like a little more leeway to make sure the 3-year structure that we have created is solid and we can keep the momentum of growth. I would like to do a gradual percent and start at 12%, 13%, then 14%. I would like to see growth and jump to 15%, just not right away.

Downing made the motion to reduce the rent to 12% the first year, 13% for the second year and 14% for the third year, because the aid comes back to Diamond Head.

Public Testimony-None

***Amendment:***

***Reduce rent to 12% for the first year, 13% for the second year, and 14% for the third year.***

**Motion**

**Approved as amended (KD, SG)**

Maria Carnevale, Division of Aquatic presented Items F-1 through F-3, for the request to access PMNM from different agencies

**Item F-3** Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to the Monument Co-Trustees: the U.S. Department of the Interior, U.S. Fish, and Wildlife Service; U.S. Department of Commerce, National Oceanic and Atmospheric Administration; and the Office of Hawaiian Affairs for Access to State Waters to Conduct Conservation and Management Activities and Authorize General Conservation and Management Activities by the Department of Land and Natural Resources, Divisions of Aquatic Resources & Forestry and Wildlife.

Board Discussion-None

Public Testimony-None

Motion

**Approval as submitted (Gon, Gomes) unanimously.**

**Item F-2** Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Dr. Erin Olesen and Dr. Jeff Moore, NOAA Fisheries, Pacific Islands Fisheries Science Center, for Access to State Waters to Conduct Cetacean Assessment Activities.

Board Discussion

Member Gon asked if this was an extension? Applicant Erin Olson said it is a new application, the last permit was in 2010.

Public Testimony-None

Motion

**Approval as submitted (Gon, Gomes) unanimously.**

**Item F-1** Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Education Permit Amendment to Ms. Jodie Yim, Director of Maritime Operations, Marimed Foundation, for Access to State Waters to Conduct Activities for the Kailana Maritime Educational Program Voyage to French Frigate Shoals.

Board Discussion-

Member Gon asked if they always intended to go to the French Frigate Shoals or is this the first opportunity? Kaleo Valsco, Captain, Makani Olu, the recommendation came after taking Fish and Wildlife, NOAA and OHA Partners up there on previous research trips in an effort to expand the marine eco-experience for our students.

Public Testimony-None

Motion

**Approval as submitted (Gon, Oi) unanimously.**

**Item K-1** Time Extension Request [OA-17-11] for Conservation District Use Permit (CDUP) OA-3673 Regarding Completion of Construction for the Hanauma Bay Nature Preserve Rockfall Mitigation Project, located in the Honolulu District, Island of Oahu, on Tax Map Key: (1) 3-9-012:002.

Tiger Mills, OCCL explained the need for the extension request.

Board Discussion-None

Public Testimony-None

Motion

**Approval as submitted (Oi, Gon) unanimously.**

**Item J-2** Request for Approval of Lease Agreement with Makai Marina, LLC for Use of a Portion of Property as a Work, Storage, Dredge Material Dewatering Site, and Haul Route for the Kikiaola Light Draft Harbor Maintenance Dredging Project, Tax Map Key (4) 1-2-006:003 (portion).

Ed Underwood, Administrator, DOBOR presented the staff submittal.

Board Motion

Member Oi asked what are they going to do with the material? Underwood said that they are going to test it. It may go to the land fill. It could go back on the beach depending on what kind of contaminants are in it. Member Downing asked if there any methods out there on how to clean the contaminants? Underwood said he not that he was aware of it. Chair Case said they test for bacteria, metal, and sediment.

Motion

**Approval as submitted (Gomes, Oi) unanimously.**

**Item E-2** Sale of Lease at Public Auction for Concession Purposes and Issuance of a Revocable Permit to Gladys I. Tano for Concession Purposes Pending Public Auction, Waikoloa, Hawaii, Tax Map Key: (3) 6-6-002:035 (Por).

Cottrell asked for approval to go to public auction.

Board Discussion

Member Yuen asked if this was the same family that had a concession at Malaikehana? Cottrell said yes.

Public Testimony-None

Motion

**Approval as submitted (Roehrig, Oi) unanimously.**

**Item D-1** Set-Aside and Grant of Perpetual, Non-exclusive Easement to the Water Board of the County of Hawaii for the Waikoloa Reservoir #1 and Appurtenant Waterlines; Issuance of Construction and Management Right-of-Entry to the Water Board of



the County of Hawaii, Waimea, South Kohala, Hawaii; Tax Map Keys: (3) 6-5-001: 020 portion and 047.

**Tsuji requested to withdraw Item D-1 at this time.**

**Item D-2** Issuance of Right-of-Entry Permit to Maui's Original Hawaiian Corporate Games, Inc., for Sand Sculpting Competition Purposes, Wailea Beach, Paeanu, Honuaula, Maui, TMK (2) 2-1-008: seaward of 109.

Board Discussion-None

Public Testimony-None

Motion

**Approval as submitted (Gomes, Gon) unanimously.**

**Item D-6** Issuance of a Right-of-Entry Permit to Waikiki Rough Water Swim Committee, Inc. for a Swim Race Event to be held on September 4, 2017, at Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-37: por. 21.

Board Discussion-None

Public Testimony-None

Motion

**Approval as submitted (Gomes, Gon) unanimously.**

**Item D-7** Grant of Perpetual, Non-Exclusive Easement to the Department of Hawaiian Home Lands (DHHL) for Access Purposes, Koolaupoko, Waimanalo, Oahu, Tax Map Key: (1) 4-1-008:080 por.

Tsuji introduced Kim Miller, Land Division from Big Island who worked on the submittal

Board Discussion-None

Public Testimony-None

Motion

**Approval as submitted (Gomes, Gon) unanimously.**

**Item D-8** Grant of Term, Non-Exclusive Easement to Gwenette Ann Higa and Kelika Ricky Higa for Landscaping Purposes; Rescind Prior Board Action of March 11, 2010,

Item D-18, *Sale of Reclaimed Land to Gwenette Higa; Rescind Prior Board Action of August 12, 2005, Item D-15, Kaneohe, Koolauloko, Oahu, Tax Map Key: (1) 4-5-007: seaward of 023.*

Tsuji explained the reason for rescinding prior action.

Board Discussion

Member Downing asked what can be done when a person gets a term easement? Can they build an addition to their house? Tsuji said normally, it is a non-exclusive easement, in this case it more for landscaping purposes.

Public Testimony-None

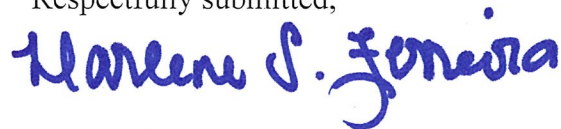
Motion

**Approval as submitted (Yuen, Gon) unanimously.**

**Motion to Adjourn (Oi, Downing) Unanimous.**

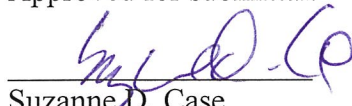
There being no further business, Chairperson Suzanne Case adjourned the meeting at 4:20 pm. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and available for review. Certain Items on the agenda were taken out of sequence to accommodate applicants or interest parties present.

Respectfully submitted,



Darlene S. Ferreira  
Land Board Secretary

Approved for submittal:



Suzanne D. Case  
Chairperson  
Department of Land & Natural Resources