

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

DATE: FRIDAY, JANUARY 24, 2014
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 9:03 a.m. The following were in attendance:

MEMBERS

William J. Aila, Jr.
Rob Pacheco
David Goode

Reed Kishinami
Jimmy Gomes

STAFF

Russell Tsuji/LAND
Sam Lemmo/OCCL
Ed Underwood/DOBOR

Lisa Hadway/DOFAW
Alton Miyakasa/DAR
Carty Chang/ENG

OTHERS

Dan Morris: Deputy Attorney General
Joseph Earing: D-4
Dan Purcel: D-4, J-4
Sue Delpy: K-1
Bob Kinzie: F-1
Donne Dawson: J-4

Ross Smith: M-1, M-2, M-3
Georgette Yaindl: D-4
Ken Van Bergen: K-1
Ken Fujiyama: K-1
Sam Moku: D-7

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

Item A-1 Approval of November 8, 2013 Minutes

Unanimously approved as submitted (Goode, Gomes)

Item A-2 Approval of December 13, 2013 Minutes

Approval of December 13, 2013 Minutes pending.

Item M-2 Consent to Assignment of State Lease No. DOT-A-13-0023 From Helicopter Consultants of Maui, Inc. to Blue Hawaiian Holdings, LLC, Lihue Airport; TMK: (4) 3-5-01: PORTION OF 8.

Item M-3 Amendment No. 1 to Concession Agreement No. DOT-A-13-0011 Automobile Parking Facilities, Additional Premises ABM Parking Services, Inc., Kahului Airport; TMK: (2) 3-8-01:19 (PORTION).

Ross Smith representing DOT-Airports reviewed items M-2 and M-3. Member Goode asked who sets the price of the parking at the airport and if there was going to be another increase or decrease. Smith responded that the price is set by the DOT with the approval of the Governor and didn't anticipate a change in price.

Unanimously approved as submitted (Gomes, Pacheco)

Item J-6 Request that the Board of Land and Natural Resources Approve the Amendments and Compilation of Hawaii Administrative Rules (HAR), Chapter 13-253, Registration and Permit Fees, and Amendments to Hawaii Administrative Rules, Section 13-256-3 Commercial Operator Permit Requirements and Section 13-256-4 Commercial Vessel and Water Sports Equipment Registration Requirements; Authorize the Division of Boating and Ocean Recreation to Conduct a Second Round of Public Hearings Regarding Amendments that were made to Chapter 13-231, Operation of Boats, Small Boat Harbors, and Permits and Chapter 13-251, Waikiki and Kaanapali Ocean Waters, Based on Public Testimony that was Received During the Rule Making Process. Attached to this Agenda and Incorporated Herein are Chapter 13-231 (Exhibit 1), Chapter 13-251 (Exhibit 2), Chapter 13-253 (Exhibit 3), and Sections 13-256-3 and 13-256-4 (Exhibit 4).

Written testimony was submitted by R. Bryan Black, James E. Coon, Kyle Fields, George Lindsey, Richard Kersten, and Glenn Shiroma.

Chair Aila withdrew Item J-6.

Item K-2 Decision on Standing for a Contested Case Petition HA-14-01 by Abel Simeona Lui Regarding Conservation District Use Permit (CDUP) HA-3674, by Kuahiwa Ranch for the Old Plantation Spring Pipeline at Kaiholena, Kau, Island Hawaii, TMKs (3) 9-7-001:001, 004, and 016.

Chair Aila withdrew Item K-2.

Item D-4 Cancellation of Revocable Permit No. S-7811, State of Hawaii, Department of Defense, Permittee; Issuance of Revocable Permit to the Department of Public Safety (PSD) for the Kulani Correctional Facility; Issuance of Immediate Construction Right-of-Entry to PSD, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-4-08:09 por.

Written testimony was submitted by Georgette Yaindl.

Russell Tsuji-Administrator/Land Division explained that this item is canceling the existing revocable permit and reissuing it back to the public safety department. Tsuji had nothing to add and Lisa Hadway was present with more background if needed.

Joseph Earing added background of Kulani and their plan of reoccupying the facility. They won't be adding anything new or changing structures.

Georgette Yaindl a member manager of a Preventive Law Hawaii LLC from Hilo appeared as an attorney for Ohana Ho'opakele, Van Keoki Kahumoku and Cedric Ali'i Ah Sing who are plaintiffs in a complaint that has been filed and is acting and pending in the third circuit court challenging the determination by the Department of Accounting and General Services (DAGS). Yaindl urged the board to deny all three requests. They believe that a correctional facility is an inappropriate use of conservation district land. She submitted testimony the day before and asked to amend that testimony and presented new testimony. Yaindl testified that her clients believe the applicant has not made application nor have application for a Conservation District Use Permit (CDUA). They also believe that the Board does not have legally sufficient information because the submittal doesn't say what the applicant really intends to do. They believe that the elements that are missing are the elements that are required to obtain a CDUA. Yaindl and her clients don't understand why this correctional facility needs to be built on Hawaii Island and feel like it's not compatible in that location. She also expressed her frustration that DAGS did not consult with any other entities. Yaindl asked the Board to deny the approval and/or deny the approval until application and a CDUA has been sought.

Member Goode questioned when suit was filed in district court. Yaindl said December 24, 2013 and received the state's answer on January 21, 2014. She said the court has not set a date to respond and expects something to happen in 8 month time frame, which would be 8 months from August. Yaindl submitted copies of her supplemental.

Russell Tsuji told the Board that he had a letter dated December 13, 2012 from Sam Lemmo with the Office of Conservation and Coastal Lands (OCCL) in regards to the reactivation of Kulani that stated any major repair work, demolition, expansion or new uses require review by OCCL.

Chair Aila asked Sam Lemmo-OCCL if it was the departments' opinion that a CDUP is not required. Lemmo said he believed the repairs have already been authorized via a site plan approval.

Joseph Earing representing DAGS Public Works Division explained that they handled the Environmental Assessment (EA) and the reactivation of this project and made the determination that there was a finding of no significant impact. The CDUP was discussed with OCCL and it was determined that a site plan approval permit was required for this project based on the limited improvements done to the site. This was approved on December 9, 2013 and was signed and returned in concurrence.

Member Gomes asked what kind of faults and defects were found. Earing said that a phase one was not required because no hazardous materials were detected.

Member Pacheco clarified that that they are accepting the property as is and if there is an issue, then the department will not be held responsible. Earing confirmed that was correct.

Lemmo explained that the facility is a legal nonconforming use and in the statute, the facility can and has continued to have the right to be there.

Member Goode asked DAGS if they would be operating under an RP or if they would be operating under a longer term. DAGS said that the DLNR only suggested an RP at this time.

Member Goode then asked the Deputy Attorney General Dan Morris if given that there is a challenge to the EA that is pending in circuit court, if that could prevent the Board from preventing to make a decision on this item. Deputy AG Dan Morris said there's no injunction issued by a court preventing any further action and shouldn't preclude the Board's decision in this matter. He also explained that what is before the Board is an RP issue and the right of entry to do maintenance type of work not any kind of construction work.

Georgette Yanindl asked for the opportunity to reply. She was not happy with the information that was just presented, commenting that everything that was just presented was "I think it's this, I think it's that". Yanindl said that she did research and can't find answers. She wanted to know what an immediate right of entry permit was and can't even find any examples of what that is. She told the Board that they don't know if the permit authorized construction, because it's not before them. Yanindl asked that the Board take the time to get the proper information, so that the decision is informed. She said that if they find evidence that there has been a determination that all that's needed under the CDUP process is a site plan, then they will be back challenging that and would like to have access that information so that they can initiate an appeal.

Chair Aila asked Lemmo to provide copies of the correspondence with the site plan approval. Lemmo agreed, Chair Aila told Yanindl to contact Lemmo and the department would get that information to her.

Tsuji commented that Yanindl went to the Land Division to look for the documents but Land Division didn't have anything other than the letter Tsuji spoke of before.

Member Gomes asked if this could come back to the Board. Chair Aila explained that yes, if the Board takes action then it would come back because Yanindl has said that she will make whatever legal action they are going to make. Chair Aila said that the questions before the Board right now, is if the Board can issue the RP, can they issue the right of entry for construction and after hearing from staff the DAGS the answer is yes.

Dan Purcel testified that he felt the process of the meeting was sloppy and that when dealing with an illegal facility that people claim has been illegal for years the process should not be sloppy because it's not sending a good message to prisoners.

Member Pacheco stated that this facility is not illegal, the prison has been there, and there is legislative statute that directs the opening of the prison back up. Pacheco said if there are legal questions then those need to be taken up in court, but doesn't preclude the Board from making decisions today.

Unanimously approved as submitted (Pacheco, Goode)

Item K-1 Conservation District Enforcement HA-08-26 in Regards to an Alleged Unauthorized use of a Coffee Mill Structure as a Single Family Residence by Lawrence and Ida Smith at Pohoiki, Puna, Island of Hawaii, TMK: (3) 1-3-008:034.

Sam Lemmo Administrator of the Office of Conservation and Coastal Lands (OCCL) presented item K-1 explaining that this was a violation proceeding of unauthorized use of a coffee mill as a single family residence by Lawrence and Ida Smith. Lemmo gave background of the residence detailing the location of the 36 acre parcel and said that this has been ongoing since 2008. The county would like to purchase 26 acres of the parcel to add to Isaac Hale Beach Park, but in order for the subdivision to occur the violation needs to be resolved. OCCL's policy is that they cannot process a CDU application for use when there is a pending violation. Representatives of the Smith's wrote a letter to OCCL saying if they authorize the use of the subdivision to go forward, then they will pay the fine for the unauthorized conversion up to \$15,000 and will file an after the fact CDUA for the conversion. Lemmo told them that was fine and seemed reasonable. OCCL's recommendation is to assess a total fine of \$15,000 and ask them to file an after the fact permit for the conversion of the coffee mill to a single family residence. As long as the fine is paid, OCCL will allow the Smiths to file the CDUA for the subdivision and the single family residence conversion.

Member Pacheco asked Lemmo if he was comfortable with the reduction of the living space and when the structure was converted. Lemmo said that after looking it over he feels like this is something that they are willing to try and it was converted sometime around 2008.

Member Goode questioned the conversion being in violation. Lemmo said if they turn the single family residence back into a coffee mill then they won't be in violation, but the rule says that land use is defined as destruction, demolition, or alteration of any structure building or facility. The use can't be changed without getting authorization from OCCL.

Member Gomes had a question regarding the violation. The violation is \$14,000 plus \$1,000 for administrative costs but the Smith's agreed to pay \$15,000, Gomes asked if it's \$15,000 plus \$1,000 for administrative costs or is the total \$15,000. Lemmo said that \$15,000 was set because it seemed reasonable and he told them \$15,000; \$14,000 plus \$1,000. Member Gomes also asked why this happened in 2008 and it is only being addressed now. Lemmo said there was no excuse for it taking this long, that OCCL is prioritizing their cases because there is a relatively small staff with a high work load. Gomes then asked if the land owners were comfortable with the recommendation that they will comply with the order of \$15, 000 per day. Lemmo said the county was present to represent the Smiths.

Ken Van Bergen Property Manager with the County of Hawaii said that he was representing the County as the buyer and Sue Delpy was representing the Smiths as the seller. Van Bergen explained that in 2010 this property was submitted to the open space commission and authorized the county to purchase this 26 acre parcel unaware that there was a violation. The County has applied for subdivision 13-00-1312 and is with the planning department and is being processed now. The County has every intention of purchasing this parcel for preservation with the approval of the Board. Van Bergen explained that once this property is acquired by the county it would never be sold or developed, it's to preserve forever for the public. The county is willing to do whatever they need to legally purchase this parcel.

Sue Delpy with the Law Office of Ted Hong representing the Smiths explained that they are just getting on board with this case and are asking for a deferral of 30 days to work with OCCL and refine the recommendations. Delpy said that working with the county; they feel like together they can come up with better solutions or refine the recommendations.

Member Pacheco asked what specifically in the recommendations they are looking to refine. Delpy said part of it was the timing elements, there was a 60 day reply for the date of payment and they would like to request 30 days more totaling 90 days. The after the fact CDUA permit is another thing they feel may be challenging to get done in 3 months, there is also an Environmental Assessment (EA) that also needs to be prepared in conjunction with the CDUP. They want to get it right and get this resolved but this time frame is tight and don't want to have to come back to the Board to ask for more time.

Van Bergen asked if there was any way to do a conditional approval on the subdivision so that the county can buy the land. Member Goode commented that the subdivision is going to require the CDUP which is going to require the EA.

Member Goode asked if in the purchase and sale agreement that as part of the transaction and Lemmo agreeable, the Board is okay with not getting it in 60 days the \$15,000, that the department gets it when it's closed, so that in escrow everything washes out.

Van Bergen said the problem with that is that the county can't build a contract with them until the subdivision is finalized because in Hawaii County you can't offer to sell an unsubsidized piece of property. Van Bergen is asking that the subdivision be treated separately because the violation is on the property that they're keeping, not the part that they are buying.

Delpy noted that escrow is another option they are looking into so the state wouldn't have to chase the owners for money.

Member Gomes questioned what Vanguan meant before when he said that the Smiths were "hard to work with". Vanguan explained that the Smiths have had medical issues so; it's been hard to work with them in a good time frame. Member Gomes asked Chair Aila about the contingency and working forward like member Goode brought up earlier was legal and something that can be done by the Board.

Member Pacheco asked Lemmo if he had comments on what was just said. Lemmo said he was worried about a deferral because he really wants to close the deal. He tried to make it as simple as possible and doesn't believe the subdivision requires an EA, the subdivision doesn't require an EA and the conversion of the house is not going to require an EA because it's an existing structure, escrow language could be added to make sure the department gets the money, and the conditions can be amended to give them more time to amend the CDUA. Lemmo stated that the rule is clear that a CDUA cannot be processed until the violation is resolved, resolution being action by the board.

Member Goode asked Lemmo if on condition #4 they could get the CDUA in 3 months. Lemmo said that they need to fill out the CDUA application and provide details of the home; he's not averse to giving more time if they need it. He's just worried about differing and trying to rework this and get it rescheduled for land board. Member Goode said that it seems workable.

Member Pacheco asked if on recommendation #3, the payment of the fines, and the time the fines would be paid, if at the close of escrow would be okay and #4 give the 6 months on the EA.

Deputy Attorney General (AG) Dan Morris said he was concerned with timing the payment of fines on future closing or escrow that is yet to be negotiated; giving them additional time to pay the fine that can be preferable to saying they will pay it whenever escrow closes on a contract it hasn't been insured to.

Member Goode said he could see closing escrow or no later than X; he said give them a year got a year got to pay, or close escrow, whatever happens first.

Lemmo said since they can't pay the fine until sale, give them a year and if they don't close escrow, then they have to ask for more time.

Member Pacheco said a year on #3 and six months on #4, Depty agreed.

AG Morris said that the Board can impose the fine and the time frames but they cannot address weather a subdivision is approved or weather the violations are adequately cure.

Ken Fujikama testified that the Smiths are motivated to close the transaction, he relayed that they do want to close. After the conversations with Lemmo Fujikama understood that nothing could be closed until the violations were resolved. He said that anything that can be done to move this forward would be in everyone's benefit. They want to work with the county, but nothing can be done until the violations are gone.

Member Pacheco made a motion to approve amendments to #3, the fines will be paid within one year from the date of this action and #4 from 3 months to 6 months to submit the CDUA. Member Kishinami seconded.

Four Board members agreed to the amendments made to items #3 and #4 and one Board member was in opposition.

Approved as amended (Pacheco, Kishinami)

F-1 Request for Approval of Special Activity Permit 2013-48 for Dr. Robert Kinzie III, SWCA Environmental Consultants, to Use an Electrofishing Device to Remove Alien Predator Species From Within the Uko'a Wetland in Haleiwa, Oahu.

Alton Miyasaka representing the Division of Aquatic Resources had nothing to add to the submittal.

Member Gomes asked if this practice has been used anywhere else. Miyasaka said that there has been limited experience using this method in Hawaii before, they want to explore if this method is effective. Staff's opinion is that when it is used for eradication, that is not an appropriate use, but if it used for selective removals like this project is trying to do, they feel like it can be an effective method. Miyasaka said that they are concerned about killing off native species and this is only directed towards nonnative species. When they go into streams, they make sure there are only nonnatives.

Chair Aila asked about the timing of the project and if it would include an analysis of when the baby opae will move up the wetland. Miyasaka said that the applicant could better answer that question.

Bob Kinzie representing the SWCA explained the electroshocking technique and said that it would be new for Hawaii but the actual technique is standard.

Chair Aila asked about the timing of the application and if consideration had been made about the baby opae and o'opu are in the transition in the marine stage to the rivers and if the electroshocking will be done during those periods. Kinzie explained that as far as he is aware this wetland isn't a transition from an ocean to a stream so they haven't seen any native aquatic organisms.

Unanimously approved as submitted (Gomes, Kishinani)

Item D-7 Amend Prior Board Action of October 11, 2013, Item D-3; Consent to Merger of Oceanic Institute into Hawaii Pacific University; Mutual Termination of General Lease No. 3709; Oceanic Institute, Lessee; Issuance of Direct Lease to Hawaii Pacific University for Scientific Research and Public Exhibiting Facilities of Marine Life; Waimanalo, Koolaupoko, Oahu; TMK (1) 4-1-014:004. And

The Amendment is to seek Board's Authorization for Incorporating Pipeline and Encroachment Easements, Revising the Rent Payable, and Adding Tax Map Key (1) 4-1-014:011 to the Direct Lease.

Russell Tsuji Administrator Land Division briefly reviewed item D-7, the applicant Sam Moku was present and agreed with staff's recommendations.

Unanimously approved as submitted (Kishinami, Gomes)

Item J-4 Administrative Enforcement Action Against Volcom Inc. for Violation of Hawaii Administrative Rule, Section 13-231-51, Business or Commercial Activity at Waianae Small Boat Harbor, Without Prior Approval of the Department or the Proper Execution of an Agreement with the Department.

Ed Underwood Administrator, Division of Boating and Ocean Recreation (DOBOR) reviewed item J-4. This item was regarding an activity that took place where Volcom Inc. was going to do filming, they applied for the proper permits, but DOBOR denied it because they had questions and wanted more information. The company however went ahead and did it anyway. Enforcement action was made and staff is recommending a \$5,000 fine and the Volcom Inc. has agreed to pay the fine.

Donne Dawson with the Hawaii film office testified that she was grateful for the Board because this is the only way to keep filming productions in line. Dawson explained that this was a skateboard ramp that was mounted onto a barge that is towed out to sea offshore and they film skateboarders doing tricks just like you would at a skate park. Dawson said that Volcom Inc. is a 600 million dollar company that was just bought by a fashion branch in France that is worth 10's of billions. She said that \$5,000 amounts to more not much more than a standard location fee for a film production, and feels like that \$5,000 won't act as a deterrent. Dawson recommended that the Board increase that fine to the strongest fine the Board possibly can. She feels like a stronger message needs to be sent to these filming companies so that they know they can't come here and do what they want, when they want and disobey enforcement and boating officials.

Member Goode commented on how compelling Dawson's testimony was.

Dawson described her conversation with Volcom Inc. with them stating that this was just something they needed to go forward with despite the lack of approved permit. She asked Volcom to take off whatever filming was done from the internet and she also found filming done with the same barge at another location. Dawson said that the whole purpose of the film permitting program is so that the community and the environment are not going to be damaged in the process of the filming.

Member Pacheco asked Dawson if she had authority under her film permits to deny film permits. Dawson said they have no authority; the authority is made by the department that has jurisdiction over the land. She said that there is a bill that has been introduced to the senate that excludes reality TV from an unscripted television, from the qualification criteria from their tax credit, because the only real authority her company has is if these filming companies are going apply for a tax credit they need to apply by the law, to amend her previous answer.

Member Goode Dawson what number she thought would send a good message. She said that max fine is \$10,000 and feels that would send a message.

Chair Aila asked if any of the other film companies that are not in compliance involve DLNR. Dawson said yes, one is the American Jungle which films on Hawaii Island and is being investigated. The second one is called the Arch which is a reality show where they were shooting

and launching vessels without permits and they are going to start filming. There's another one involving DOT which caused two accidents. Those were just a few.

Member Gomes asked Dawson what she thought the DLNR or other agencies need to have better guidelines. Dawson would say updating and changing the Memorandum of Agreement with DLNR and DOT because those are 10-15 years old and are very important documents that call for mutual cooperation. Member Gomes asked if she was willing to help with writing stiffer language in that Memorandum. Dawson agreed.

Dan Purcel testified that he had negative experience with Volcom Inc. vandalizing and leaving their stickers all over the place. He encouraged the Board to revisit a lot of the filming community to make sure these filming companies are coming here and are being respectful.

There was discussion about adding administrative fees. The Board asked staff in the future to try to add administrative fees to the fine. Underwood agreed to setting that max fine and the Board can come down if they choose.

Member Kishinami made a motion to approve staff recommendation with the amendment to item #2 to maximize the fine to \$10,000 and ask staff to document what the administrative fees are in future cases. Member Gomes seconded.

Unanimously approved as amended (Kishinami, Gomes)

Item J-1 Approve Petition for Declaratory Ruling and Authorize the Chairperson to Issue an Order Setting a Deadline for Further Briefing and a Date for Oral Arguments from the Petitioner Regarding the Petition for a Declaratory Ruling from Margaret E. Brown for the Issuance of a Regular Mooring Permit and Commercial Use Permit.

Item J-2 Approve Petition for Declaratory Ruling and Authorize the Chairperson to Issue an Order Setting a Deadline for Further Briefing and a Date for Oral Argument Regarding the Petition for a Declaratory Ruling from Virgil H. Koehne, Duly Authorized Representative of the Estate of Carol Ann Moore for the Issuance of a Regular Mooring Permit and Commercial Use Permit.

Item J-3 Approve Petition For Declaratory Ruling And Authorize The Chairperson To Issue An Order Setting A Deadline For Further Briefing And A Date For Oral Argument Regarding The Petition For A Declaratory Ruling From Sarah M. MacInnes For The Transfer Of An Offshore Mooring Permit For Kailua Bay, Hawaii And Vessel Moored Elsewhere Commercial Use Permit For Keauhou Bay, Hawaii.

Ed Underwood DOBOR Administrator explained that a petition of declaratory ruling was filed. Staff is asking to approve the petition for declaratory ruling and authorize the Chairperson to issue and order setting a deadline for further briefing and a date for oral arguments from the petitioner regarding the petition of declaratory ruling.

Member Pacheco thought this was something that come to the Board before and thought this Board had no authority to go through with the approval of a petition for declaratory ruling.

There was discussion about previous item similar to this one and it was recommended by Deputy Attorney General Cindy Young that this be discussed in executive secession.

Member Pacheco made a motion to go into executive secession.

10:39AM EXECUTIEVE SECESSION

10:53AM RECONVENNE

Chair Aila explained to the public that no decision making would be done today.

Joe Fagundes representing the petitioners for items J-1 and J-3 testified encouraging that the hearings be set in a short period of time since this has been pending for 7 months and that both sides should be given the opportunity to respond to the submittals.

Member Pacheco made a motion to approve items J-1, J-2 and J-3 and the encouragement to schedule these hearings as quickly as possible. Member Kishinami seconded.

Unanimously approved as submitted (Pacheco, Kishinami)

Item J-5 Request Approval to Initiate Rule-Making Proceedings to Amend Hawaii Administrative Rule, Chapter 13, Section 13-233-26, Charges for Parking.

Ed Underwood Administrator DOBOR would like to add in the language “state county rates in the county that it’s in.” Maui County doesn’t have parking rates.

Unanimously approve as submitted (Pacheco, Gomes)

Item D-8 Report on the Status of General Lease No. S-5844 (site of the former Naniloa Volcanoes Resort), Waiakea, South Hilo, Hawaii, Tax Map Keys: 3rd/ 2-1-1:12, 2-1-5:13, 16, 17, 27, 32 & 46.

Report on the Status of the Appeal of the Chapter 11 Bankruptcy Case No. 12-02279, Hawaii Outdoor Tours, Inc., Debtor, Filed in the United States Bankruptcy Court, District of Hawaii

The Board may hold a discussion in 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.

NO STAFF SUBMITTAL

Non-action item.

Russell Tsuji Administrator Land Division updated the Board about the Naniloa lease. Staff met with Mr. Brushor and Brushor should have plans for review by mid-February. Tsuji recommends to Board to go into executive secession to discuss the status of the appeal from the bankruptcy order.

Member Pacheco asked what the status of the performance and construction bond was. Tsuji said he has not received either bond, and has sent out a notice of default. Brushor said he would take care of them and indicated that he would be working with the County.

Member Gomes asked Tsuji if he had any idea when this would all be done. Tsuji said Brushor was not definitive, that Brushor wants to come before the Board but is still shooting for the end of November finish date. His budget is 18 million.

Member Pacheco made a motion to go into executive secession. Member Kishinami seconded.

11:09AM EXECUTIVE SECESSION

11:27AM RECONVENE

Item D-1 Request for Issuance of Revocable Permit to Kaiola Canoe Club for Canoe & Equipment Storage Purposes, Kekaha Beach Homes, Kekaha, Waimea (Kona), Kauai, Tax Map Key: (4) 1-3-008:005.

Item D-2 Issuance of Right-of-Entry Permit to Keauhou Volleyball Association for Dinosaur Beach Volleyball Tournament at Kalapaki Beach, Lihue, Kauai, Tax Map Key: (4) 3-5-02:seaward of 2.

Item D-3 Sale of Remnant to Viola B. Atou, Trustee for the Viola B. Atou Self-Trusted Trust dated June 28, 2002, Por. Kapaa Town Lots, Kawaihau, Kauai, Tax Map Key: (4) 4-5-012: por. 3.

Item D-5 Amend Prior Board Action of December 14, 2012, Agenda Item D-8, as Amended on April 12, 2013, Agenda Item D-8, and on August 9, 2013, Agenda Item D-8: Cancel Revocable Permit No. S-7368 and Reissuance of a Revocable Permit to Alexander & Baldwin, Inc., Pulehunui, Wailuku, Maui, TMK: (2) 3-8-08: 1, 8, 20, 35 and 38. And

Amendment Request: Change the TMK Reference of Parcel 1 to Portion of Parcel 1 in agenda Item D-8 of the Board's December 14, 2012 meeting.

Item D-6 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on February 13, 2014, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:021 (Portion).

Russell Tsuji Land Division Administrator had nothing to add to items D-1, D-2, D-3, D-5 and D-6.

Unanimously approved as submitted (Pacheco, Gomes)

Item L-1 Request Acceptance of the Final Environmental Assessment and Approval for the Issuance of a Finding of No Significant Impact (FONSI) for Kawaihae Small Boat Harbor (South) Roadway and Waterline Improvements, Kohala, Island of Hawaii.

Carty Chang Chief Engineer asked to replace page #9 which includes the signature of the DOBOR administrator. No other changes.

Unanimously approved as amended (Pacheco, Gomes)

Item L-2 Approval to Execute a Use and Access Agreement with the U.S. Fish and Wildlife Service for the Hanalei Stream Bank Restoration Project, Kauai, Hawaii.

Item L-3 Request Authorization to Select Consultants and Authorize the Chairperson to Negotiate, Enter and Execute Agreements with Consultants, Contractors and/or Government Agencies to Implement and Administer HRS Chapter 179D, Entitled the Dam and Reservoir Safety Act of 2007.

Item L-4 Appointment of Neil Nakamura to Serve as a Director of the Olinda-Kula Soil and Water Conservation District.

Item L-5 Certification of Election of Mae Nakahata to Serve as a Director of the Central Maui Soil and Water Conservation District.

Item L-6 Appointment of Kimo Falconer to Serve as a Director of the West Maui Soil and Water Conservation District.

No changes to items L-2, L-3, L-4, L-5 and L-6.

Unanimously approved as submitted (Pacheco, Gomes)

Item M-1 Issuance of Construction Right-Of-Entry Permit to Oceanic Companies, Inc., Piers 34 and 52, Honolulu Harbor and Sand Island, Oahu, Tax Map Key No. (1) 5-041-111 and (1) 5-034-004 (PORTIONS THEREOF).

No representative present.

Unanimously approved as submitted (Kishinami, Gomes)

Adjourned

There being no further business, Chairperson William Aila adjourned the meeting at 11:28 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,



Kuulei Moses
Land Board Secretary

Approved for submittal:



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