

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

DATE: FRIDAY, JUNE 14, 2013  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

Chairperson William Aila called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

**MEMBERS**

William Aila, Jr.  
Rob Pacheco  
Dr. Sam Gon

David Goode  
Jerry Edlao

**STAFF**

Dan Quinn/PARKS  
Russell Tsuji/LAND  
Galen Kawakami//DOFAW/Acting Admin  
Meghan Statts/DOBOR

Ed Underwood/DOBOR  
Alton Miyasaka/DAR  
Alyson Yim/ENG

**OTHERS**

Bill Wynhoff, Deputy Attorney General  
Martin Hsia: E-1  
Jason Tani: J-3  
Rick Prahrer: D-9  
Jon Uyehara: D-8  
Kenneth Levitt: J-4

Ross Smith/DOT: M-1 - M-5  
Ed Saffery: E-1  
Judith Calma: J-3  
Mr. Rice: D-7  
Edward DeMartini: F-1

{NOTE: Language for deletion is [bracketed], new/added is underlined. }

Chair Aila introduced the two new Land Board Members: James Gomes representing the island of Maui and Reed Kishinami representing the island of Oahu and welcomed them as special guests.

**Item A-1 April 26, 2013 Minutes**

**Unanimously approved as submitted (Pacheco, Gon)**

**Item M-3 Issuance of a Direct Lease to So Ono Food Products, LLC. 3129 Ualena Street, Honolulu International Airport Tax Map Key: (1) 1-1-14-103 (portion):113:114.**

Ross Smith representing Department of Transportation (DOT), Airports Division discovered some additional information that caused a change to the submittal's proper description, but will submit the item in the future.

**Withdraw (Pacheco, Edlao)**

**Item M-1 Issuance of Concession Agreements and Facility Leases for the Non-Exclusive on-Airport Car Rental Concessions at Honolulu International Airport Tax Map Key: (1) 1-1-03:Portion of 1 (Honolulu).**

**Item M-2 Issuance of Concession Agreements and Facility Leases for the Non-Exclusive on-Airport Car Rental Concessions at Kahului Airport Tax Map Key: (2) 3-8-001-019.**

Mr. Smith related some background on items M-1 and M-2 with the issuance of a new concession agreement to consolidate a rental car facility to be built at Kahului Airport. This is for the construction projects.

**Unanimously approved as submitted (Gon, Edlao)**

**Item M-4 Issuance of a Lease for Office Space Federal Aviation Administration, United States of America Honolulu International Airport Tax Map Key: (1) 1-1-03: Portion of 58 & (1) 1-1-03: Portion of 001.**

Mr. Smith related some background on item M-4 seeking approval to execute the replacement of a lease for office space by the Federal Aviation Administration (FAA) which is currently occupied at the Honolulu International Airport.

**Unanimously approved as submitted (Gon, Edlao)**

**Item M-5 Issuance of Direct Lease to Hawaii Island Air, Inc, Honolulu International Airport Tax Map Key: (1) 1-1-72: 25 (Portion).**

Mr. Smith related some background on item M-5 the maintenance of the south off-ramp from the Honolulu International Airport.

**Unanimously approved as submitted (Gon, Edlao)**

**Item E-1 Approval to Remove Various Improvements Located within Easements within Diamond Head State Monument and Appurtenant to Diamond Head View Lots, Unit 1, Lots 1 and IA, Kapahulu, Honolulu, O'ahu, Tax Map Key: (1) 3-1-047: 048, and 049.**

**The Board may go into Executive Session pursuant to Section 92-5(a)(4), Hawaii Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities.**

Dan Quinn representing Division of State Parks (SP) conveyed some background and a brief history on item E-1. The subject lots are located on the slopes of Diamond Head crater, above Diamond Head Road. Mr. Quinn presented an aerial view photo showing the easement in favor of Poka Place, LLC and Martin Hsia. The easement location is a driveway access area. A gate, landscaping, and various other improvements have been built on the easement which led to a dispute between the two neighbors. In the early 60's, the Board approved and granted the easement and subsequently the properties were sold. Staff's recommendation is to have all improvements removed.

Deputy Attorney General (AG), Bill Wynhoff, related his view with having the court resolve the issues between Poka Place and Mr. Hsia. The possible scenarios depending on whether the Board or the Court decides. He noted that if the Board takes action, one or the other of the parties may request a contested case. He wanted the Board to clearly understand that if the issue is decided by the court, the Board might not be able to require removal of the improvements later.

Member David Goode asked if there was a public access easement or public access utility for the two lots. Mr. Wynhoff said no, only for the two parties.

Member Rob Pacheco asked if there will be no improvement unless authorized by the Board. Mr. Wynhoff said the State owns the land and it's in the conservation district.

Member Jerry Edlao asked if there was no approval by the Board in the past. Mr. Wynhoff said that in 1965, the Board approved the gate, and a staff member approved the gate in 1991, but he did not know whether landscaping had been approved.

Russell Tsuji representing Land Division said that he was involved with the easement in the past and was familiar with the area and their issues. The language in the deed is a road easement and there is no separate easement document.

Mr. Quinn clarified Members Sam Gon's and Pacheco's question in regards to the road and gate easement on the aerial view photo.

Mr. Hsia read his written testimony on item E-1 referring to the history of his property and his recommendation to the Board. He urged the Board to act on the submittal, in view of the lawsuit filed by Poka Place against the State and Mr. Hsia on May 28, 2013. Mr. Hsia supports staff submittal and requested the Board not to avoid or withdraw from making a determination because of the lawsuit. He recommended the Board to work with the AG to file a counterclaim against Poka Place for all its present violations of DLNR's regulations, including additional major violations of DLNR's regulations that are not on the easement. On the contrary, if the Board does not file a counterclaim for all of Poka Place present violations, a court may later determine that the Board gave up the rights to enforce its regulations forever, including against major violations that are not on the easement. He emphasized to the Board to protect the lands of Diamond Head State Monument, and encouraged the Board not to be intimidated by Poka Place's lawsuit. He preferred that the Board order Poka Place to remove all the improvements, but if the Board denies the item, then he supports DLNR staff's submittal which allows him to remove the improvements.

Member Pacheco asked Mr. Hsia if he was willing to remove the improvements at his own expense and Mr. Hsia said yes. Mr. Hsia shared some history of the rock walls and the cosmetic designs of the gate, driveway and the 50-year-old home that he currently lives in and desires to remodel. He does not have an access with an easement which prevents him access to his lot except the backyard. He desires to fix the retaining wall on Diamond Head Road to have access while Poka Place refuses to move the intercom. He desires delivery trucks to have access, but he is blocked and no delivery trucks are able to have access. In the past, he had a two-lane driveway, but currently has just one lane. An irrigation system has been installed; landscaping, lighting and bare electrical wires were on the ground. He referred to the dangerous falling coconuts across his home with the \$500,000 lawsuit that happened in San Diego. He refuses to be liable of having coconuts fall on people due to liability reasons. He suggested the Board to exercise their power and if the Board will not order to be removed, then he recommends staff's recommendation.

Ed Saffery, Attorney for Poka Place, LLC testified on item E-1. He disagreed with Mr. Hsia's testimony due to housekeeping matter. If the Board deferred, withdrawn or dismissed Mr. Hsia's recommendation, Mr. Saffery would request for a contested case hearing. He pointed out that Mr. Hsia and DLNR's actions are an issue to the recommendation and agreed to go through the court process which was more appropriate. He recommended the Board to defer the recommendation for the court's future guidance. He made it clear that they did not plant the coconut trees and that the gate has been approved with new construction and pavement. The gate will not affect Mr. Hsia's enjoyment with the property and was uncertain of Mr. Hsia's concerns.

Mr. Hsia provided proof of not having a gate by providing a photo of his son playing on his toy truck in 1989. He felt that Poka Place had attacked his credibility. Mr. Hsia said that Mr. Saffery says that he does not have any standing.

Member Pacheco asked many questions about having access to Mr. Hsia's swimming pool and having construction materials to the mauka side of the house (towards the mountain). Mr. Hsia said that his access is only his backyard and clarified that the easement is the back of the road, the wall of the gate.

Member Pacheco made a motion for the Board to go into Executive Session pursuant to Section 92-5(a)(4), HRS to consult with the attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities. Member Gon seconded that. All voted in favor.

9:42 AM EXECUTIVE SESSION  
10:05 AM RECONVENED

**Member Pacheco made a motion to deny staff's recommendation and instructed the Office of Conservation and Coastal Lands (OCCL) to work with State Parks to investigate any conservation issues and return to the Board with the recommendation for any issue such as fines, removal or permit. Member Edlao seconded that.**

**Unanimously approved to deny (Pacheco, Edlao)**

Mr. Hsia requested a contested case hearing. Mr. Wynhoff reminded him that he needed to follow up with a written request per the rules.

**Item J-3 Amendment to Lease No. H-78-5 La Mariana Sailing Club, Inc., for Extension of Lease Term, Keehi Lagoon, Kalihi, Honolulu, Oahu, Hawaii, Tax Map Key: (1) 1-2-23:52.**

Ed Underwood representing the Division of Boating and Ocean Recreation (DOBOR) conveyed some background on item J-3 requesting an additional five-year lease for the La Mariana Sailing Club, Inc. in accordance to the Hawaii Revised Statutes (HRS) and Section 171-36 (d). Since the tsunami in 2011, Mother Nature has done some damage and a rebuilding of the facility was required. At this point, there is a need of advertisement to the cost and labor which resulted in an extension of a five-year lease which is acceptable with the HRS.

Jason Tani and Judith Calma both agreed with staff's recommendation.

**Unanimously approved as submitted (Gon, Pacheco)**

**Item D-9 Conveyance of State Land to the Hawaii Housing Finance and Development Corporation, Situate at Ewa, Honouliuli, Oahu, Tax Map Key: (1) 9-1-17: 109.**

Russell Tsuji, representing Land Division conveyed some background on item D-9 referring to the conveyance of State land to the Hawaii Housing Finance and Development Corporation (HHFDC) of 19.7 and 17.7 acre parcels and a total of 1,300 total acres in Kapolei for taking the lead in subdivided parcels and leasing the parcels with the entity that were selected in the past.

Rick Prahler representing HHFDC supported staff's recommendation and was currently looking for development. The 17.7 acre parcel was approved for conveyance to HHFDC by the Board in 2008 to develop, manage and operate. HHFDC is currently working on financial planning for the second phase of their project.

**Unanimously approved as submitted (Pacheco, Edlao)**

**Item D-7 Consent to Approval of Self-financed Improvements and Extension of Lease Term, General Lease No. S-5373 Harold F. Rice, Jr. dba FR Cattle Co., Lessee, Lalamilo, Lihue, Koaliula and Waiaka 1, South Kohala, Hawaii Tax Map Key: (3) 6-6-01:02, 77.**

Mr. Tsuji related some background on item D-7 to request an approval for an extension of a lease.

Mr. Rice was available to answer any questions.

**Unanimously approved as submitted (Pacheco, Edlao)**

**Item D-8 Amend Prior Board Action of July 22, 2011, Item D-9 by Changing the and Removing Easement 3 from the Request; Grant of Perpetual Non-Exclusive Easements and the Issuance of a Management Right-of-Entry to Hawaiian Telcom, Inc. and Hawaiian Electric Company, Inc. for Telecommunication and Electrical Transmission Purposes, Honolulu, Oahu; Tax Map Key: (1) 2-1-024:001 portion. Consideration Payable for Easements 1 and 2 from Fair Market Value to Gratis.**

Mr. Tsuji conveyed some background on item D-8 to amend the prior board approval of easement to Hawaiian Electric Company, Inc. and Hawaiian Telcom, Inc. that the standard easement of the entities was a profit to pay market value. Staff believed that the realignment of Beretania Street triggered the need for an easement, but the easement should be granted as gratis. Mr. Tsuji suggested the representatives of both companies to carefully look into putting in lines with a form of documentation to avoid easement issues. He shared some past issues on Maui concerning telephone poles being situated on private lands.

Member Goode asked if the County or State roads have the right of a franchise agreement to have the right of easement. Mr. Tsuji said that the roads should be realigned and suggested receiving an easement and document the lines which at times the lines don't have a form of easement. He gave an example of his home which has a similar situation to item D-8.

Jon Uyehara, representing Hawaiian Telcom, Inc., testified and shared a brief history of electrical lines located at the State Capitol Building 45 years ago. There were no pending files at that time and they were aware that the agreement lines be slightly moved to go under the ramp (underground parking area of the State Capitol Building). Five years ago, Barry Cheung, an agent from Land Division wrote a letter to Hawaiian Telcom requesting to do an Executive Order (EO) for the State Capitol Building which has brought attention to Mr. Uyehara. Hawaiian Telcom has a franchise agreement, but they do not receive easements (part of State Law) and the company pays 200% in revenue.

Member Gon asked if he was fine with the recommendation and Mr. Uyehara said yes.

**Unanimously approved as submitted (Gon, Pacheco)**

**Item F-1 Request for Approval of Special Activity Permit 2013-53 for Dr. Edward DeMartini NOAA, Pacific Islands Fisheries Science Center to Take Undersized Unicorn Tangs and Parrotfishes for A Study on Age and Growth Around the Time of Sexual Maturity.**

Alton Miyasaka representing Division of Aquatic Resources (DAR) said that he had nothing to add in the submittal.

Edward DeMartini, the applicant testified on item F-1 and said that he was available to answer any questions. Member Gon asked if the project was already on its way and Mr. DeMartini said yes.

**Unanimously approved as submitted (Gon, Pacheco)**

**Item C-1 Request Approval for Selection of the Competitive Sealed Proposal Process and Authorize the Chairperson to Award, Execute, and Extend Contracts for the Implementation of Watershed Management Plans Negotiated with Private Landowners and to Implement “The Rain Follows the Forest” Initiative for FY2014.**

Galen Kawakami, Acting Administrator for Division of Forestry and Wildlife (DOFAW) conveyed some background on item C-1 and explained that the forms will be reviewed for the proposed projects and the committee will review the proposed contracts to determine who will receive the funding of the projects.

**Unanimously approved as submitted (Gon, Pacheco)**

**Item C-2 Request for Authorization to Issue an Invitation for Bid and Authorize the Chairperson to Award, Execute and Extend Contract(s) to Install Ungulate-Proof Fencing within the Kīpahulu Forest Reserve, Tax Map Keys: (2)1-7-004:006, and (2)1-6-001:009, Maui And**

**Request Approval of Declaration of Exemption to Chapter 343, HRS, Environmental Compliance Requirements for the Halemano Section of the Kīpahulu Fence.**

**Item C-3 Request for Authorization to Negotiate and Sign a Contract(s) to Install Ungulate-Proof Fencing Within the Alakai Wilderness Preserve and Na Pali-Kona Forest Reserve, and Adjacent Lands Contingent on Landowner Approval, Tax Map Keys: (4) 1-4-001:003, por & 5-8-001:001, por, Kauai And**

**Request Approval of Declaration of Exemption to Chapter 343, HRS, Environmental Compliance Requirements for Project.**

Mr. Kawakami said that there were no changes to items C-2 and C-3.

**Unanimously approved as submitted (Edlao, Gon)**

**Item D-11 Amend Prior Board Action of September 28, 2001, Item D-4, as amended, Delegation of Authority to Issue Right-of-Entry Permits on Unencumbered State Lands. The Purpose of the Amendment is to Declare an Exemption from the Requirements of Hawaii Revised Statutes Chapter 343 on Environmental Assessments for the Wiki Permits System, Restrict to the Chairperson the Delegation of Authority to Issue Right-of-Entry Permits, Specify the Circumstances under which Right-of-Entry Permits onto Unencumbered State Lands will be Issued by the Board and the Chairperson, Establish a Schedule of Fees Applicable to the Processing of Late Requests for Right-of-Entry Permits, and Implement a Procedure for the Issuance of After-the-Fact Right-of-Entry Permits under Special Circumstances.**

Mr. Tsuji conveyed some background on item D-11 to bring this policy Statewide. Both Kevin Moore and Barry Cheung, Land Division Agents, worked together on proposing a fee schedule to either prorate or increase the fee for fireworks or any type of commercial activities. In regards to fireworks, a charge fee is based on the size of the area where the fireworks are exploding, but there were no fees for the exclusive zone that blocked off public access to the shoreline which was not on the submittal.

Member Edlao suggested charging the firework fees with an additional \$500 of the surcharges. Mr. Tsuji said that in the past the customers have been charged 10 cents per square foot. He pointed out that the customers that blocked public access due to safety reasons have coned the area which did not allow the public to enter within hours upon hours at a time. As a result, Land Division suggested to access the location sites recommended the customers pay for submerged lines and exclusive zones which certain customers may oppose.

Member Pacheco pointed out that the Sandal Company, a destination management company, has other components that are not necessarily itemized, but may be bulked up to \$2,000 instead of the 3%, to simplify the fee. Mr. Tsuji was in favor of \$1,000, and the Chair and both Members Goode and Edlao all agreed with Member Pacheco's recommendation of \$2,000 even.

**Approved as amended. On page 4, the Board amended the surcharge chart in part, as follows:**

<b>"In the second <u>week</u> before the event"</b>	<b>"\$1,000"</b>
<b>"One week or less before the event"</b>	<b>"\$2,000"</b>

**Unanimously approved as amended (Pacheco, Edlao)**

- Item D-1** Set-Aside to the County of Kauai for Public Park and Ancillary Purposes; Issuance of an Immediate Construction and Management Right-of-Entry to the County of Kauai Repair, Reconstruction and Maintenance of Existing Seawall Purposes, por. Kapaa Town Lots, 2<sup>nd</sup> Series, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-5-002:023.
- Item D-2** Amend Prior Board Actions of August 10, 2012, agenda item D-1, and January 11, 2013, agenda items D-11, D-13, and D-14 by Adding the Issuance of Management Right-of-Entry regarding the following cases:
- Amend Prior Board Action of October 28, 2011, Item D-8, Grant of Term, Non-Exclusive Easement to Harlan Cabot Amstutz and Patricia Price Amstutz, Co-Trustees of the Amstutz Family Trust Seawall and Stairway Purposes, Koloa, Kauai, Tax Map Key (4) 2-6-003:018 & 060, to Request a Deferral Regarding Tender of Consideration for the Easement. And
- Grant of Term, Non-Exclusive Easement to Minatoya Real Estate, LLC for Seawall and Steps Purposes; Assess Administrative Costs of \$200; Kualoa, Koolaupoko, Oahu, Tax Map Key: (1) 4-9-009:seaward of 005. And
- Grant of Term, Non-Exclusive Easement to Douglas & Kathleen Giannetti for Seawall Purposes, Assess Administrative Costs of \$200, Kawailoa, Waialua, Oahu, Tax Map Key: (1) 6-1-003:024-0001 seaward. And
- Grant of Term, Non-Exclusive Easement to West Coast Roofing, Inc. for Seawall Purposes; Assess Administrative Costs of \$200, Makaha, Waianae, Oahu, Tax Map Key: (1) 8-4-005:seaward of 002.
- Item D-3** Consent to Assign Land Office Deed No. S-28,325, Stanley Marple Randolph, of that certain unrecorded Revocable Trust Agreement dated May 6, 1985, Assignor, to Fernando Carino Afable and Mary Kathryn Afable, Assignee; Amendment of Land Office Deed No. S-28,325 to Allow it to Run with the Land; Waiakea, South Hilo, Hawai'i, Tax Map Key: (3) 2-4-01: portion of 24.
- Item D-4** Rescind Prior Board Action of February 11, 2011, Item D-10, Grant of Term, Non-Exclusive Easement to Douglas Lee Callahan & Madeline Cochrane Callahan for Access and Utility Purposes; After-the-Fact Consent to Assignment of Land Office Deed No. S-28,211, M. Jeffrey White and Judy A. White, also known as Judi A. White, Assignor, to Duncan McDonald and Crystal Lyn McDonald, Assignee, and from Duncan McDonald and Crystal Lyn McDonald, Assignor, to Douglas Lee Callahan and Madeline Cochrane Callahan, Assignee; Amendment of Land Office Deed No. S-28,211 to Allow the Easement to "Run With the Land" and be Assignable Without the Prior

**Written Consent of the Board of Land and Natural Resources, Hanawana, Hamakualoa, Maui; Tax Map Key: (2) 2-9-011:008 por.**

- Item D-5** Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach Every Friday From October 4, 2013 to September 26, 2014, and Every Tuesday From July 2, 2013 to December 31, 2013, Waikiki, Honolulu, Oahu, TMK: (1) 2-3-037:021 (Portion).
- Item D-6** Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Set up and Firing of Aerial Fireworks Display on July 4, 2013, Ouli, South Kohala, Hawaii, Tax Map Key: (3) 6-2-02: seaward of 04.
- Item D-10** Issuance of Right-of-Entry Permit to Department of Health, Clean Air Branch for an Air Monitoring Station on Land Encumbered Under Governor's Executive Order No. 3908, Waimalu, Ewa, Oahu, Tax Map Key: (1) 9-8-013:029 (Portion).

Mr. Tsuji said that there were no changes to items D-1, D-2, D-3, D-4, D-5, D-6 and D-10.

**Unanimously approved as submitted (Pacheco, Edlao)**

- Item E-2** Denial of Request for Contested Case Hearing Regarding BLNR Agenda item E-1, March 22, 2013, Regarding the Issuance of Six (6) Direct Leases to Occupants of Lands at Ahupua'a 'O Kahana State Park, Ko'olauloa, O'ahu, Tax Map Key: (1) 5-2-002:001.

**Board may go into Executive Session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities.**

Mr. Quinn related some background on item E-2 referring to item E-1 that was held on March 22, 2013 Land Board meeting. The sole basis of the claim is that Act 15 is a special law, unconstitutional pursuant to article XI, section 5 of the Hawai'i State Constitution. The Board does not have the authority of the Constitutionality Statute; therefore, State Parks is requesting that the contested case be denied which was the advice of the AG's office.

**Unanimously approved as submitted (Edlao, Gon)**

- Item J-1** Delegation of Authority of the Chairperson of the Board of Land and Natural Resources (Board) to Solicit and Award Towing Services Contracts for Statewide Small Boat Harbor Facilities.

Mr. Underwood related some background on item J-1.

**Unanimously approved as submitted (Pacheco, Edlao)**

**Item J-2 Request Authorization to Revoke Commercial Operating Area Use Permit No. O-147 Issued to Waikiki Beach Parasail & Watersports, LLC. for Failure to Pay Permit Fees and Submit Gross Receipt Statements as Required by Hawaii Administrative Rules.**

Mr. Underwood conveyed some history background on item J-2. DOBOR issued the permit to Waikiki Parasail & Watersports, LLC in 2012. The company did not operate since the beginning of their permit and has been delinquent in permit fees, with a total of \$31,250.00 and till this day, they are currently not operating.

**Unanimously approved as submitted (Pacheco, Goode)**

**Item J-4 Administrative Enforcement Action for Violation of Hawaii Administrative Rule, Section 13-231-26, Use of a Vessel as a Place of Principal Habitation, Keehi Small Boat Harbor, to the Following Individuals: Stephanie Aponte, Kenneth Levitt, Richard Czercowy, and Sandra Bauer.**

Written testimonies from Sandra Bauer and Stephanie Aponte were distributed to the Board Members.

Mr. Underwood conveyed some background on item J-4 regarding illegal live-a-boards in the State Boat Harbors and enforcement actions at Keehi Small Boat Harbor (KSBH). DOBOR staff made numerous attempts to address the issue to notify by certified letters to the individuals. The Division of Conservation and Enforcement (DOCARE) and DOBOR staff did an investigation on the individuals that were found in their boats. The four individuals were issued each a \$1,000 fine.

Kenneth Levitt testified that he was one of the individuals found in his boat. He shared his history of when he purchased his boat in 2004 and disclosed he does not have a live-a-board slip because he has a primary residence. As a taxi cab driver, he currently works the graveyard shift. Mr. Levitt disagreed with paying the \$1,000 fine because he overslept for only 30 minutes past midnight which he claimed was an accident and has never done that before. He shared the history of when he purchased his 30-foot boat and later was told that his boat was over a foot long which required a certain fee or he would have to adjust his 30 foot boat to 29 feet by removing the swim stair. Mr. Levitt said that the swim stair was a safety feature and provided accommodation. The Chair suggested a portable ladder rather than the swim stair, but Mr. Levitt was not in favor of the Chair's suggestion; as a result, Mr. Levitt paid the penalty for the oversized boat of 1 foot. In March 09, 2013, he requested a live-a-board permit, but the Keehi Harbor master did not accept his application because Mr. Levitt was told that his application would pile up with the rest of DOBOR's documents. The Keehi Harbor master recommended a stay-a-board slip instead.

Meghan Statts, DOBOR staff, confirmed that there was no wait list for a live-a-board except at KSBH.

Member Pacheco asked for clarification on the process when DOBOR and DOCARE investigated the individuals in their boats. Mr. Underwood said that tenants called DOBOR and complained of certain people illegally living in their boats. After the complaints, a letter was written and sent to the individuals. There is a follow up in regards to the letter, and then staff does a walk through or a phone call is being done if there is no response from the individual and finally an investigation takes place.

Due to the high crime at KSBH, Mr. Levitt keeps his television running all night to avoid thieves. Member Edlao did not find favor the fact that Mr. Levitt made others believe that he was living in his boat, which subsequently allowed DOBOR to investigate.

Member Gon agreed to have each of the (4) individuals pay a \$1,000 fine and Member Edlao seconded that.

Member Goode suggested a second discussion and Member Pacheco seconded that. Member Goode recommended an amendment for Mr. Levitt to pay a \$500 fine instead of \$1,000 because of his mishap of falling asleep in the middle of the night, but Member Edlao said no because the vote was called for the (4) individuals in violation to pay \$1,000.

**Approved as submitted (Gon, Edlao)**

The Chair confirmed that the vote was for a \$1,000 fine for the (4) individuals. Mr. Levitt requested for a contested case hearing and the Chair said to follow up in writing within 10 days.

**Item J-5 Request Approval to Reimburse Big Blue Boat Corporation and Slip 10, Inc. for Made to Slip 10 and 11 at the Lahaina Small Boat Harbor, Maui.**

Mr. Underwood conveyed some history on item J-5 with Big Blue Boat Corporation and Slip 10, Inc. having worked with the Division of Engineering and FISCAL on the improvements made to the facility dock repair. Due to the improvements that have benefitted the State, an approval of financial reimbursement is requested to the commercial operators.

**Unanimously approved as submitted (Edlao, Gon)**

**Item J-6 Sale of Concession by Sealed Bid for the Operation of a Beach Concession Services at Waikiki Fort DeRussy Beach, Island of Oahu, Hawaii, Tax Map Key No. (1) 2-6-005:08.**

Mr. Underwood related some background on item J-6, asking permission to proceed with the sale of a beach concession at Waikiki Fort DeRussy Beach.

**Unanimously approved as submitted (Pacheco, Edlao)**

**Item L-1 Appointment of Dylan Shropshire as Hamakua Soil and Water Conservation District Director.**

Alyson Yim representing Engineering Division said there were no changes to item L-1.

**Unanimously approved as submitted (Edlao, Pacheco)**

The Chair apologized to his fellow Board Members concerning the West Hawaii Rule Package, which will be on an upcoming agenda at the next Board meeting in its entirety and full discussion to be held on June 28, 2013. Member Edlao appreciated the Chair's consideration.

**Adjourned**

There being no further business, Chairperson William Aila adjourned the meeting at 11:05 a.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Marlou Lamblack  
Land Board Secretary

Approved for submittal:



William J. Aila, Jr.  
Chairperson  
Department of Land and Natural Resources