

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

DATE: FRIDAY, AUGUST 22, 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 9:05 a.m. The following were in attendance:

MEMBERS

William J. Aila, Jr.
Thomas Oi
Christopher Yuen
Ulalia Woodside

James Gomes
Stanley Roehrig
Vernon Char

STAFF

Linda Chow-Deputy AG
Maria Carnavale-PMNM
Kevin Moore-LAND
Dan Quinn-PARKS
Carty Chang-ENG

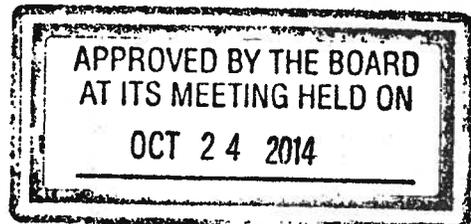
Luna Kekoa- Makai Watch
Sam Lemmo-OCCL
Andrew Chow- DOCARE
Ed Underwood- DOBOR
Gordon Heit-LAND

OTHER

Ross Smith/ DOT-AIR
Dr. Biran Bowen/F-1
Dan Dekins/K-2
Randy Vitousek/ D-13
Jerel Yamamoto/ D-15
Jim Mee/ D-12
Dan Purcell/ D-8, L-1, D-14, D-20
Gary Oda/ D-14

Patti Miyashiro/ DOT-HAR
Jacob Asher/ F-2
Lincoln King/ K-3
Rene Siracusa/ D-13
Linda Kaiser/ D-11
Phil Hanret/ D-8
Bart Howk/ D-17

Chair Aila recognized the two new Land Board Members, Vernon Char and Ulalia Woodside. Board Member Char indicated that he was thankful for the opportunity to serve on the board, and was looking forward to participating in meetings.



Board Member Woodside expressed that she was excited by the opportunity to serve Hawai'i, our lāhui, and our 'āina.

Item A-1 Approval of May 23, 2014 Minutes

Item A-2 Approval of June 13, 2014 Minutes

Item A-4 Approval of July 11, 2014 Minutes

Member Gomes made a motion to approve the minutes of May 23, 2014, June 13, 2014 and July 11, 2014. He has read the minutes and to his knowledge, they have been accurately stated. Member Oi seconded.

Unanimously approved as submitted (Gomes, Oi)

Item M-3 Issuance of a Direct Lease for Truck, Trailer, Container and Employee Parking to Y. Hata & Company, Limited, 2929 and 2919 Ualena Street, Honolulu International Airport, Tax Map Key: (1) 1-1-004:013 and 012.

Ross Smith from Department of Transportation- Airports Division (DOT-AIR) asked to amend this item. DOT has recently received a request from the applicant to reduce the amount of property they will be leasing. The property consists of two lots, each with its own Tax Map Key (TMK). To comply with the request DOT is withdrawing the lot shown on the exhibit as 005119 with the street address of 2929 Ualena Street, TMK (1) 1-1-004:013. It consists of approximately 21,000 square feet. This withdrawal will result in a reduction of rent.

Unanimously approved as amended (Gomes, Oi)

Item M-2 Issuance of a Revocable Permit to Korean Air Lines, Co., Ltd, for the Purposes of a Passenger Check-in Counter, Overseas Terminal, Honolulu International Airport, Tax Map Key: (1) 1-1-003:058 (Portion).

Item M-4 Issuance of a Revocable Permit for Aircraft Storage to Unique Computer Systems DBA the Lange Group, Honolulu International Airport, Tax Map Key: (1) 1-1-076: 022 (Portion).

Item M-5 Issuance of a Revocable Permit for Aircraft Parking to Linne F. Holmberg, Dillingham Airfield, Waialua, O'ahu, Tax Map Key: (1) 6-8-014:016 (Portion).

Item M-6 Issuance of a Revocable Permit for Trailer to Johnson Controls, Inc., Kahului Airport, Maui, Tax Map Key: (2) 3-8-001:019 (Portion).

Item M-7 Issuance of a Revocable Permit for Trailer to Johnson Controls, Inc., Lāna'i Airport, Lāna'i, Tax Map Key: (2) 4-9-002:055 (Portion).

- Item M-8** Issuance of a Revocable Permit for Trailer to Johnson Controls, Inc., Moloka‘i Airport, Moloka‘i, Tax Map Key: (2) 5-2-004:008 (Portion).
- Item M-9** Issuance of a Revocable Permit for Land for Storage of an Office Trailer to K & S Helicopters, Inc., Space No. 006-101, Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-043:040 (Portion).
- Item M-10** Issuance of a Revocable Permit for Land for Storage of an Office Trailer K & S Helicopters, Inc., Space No. 006-104A, Kona International Airport at Keāhole, Hawai‘i, Tax Map Key: (3) 7-3-043: 040 (Portion).
- Item M-11** Issuance of a Revocable permit for a Podium to Alaska Airlines, Inc., Līhu‘e Airport, Kaua‘i, Tax Map Key: (4) 3-5-001:008 (Portion).
- Item M-12** Issuance of a Revocable Permit for a Shared Baggage System to Alaska Airlines, Inc., Līhu‘e Airport, Kaua‘i, Tax Map Key: (4) 3-5-001: 008 (Portion).
- Item M-13** Consent to Assignment of State Lease No. DOT-A-98-0017 from United Air Lines, Inc. to Continental Airlines, Inc. (Now Known as United Airlines, Inc.), Honolulu International Airport, Tax Map Key: (1) 1-1-003:218 (Portion).
- Item M-14** Consent to Sublease of State Lease No. DOT-A-91-0021 from Pacific Aviation Services, Inc. to Airborne Aviation, LLC, Honolulu International Airport, Tax Map Key: (1) 1-1-072:051.
- Item M-15** Consent to Sublease of State Lease No. DOT-A-91-0021 from Pacific Aviation Services, Inc. to AMR Air Ambulance, Honolulu International Airport, Tax Map Key: (1) 1-1-072:051.
- Item M-16** Issuance of a Revocable Permit to Park Mobile Fuel Trucks and Ramp Equipment for Fueling Operations, Barbers Point Aviation Services, LLC, Kalaeloa Airport, Island of O‘ahu, State of Hawai‘i, Tax Map Key: (1) 9-1-013:032 (Portion).

Items M2 and M4-M16 were unanimously approved as submitted (Gomes, Oi)

- M-1** **AMENDMENT-** Issuance of a Right-of-Entry Permit to Hawai‘i Pacific University, Hawai‘i Lifestyle Retail Properties LLC and Swinerton Builders to Provide Ingress and Egress for Forklifts, Roll-off Trucks and Other

Equipment for the Performance of Additional Demolition and Construction Work at the Aloha Tower Marketplace and to Provide Pedestrian Access to Customers of the Aloha Tower Marketplace during the Period of Demolition and Construction, situated at Piers 8, 9, 10, and Pedestrian Access Easement "A", Honolulu Harbor, Honolulu, O'ahu, Tax Map Key: (1) 2-1-001:001 and 063 (Portion).

Patti Miyashiro from the Department of Transportation-Harbors Division (DOT-HAR) explained that the amendment was to add additional area to the right of entry that was previously approved for HPU to continue their renovation to Aloha Tower Marketplace. In addition to the two areas that were added, DOT-HAR has also included a condition that upon written notification, DOT can restrict or limit the access to the areas around Aloha Tower for operational and security purposes.

Unanimously approved as submitted (Gomes, Oi)

Chair Aila explained that since there are so many new Board members, the Department is going to start having informational briefings added to the agenda or briefings the day before Board meetings so the divisions can update the Board on how they are doing.

Item B-2 The Division of Conservation and Resources Enforcement (DOCARE) will Brief the Board of Land and Natural Resources (BLNR) on the State of Hawai'i Makai Watch Program, the Overall Functions of the Makai Watch Program, and the Process and Communication Between DLNR and the Makai Watch Communities.

(No decision will be made/ No Staff Submittal)

Luna Kekoa the State Makai Watch Coordinator with the Division of Conservation and Resources Enforcement (DOCARE) thanked everyone for the opportunity to present the State Makai Watch Program. The mission of the Makai Watch is to enhance the near shore resources by linking volunteers and community members with resource managers and enforcement officers. This relationship helps steward our near shore resources.

The Makai Watch Program is made up of two components: Awareness Raising and Outreach (ARO) and Observation and Incidence Reporting (OIR). ARO is going out and educating people about resources. OIR is being able to effectively take down license plates numbers, and descriptions so that you can turn in a report that DOCARE can follow up. There is also an Optional Human Use and Biological Monitoring Component. This component is optional because everything needs to be standard across the board and some Makai Watch programs find it doesn't work for their communities.

The benefits of the Makai Watch Program are effective stewardship, improved relationships, trained volunteers, outreach and education and DLNR endorsement.

Statewide there are currently 8 Makai Watch communities located on Kaua'i, O'ahu, Maui and Hawai'i Islands. The Governance of the Makai Watch Program is through an Advisory Group which includes government agencies, partners and funders. These are: the DLNR Chair,

Division of Aquatic Resources, Division of Conservation and Resources Enforcement, the Hawaiian Islands Humpback Whale National Marine Sanctuary, KUA- Kua'aina Ulu Auamo, The Nature Conservancy, Hawaii Wailea Fund, and the Coral Reef Alliance, Conservation International, and the Harold Castle Foundation.

Makai Watch Program Standards include; Organizational Representation, Program Support and Evaluation, Makai Watch Site Program Coordinator, Minimum Activity, Management of Volunteers, Training and Education Outreach, Site Program Manuals and Quick Reference Guides, Coordination with DLNR, and Record Keeping.

The Enforcement Chain: the Makai Watch Volunteer is out and sees a violation, they call 643-DLNR, the site coordinator records it on their monthly log and the state coordinator also tracks it. Once the violation gets to a DOCARE branch chief, they will assign it to an officer, the officer will conduct their investigation. Once the investigation is done, the officer reports back to the state coordinator, who reports back to the site coordinator, who reports back to the volunteer.

Member Gomes asked what determines a Makai Watch site, or who picks the sites. Kekoa explained that these sites were chosen through Makai Watch strategies. There is an application if a community wants to put together a Makai Watch. As of right now DOCARE's capacity is 2 per island. They evaluate every 6 months and every month a report is turned in. This all depends on the volunteers, when they are doing their observations and monitoring.

Currently the strategy is being implemented; there are 2 Pilot Projects in Maunalua and Kahana, and Community Trainings.

Item D-3 Enforcement Action Regarding Violations on Unencumbered Public Lands, Unauthorized Land Clearing, Construction of Housing Structures and Removal of 'Ōhia Timber by The Village Green Society/Hawai'i's Volcano Circus, Kehena, Puna, Hawai'i; Tax Map Key (3) 1-2-009:015 portion.

Written testimony was submitted by Ted H. S. Hong, Esq.

Deferred

Item F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Brian Bowen, University of Hawai'i, Hawai'i Institute of Marine Biology, for Access to State Waters to Conduct Genetic Survey Activities.

Maria Carnavale, State Co-manager for Papahānaumokuākea Marine National Monument (PMNM), explained that items F-1 and F-2 are both request for approval for Papahānaumokuākea permits and those that have activities in the state marine refuge. Carnavale reviewed item F-1.

Chair Aila asked Dr. Brian Bowen to come up and explain to the Board why the research is so important and comment on some of the recent findings. Dr. Bowen disclosed that the genetic

connectivity matters because if the resources are depleted on one island, we need to know whether they can be quickly replenished from another island. Over the last few years, they have been finding through their studies that the predominant flow of larvae is to the North West from the main Hawaiian Islands. Therefore responsible management of our resources here in the main Hawaiian Islands is even more important

Member Gomes asked what was being done to replenish fish here on the main Hawaiian Islands. Dr. Bowen told Member Gomes that island by island, day by day management is the best way to do this.

Chair Aila asked if there was an example of a species that they thought they would be able to get more recruits from but now studies show that is not the case. Dr. Bowen said ‘opihi was at the top of that list. ‘Opihi are best managed at the island level.

Member Woodside asked Dr. Bowen if he shares the Hawaiian cultural guidance that helps inform his research or activities. Dr. Bowen confirmed that if a scientific practice was culturally inappropriate, then they don’t do it.

Unanimously approved as submitted (Gomes, Yuen)

Item F-2 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit Amendment to Mr. Jacob Asher, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, for Access to State Waters to Conduct Videographic Surveys of Coral Reef Fishes Research Activities.

Carnavale briefed the Board on item F-2 noting that the amendment to this permit was to add two locations.

Chair Aila asked Jacob Asher who would be the customers or benefactors of the video. Asher said that the first pass of the video is going to be analyzed internally. They are looking first at how video counts of reef fish compares to diver surveys. The second is documenting roving predator populations, such as shark.

Member Oi asked if the cameras are permanently in the water. Asher explained that the cameras are in the water and their deployment time is 1 hour, they typically go out with 4-6 camera stations and deploy them at random sites and random times.

Member Woodside asked if this was their first time doing this in Papahānaumokuākea. Asher explained that they went in May. Member Woodside asked if they were trying to target seasonal cycles or if they are just trying to get on when there is a boat available to take them up there. Asher said it is dependent on when the resources are available. They are trying to go around the same time every year.

Unanimously approved as submitted (Gomes, Yuen)

Item K-2 Conservation District Use Application (CDUA) MA-3706 for the After-the-Fact Recreational Facility by Maui Canoe Club Located at Mā‘alaea Bay, Kihei, Waikapū, Maui, Portion of Tax Map Key: (2) 3-8-005:003.

Sam Lemmo, Administrator for the Office of Conservation and Coastal Lands-OCCL, presented item K-2 giving background on Maui Canoe Club. This is asking for authorization allowing Maui Canoe Club to remain on site. The issue did go to public hearing, where the community was very supportive. This qualifies under a recreational facility under the public purpose use category.

Dan Deknis who helped work on the application thanked Lemmo and the Board.

Unanimously approved as submitted (Gomes, Oi)

Item K-3 Conservation District Use Application (CDUA) HA-3705 Regarding Darrin and Debra Carlson’s Single Family Residence (SFR) Project, Located in the Puna District, Island of Hawai‘i, Tax Map Key: (3) 1-5-010:028.

Lemmo reviewed item K-3. OCCL issued a FONSI- finding of no significant impact. There have been comments from the County. DAR made comments on sewage disposal. The Na Ala Hele program commented regarding the Historic Trail on the property. OCCL asked for more information from Na Ala Hele and the State Historic Preservation Division- SHPD. They have all agreed to a number of conditions to protect the trail. There will be an easement and a buffer zone around the trail. There are also special conditions that require the applicant to implement the preservation plan, provide geographic coordinates for each end of the coastal trail segment and letting them know that the state reserves the right of ownership of Historic trails. Deputy Attorney General Linda Chow stated that the reference in condition #9 should be Chapter 264 HRS.

Member Roehrig asked if the original land grant is on the mauka side or makai side of the property. He understood that the road is on the mauka side, but not the ala hele aupuni. Lemmo wasn’t sure if staff looked at the grant. Lemmo’s concern was if this archeological feature is on this trail.

Lincoln King with Native Technologies explained that they had a full archeological survey done, in consultation with SHPD. Someone from SHPD went out to the property and did suspect the trail was on the makai side of the property. The archeological consultant went in and did a thorough field investigation and found remnants of the trail running 20-30 ft. off the edge of the coast. That is what the easement is at this time.

Member Yuen asked if the public would have the right to walk across the trail. Lemmo thought that would be allowed if the applicants granted an easement to the state. Member Yuen said he was asking because there is currently is a preservation easement, which could mean they would have to preserve the features within the property, but not that the public has access to their trail. Member Yuen wants to be sure that the public has to have lateral access along this Makai trail. Member Yuen asked King if it was his understanding that the public will have the right to walk

across the trail. King responded that the owner understands that the trail needs to be accessible to the public.

Lemmo commented that this isn't one of the conditions. King said it is very unlikely that anyone will want to traverse the trail but his client is willing to work on the language to include that the public does have that right. Member Yuen indicated that this should be a condition.

Member Yuen next addressed exhibit 6 and questioned the "scaloped area of the coastline". King said he didn't walk out to this area due to the thick vegetation but was able to describe the area. Member Yuen explained that the area he was talking about is not on their property, it's about 100 yards away, he said it looked unusual, like something else was going on there that was different. Lemmo added that this was a hazardous area and can fail.

Member Woodside stated that she would like the trail recorded at the Bureau so that future land owners will know there is a significant trail segment on the property and there is a public easement for the trail. Lemmo confirmed.

There was further discussion about the rockwall. Member Roehrig referenced exhibit 13. Lemmo explained that OCCL's main objective was to make sure the archeological features were preserved. Member Roehrig then recommended adding language that includes that any public rights access are not being affected, so if the rights are there, its preserved.

Member Yuen indicated that he would rather amend the condition that requires the preservation plan to say that it includes public access if requested by the state. It would go without saying that any rights that the public have would not be given away by this CDUP, we want the public to be able to walk in places where it's safe.

Member Oi pointed out recommendation #9 stated that the state owns the trail, therefore the state doesn't need an easement on something they own. Member Roehrig added if this trail was there before 1892, then its government land.

Member Yuen said he agreed with what Member Oi and Member Roehrig said, however he has been to the trail and sometimes the owners don't allow access and want evidence that this is a public trail. Member Yuen said that this should be made a condition in the permit. King agreed and said the owners would also agree with the condition.

Deputy AG Linda Chow made the Board aware that if the trail is an 1892 public highways trail, an easement is not needed. She recommended the owner adding an acknowledgement that it is a State owned trail.

Member Yuen made a motion to approve this item, adding a condition that the owner shall allow public access if requested by the State through the preservation easement that has previously been discussed. Member Roehrig seconded.

Unanimously approved as submitted (Yuen, Roehrig)

Item K-4 Proposed Amendment to Chapter 13-5, Hawai‘i Administrative Rules for a Conservation District Subzone Re-designation From the Limited Subzone to the General Subzone Located at Ho‘okena, South Kona, Hawai‘i, Tax Map Key: (3) 8-6-013:009.

Written testimony was submitted by Glenn Shirmoa.

Lemmo went through item K-4 noting that when one of the (4) subzones needs to be changed, then a rule amendment needs to be made. This lot is zoned in the limited subzone and this type of subzone doesn't allow for development of a single family residence. To allow for a single family residence you have to change the subzone, which is what they are trying to do. OCCL didn't find it unreasonable not to allow this amendment. The recommendation would be to change the subzone from limited to general. If successful, then the applicant come forward with a Conservation Use Application to build a second home. The second recommendation is asking to forward this rule amendment to the Governor for approval.

Member Roehrig asked if the subzones for the other lots had the same general subzone. He was asking because there were lots of territorial disputes. Member Roehrig wanted to be sure that everyone else in the area is getting the same thing this lot was getting. Lemmo explained that there is agriculture zoning right next to it. This might encourage other owners to come in and ask for the same thing, and they would have the same opportunity.

Randy Vitousek, representing Fredrick Gregg wanted to address Member Roehrig's question by letting him know that this went to public hearing and 20 people from the Ho'okena community went and testified in favor of this. It's stated in the report that Mr. Gregg has proven to be a good neighbor, a good man and welcomed by the community.

Member Yuen asked if Mr. Gregg still has to apply for a CDUP for the house after the zoning has changed. Lemmo and Chair Aila confirmed.

Unanimously approved as submitted (Roehrig, Yuen)

Item D-13 Issuance of Direct Lease to Puna Community Medical Center for Comprehensive Medical Center Purposes, Keonepoko Nui, Puna, Hawai‘i, Tax Map Key: (3) 1-5-008:005.

Kevin Moore Acing Administrator for Land Division– LAND, reviewed item D-13. The applicant has obtained a FONSI so staff recommendation is to approve the 35 year lease at the nominal rent.

Rene Siracusa President of Puna Community Medical Center thanked staff and asked that the Board consider changing the term from 35 years to 65 years. Hurricane Iselle heightened realization of the need for improved access to emergency medical care. Since everything runs on electricity, when the power went out they couldn't keep the clinic open and lost many of their emergency supplies. When they build this new emergency room, they want to build it so they are not dependent on power lines. This is a small nonprofit in the most economically depressed part

of the State, and they are dependent on grants. Funders look at how long equipment or a facility going to be able to serve the public. By the time they finish staffing and stocking this emergency room 35 years is going to be gone already. The population is growing and they are going to need this more as the time frame gets smaller and smaller.

Member Roehrig asked what the legal restraints were. AG Linda Chow disclosed that the Board does have the authority to change the term of the lease or extend the lease if they qualify at a later date. She gave Member Roehrig confirmation that the Board can change the lease term to 65 years today.

Member Roehrig then asked why the original lease wasn't made for 65 years to begin with. Gordon Heit, the Hawaii Island District Land agent said his understanding was that most nonprofit lease terms are for 35 years.

Member Woodside asked the AG if it was possible to do a 35 year lease with the option to extend. AG Linda Chow said yes, because it's a negotiated lease, the duration can be renegotiated during the term of the lease.

Member Gomes asked Siracusa if it was easy for them to get grants and how many grants do they get a year. Siracusa said they got a senate grant-in-aid this year. There are also several people in the senate who said they will consider following up on subsequent grants to make this happen again.

Member Roehrig made a motion to approve with the amendment of 65 years instead of 35 years.

Unanimously approved as amended (Roehrig, Yuen)

Approved as amended. The Board approved a 65-year lease term, as opposed to the 35-year term proposed in the submittal, and added additional rental re-openings at the 40th, 50th and 60th years of the lease term

Item D-15 Consent to 10-Year Term Extension of General Lease No. S-3716, Hawaiian Fresh Products, Inc., Lessee, Pursuant to Act 207, Session Laws of Hawai'i 2011; Amendment of Terms and Conditions Regarding Allowed Use, Kanoelehua Industrial Lots, Lot 1-A, Waiākea, South Hilo, Hawai'i, Tax Map Key: (3) 2-2-050:015.

Moore reviewed item D-15.

Member Roehrig disclosed that he gets occasional legal advice from Jerel Yamamoto. AG Chow said that's fine, that doesn't disqualify him from voting on this item.

Member Yuen asked how the amendment of the character of use relates to this property being auctioned long ago. Moore explained that this relates to special leases after the tsunami.

Jerel Yamamoto the attorney for Hawaiian Fresh, wanted to know if the provision prohibiting arbitration was consistent with the requirements of law.

There was a discussion of the “no arbitration” provision, with the result that 1) a request for a legal opinion had been made to the AG’s office; and

2) If necessary, the board submittal could be amended after the department receives the AG opinion.

Member Roehrig made a motion to approve the staff recommendation with the understanding that after the AG’s opinion comes in, if it is determined that that Bill 18-33 is applicable to this lease the benefits of that bill be extended to this lease. Member Yuen seconded.

Unanimously approved as amended (Roehrig, Yuen)

Approved as amended. The Board amended the staff recommendation regarding the appraisal for the lease extension period by stating that if the Department of the Attorney General determines that Act 168, Session Laws of Hawaii 2014, is applicable to the appraisal of rent for the lease extension, then the benefits of the act will be extended to the lease.

Item D-11 Issuance of a Right-of-Entry Permit to Waikīkī Rough Water Swim Committee, Inc. for a Swim Race Event to be held on September 1, 2014, at Waikīkī, Honolulu, O’ahu, Tax Map Key: (1) 2-3-37:por. 21.

Linda Kaiser with the Board of Waikīkī Rough Water Swim was present to answer questions. She said this was their 45th swim. The event averages 1000 swimmers from all over the world.

Unanimously approved as submitted (Char, Yuen)

Item D-12 Request for Cancellation of Term, Non-Exclusive Grant Easement No. S-4414 and Issuance of New 65-Year Term, Non-Exclusive Easement to John M. Mehan and Tina Mehan, Trustees of the John M. and Tina Mehan Revocable Living Trust, for Access and Utility Purposes, Waioli, Hanalei (Halele’a), Kaua’i, Tax Map Key: (4) 5-5-006:020.

Moore presented item D-12 explaining that this easement expires in 2039 however the current holder of the easement is requesting that the easement be converted into a perpetual easement. With only 25 years remaining, it’s becoming more difficult for the owner to refinance the property. Staff recommendation is to cancel the existing 65 year easement and issue another 65 year easement that will take care of the concerns about the time remaining. OHA submitted testimony in support of the issuance of a term easement so the ceded lands corpus is not bound by perpetual dispositions.

Member Gomes made a motion to go into Executive Session pursuant to Section 92-5(a) (4), Hawai‘i Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board’s powers, duties, privileges, immunities and liabilities. Member Oi seconded.

Member Yuen asked to hear from the applicant before going into Executive Secession.

Jim Mee the attorney representing John and Tina Mehan gave some background. In 2002 when the owners acquired the property they got title insurance and the policy says there are two access easements. They are advocating for a perpetual easement because the land in question is a government grant from 1852. They are willing to pay the appraised value.

Member Roehrig asked what authority the Board has to give perpetual easements. Mee referred to Section 171-13 subsection 2. He said that he's not advocating that anyone that comes before the Board should get an easement. However, they are asking for one because of historical circumstances for this parcel.

11:04AM EXECUTIVE SECESSION
11:34AM RECONVENE

Member Oi made a motion to go with staff recommendation. Member Roehrig seconded.

Chair Aila told Mee that it is important for his clients to understand that the Board realizes how complex the situation is statewide. Because of the complexity, the Board wants to address these types of requests on case by case basis.

Unanimously approved as submitted (Oi, Roehrig)

Approved as submitted. After emerging from executive session on this item, the Board recognized the complexity of granting term versus perpetual easements, but stated that all requests are to be handled on a case-by-case basis. The Board did not approve the perpetual easement sought by applicant.

Item D-8 Issuance of Perpetual, Non-Exclusive Easements and an Immediate Management Right of Entry Permit for Utility Purposes to Hawaiian Electric Company, Inc.; Rescind Prior Board Action of June 2, 1967, F-11, Kalihi, Honolulu, O'ahu; Tax Map Key: (1) 1-3-022:portions of 002 and 004, (1) 1-4-018:portion of 008; (1) 4-5-042:portion of 002.

Moore reviewed item D-8 explaining that one of the easements received approval back in 1967 but was never documented and has been in use for all these years. The second easement was documented under grant 2720 which expired in April 1960. No action was taken after the expiration but HECO continued to use the easement. Land Division is trying to clean up these two issues. Staff recommendation is to collect \$1,000 for the past use and assess fair market value at the current value of the perpetual utility easement going forward.

Phil Hauret with Hawaii Electric Company (HECO) testified that they support the staff recommendation.

Member Gomes asked Moore how a one-time \$1,000 fee was determined. Moore explained that they could have asked for the amount of perpetual easement at that time in 1967. It's arbitrary,

they are just trying to collect some money for that past use which they project would be a much smaller figure, but the Board will still receive fair market value for perpetual easement.

Dan Purcell testified that he was concerned with the term perpetual. There is a disagreement with who owns the lines, and he is worried that this will be the property of HECO.

Member Roehrig asked why the other people just asked for perpetual and Land Division turned them down. Now HECO wants a perpetual easement and it's okay; how is this okay. Moore said that for utilities, perpetual easements are normally recommended.

Chair Aila clarified that the situation is if the Board doesn't issue a perpetual easement then there is a violation. The Board has to do it one way or the other. Member Roehrig was not satisfied.

Unanimously approved as submitted (Char, Gomes)

Item D-17 Grant of Perpetual, Non-Exclusive Easement to the Water Board of the County of Hawaii (WBCOH) for Water Pipeline Purposes; Authorize the Issuance of a Management and Construction Right-of-Entry to WBCOH, Maka'ula-Kalaoa 1st-4th, North Kona, Hawai'i, Tax Map Key: (3) 7-3-010: 042 & 044.

Moore presented item D-17. This would service the Palama nui development, a private developer will be pay the cost to install the line. Staff recommendation is to issue an easement to the County of Hawaii on a gratis basis perpetually and a management construction of a right of entry to the County of Hawaii who can then have their contractors and consultants enter the property under its authority.

Bart Howk an attorney representing Palama Nui said that the pipeline has already been built. He also commented that one of the conditions was that the County of Hawaii accept the pipeline before Board grant the easement. Howk said he wasn't sure if they would accept it before the Board grants the easement. He asked if there was a way to adjust the language to where both can happen simultaneously. Both their acceptance and the Board's grant of the easement are contingent on one another.

Member Roehrig made a motion to accept staff recommendation, with the added condition that the legal effect will be the action by the Board will precede the acceptance of the line by the county.

Unanimously approved as amended (Roehrig, Yuen)

Approved as amended. The Board approved the staff recommendation, but added a condition that the legal effect of the Board action approving the grant of easement shall precede the Water Board of the County of Hawaii's acceptance of the water line.

Item B-1 Request Approval To Seek The Governor's Approval To Indemnify The City And County Of Honolulu Department Of Parks And Recreation For The Use

Of The Koko Head Shooting Complex On September 20-21, 2014 For National Hunting And Fishing Day Celebration.

Andrew Choy, Acting Program Coordinator for the Hunter's Education Program presented item B-1. This is the 24th annual event in Hawaii, last year's event drew about 700 people. All donations go toward the Food Bank. Last year about 2,500 pounds of food was collected and they raised about \$3,000. The event is a way to celebrate the contributions sports men and women in fishing, hunting and wildlife restoration programs while also giving back to the Food Bank.

Unanimously approved as submitted (Gomes, Char)

Item E-1 Consent to Assign General Lease No. SP-0124 Paul and Arline Matsunaga, Assignors to Isaac and Debra Ho'okano, Assignees. Lot 63, Pu'u Ka Pele, Waimea (Kona, Kaua'i, Tax Map Key: (4) 1-4-002:063.

Dan Quinn Administrator for State Parks- PARKS and Steve Soares, property manager, reviewed item E-1 and provided background. There are approximately 100 leased cabins in the Kokee/Waimea Canyon area on Kauai. These were built primarily by kam'āina families and have been directly negotiated with the people that are there. The people that now have the leases are looking toward assigning those to family members because they are getting older and want to make sure the leases get carried on. These are 20 year periods that would be for the duration of the lease period. Staff recommendation is to approve this with recommendations.

Member Yuen asked if the cabins are permitted as vacation or other short term rentals. Quinn explained that they are not, these are supposed to be occupied no more than 180 days per year, the intent was for these to be retreats.

Member Gomes asked how long ago these cabins were built. Quinn said it ranged from 1920's to 1970's. Many were built in 1920's and 1930's. Any remodeling would requires a State Historic Preservation Division (SHPD) review. Member Gomes asked if an EA would need to be done if someone wanted to get a longer lease. Quinn said that the way the law was written allowed a one-time direct negotiation the last time around; at the end of that period it would go out to an open competitive process.

Member Gomes then asked if there are any identifiable archaeological sites. Quinn said the houses are historic and there are likely pre-contact sites. However anytime anything is being proposed along the ground, state parks archeologist will review everything before anything is approved.

Unanimously approved as submitted (Oi, Yuen)

Item J-1 Request Approval for Termination of Harbor Lease No. H-86-9 (C) Issued to Braun Management Co., Ltd. Located at Mā'alaea Small Boat Harbor, Kealaloe, Ukumehame, Wailuku, Maui, Tax Map Key No. (2) 3-6-01:34.

Ed Underwood, Administrator of the Division of Boating and Ocean Recreation- DOBOR, explained that it came to DOBOR's attention that Braun Management Co., Ltd otherwise known as Buzz's Restaurant had closed. Underwood contacted the Vice President, Sandra Bowen, and confirmed that they were closed for business due to the downturn in economy. After checking records DOBOR did find that they were a little behind in rent. Underwood told Bowen that if they could come current with their rent then DOBOR would be inclined to make a recommendation to the Board to terminate the lease. As of this morning they have come current with their rent and did vacate the building at the end of July. Staff is recommending termination by mutual agreement.

Member Yuen asked Underwood for assurance that DOBOR is aware if someone is late on rent. Underwood said they are now sharing the Slim System, however only one person has authorization to be on that system. At the time of this incident that person was out, but when they came back Underwood was able to pull the report and see that they were about 30 days behind. Member Yuen commented that he just wanted to be sure that DOBOR is doing regular checks to see who is current. It becomes increasingly difficult to get backpay as backrent gets larger.

Underwood added that DOBOR only has one property manager for all of their facilities statewide. This year the legislature authorized two new positions, so DOBOR is now building up their property management section.

Unanimously approved as submitted (Gomes, Oi)

Item J-2 Request that the Board of Land and Natural Resources Approve the Amendments to Hawai'i Administrative Rules (HAR), Section 13-233-26, Charges for Parking - Allows the Board of Land and Natural Resources to Set Vehicle Parking Rates at Equal to or Less Than State or County Rates and Section 13-256-16, Thrill Craft Operations; General - Clarifies that Individuals Who Have Completed and Received a Certification for Thrill Craft Operations from an Accredited Institution of Higher Learning Meets the Mandatory Vessel Education Requirement of Section 13-244-15.5 that Takes Effect on November 10, 2014. The Rules can be reviewed online at <http://dlnr.hawaii.gov/dobor/draft-rules/> or can be reviewed in person at any small boat harbor from 8:00 am to 3:30 pm, Monday through Friday, except Holidays.

Underwood indicated that years ago DOBOR amended the parking rules to determine how the fee would be set, and they said they would set the fee equal to or less than County rates. When they went to Ma'alaea Small Boat harbor in Maui it was determined that Ma'alaea does not have the established parking rates so they added the words "equal to or less than state or county rates in the county in which it's being established". The second rule is there is mandatory boating education requirement coming up; anyone operating of a boat as of November 10th this year will be required to have some sort of vessel training by taking an approved class.

Member Gomes asked if training was free. Underwood said yes, it's free and practical. It's a one-time deal. Member Gomes if there is a fine for people operating a vessel but didn't take

class? Underwood said they are working with DOCARE and want to do outreach to continue to notify the public. They don't want to just go out and start fining people. You can go into DOBOR or go online, there are many ways to get this done.

Unanimously approved as submitted (Char, Gomes)

Item L-1 Certification of Election of Brad Lau to Serve as a Director of the Mauna Kea Soil and Water Conservation District.

Carty Chang Chief Engineer said there are 16 districts and each one has 5 directors, and each director needs to come to the Board for certification.

Dan Purcell testified that Mauna Kea and Windward Oahu districts are not filing their agendas online or with the Lt. Governor's office.

Chair Aila assured Purcell that since they are both administratively attached to the DLNR, he would have Chang send out a notice to them to be sure that they file with the Lt. Governor's office.

Unanimously approved as submitted (Gomes, Oi)

Item L-2 Appointment of Tyler Jones and Nathan Miranda to Serve as Directors for the Windward Oahu Soil and Water Conservation District.

Item L-3 Appointment of Dan Clegg to Serve as a Director of the Central Maui Soil and Water Conservation District.

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

Items L1-L4 were unanimously approved as submitted (Gomes, Oi)

Item L-5 Appointment of James J. Nobriga and Certification of Election of Pōmaika'i Kaniaupio-Crozier to Serve as Directors of the West Maui Soil and Water Conservation District.

Item L-6 Certification of Election of Susan Cuffe to Serve as a Director of the Hāna Soil and Water Conservation District.

L-5 and L6 unanimously approved as submitted (Gomes, Oi)

Item L-7 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules, Job No. F46C602B, Koke'e

State Park, Koke'e Roadway Improvements, Phase 1, Waimea, Kaua'i, Hawai'i.

Chang explained that these types of projects are coming to the Board because projects that involve state funds or state lands require a chapter 343 analysis. A lot of the projects done fall into the exemption category and the Board has the authorization to declare these projects exempt. Staff is asking for Board approval that these actions are exempted from the preparation of an environmental assessment. These are general maintenance or improvements that have minimal or no significant impact.

Unanimously approved as submitted (Char, Yuen)

Item L-8 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules, Job No. H58C860A, Fort Ruger Baseyard Energy Efficiency Improvements Honolulu, O'ahu, Hawai'i.

Unanimously approved as submitted (Char, Yuen)

Item L-9 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai'i Administrative Rules, Job No. J45CO41G Makiki Valley Trail Rockfall Mitigation, O'ahu, Hawai'i.

Unanimously approved as submitted (Char, Yuen)

Item L-10 Application for a DLNR Dam Safety Construction/Alteration Permit, Permit No. 70 - Helemano 16 Reservoir (OA-0045), Dam Removal, Wahiawā, O'ahu.

Chang conveyed that anytime an owner wants to make an improvement, then they need to come to the Board so the Board can grant authority to the Chairperson to sign that permit. This dam is in bad condition. Whole Foods decided to remove it.

Unanimously approved as submitted (Char, Yuen)

Item K-1 Memorandum of Agreement Between the Department of Land and Natural Resources and the University of Hawai'i, School of Ocean, Earth Science and Technology (SEOEST), to Support the Development of Information for the Coastal Lands Data Program and Sea-Level Rise Vulnerability and Adaptation Report Required Pursuant to Act 83, Sess. L. Haw. 2014.

Lemmo briefed the Board that recently the legislature adopted the Hawai'i Inaction Act, Act 83 which establishes an inter- agency climate committee. The committee is co-chaired by DLNR Chair and the Chair of the Office of Planning. The act directs the DLNR to develop a sea level rise and vulnerability adaptation. There will be a State wide climate adaptation committee formed comprised of various agencies. They are beginning with sea level rise because it is

believed that there is enough information about sea level rise. Currently maps are being created to show evolution of the shoreline around the Hawaiian Islands. The major features of the MOU process is that it will increase the amount of money that the department can give to UH to do this to \$200,000 annually. UH will give DLNR an annual report with products and services completed. It has been a useful tool. This MOU would be good for 5 years, and has been approved by the AGs office. OCCL is also asking for authorization for the Chairperson to sign the authorization of the MOU if approved.

Member Woodside commended Lemmo for moving forward on looking at climate change issues and how it will affect our lands and communities across the state. She asked if this would give us statewide sea level data mapping or if this would be in specific areas. Lemmo explained that it would cover O'ahu, Kaua'i and Maui. The problem with covering Moloka'i, Lana'i and Hawai'i Island is that the department doesn't have the historical erosion data for those islands yet. There is commentary on how to get these islands jump started; they realize that this is something that needs to be figured out. With O'ahu, Kaua'i and Mau'i, there is historical data. SOEST will enhance it, update it and do the modeling for shoreline then do the plan after that.

Member Gomes asked if the outcome will help us with the rock revetment walls. Lemmo explained that they are going to update all of the erosion rate maps for these areas, then that info can be fed into the county setback systems. The other product is the modeling for the shoreline change.

Chair Aila indicated that this would provide data to determine infrastructure and setbacks in each county so they can make good decisions on determining the set back for building codes. In 20-30 years it will help decision makers determine why they can build their homes in certain locations.

Chair added that what is before the Board today is to enter into an agreement with UH to fund getting data on the sea level rise.

Unanimously approved as submitted (Yuen, Roehrig)

Item D-9 Second Amendment of Prior Board Action of April 12, 2013, Item D-12, Grant of Two (2) Perpetual, Non-Exclusive Easements to Clara Matthews, Sonny P. Lucas, and Debbie May Silva-Lucas for Access Purposes, by Authorizing the Issuance of Immediate Right-of-Entry Permit for Access Purposes to Clara Matthews; Kunawai, Honolulu, O'ahu, Tax Map Key: (1) 1-7-036:adjacent to 014 and 015.

Moore asked for a deferral of this item per the applicant.

Deferred

Item D-2 Cancellation of Revocable Permit No. S-3842 and Issuance of Revocable Permit to Kapa'a Ki-Aikido Club Inc. for Clubhouse Purposes, Wailua, Kawaihau (Puna), Kaua'i, Tax Map Key:(4) 4-1-009:018.

Unanimously approved as submitted (Yuen, Gomes)

Item D-4 Issuance of Revocable Permit to John and Gloria Coston for General Agriculture Purposes, Kahakuloa, Wailuku, Maui, Tax Map Key: (2) 3-1-004:049.

Unanimously approved as submitted (Yuen, Gomes)

Item D-5 Grant of 55-Year Term, Non-Exclusive Easement to the Association of Unit Owners of (AOUO) Hale Kai O Kihei for Five (5) Encroachment Areas within the State Beach Reserve; Assess a \$500.00 Fine and \$260.00 in Administrative Costs Against the AOUO Hale Kai O Kihei, Waiohuli-Keōkea Beach Homesteads, Kihei, Maui, Tax Map Key: (2) 3-9-008: Portion of 001.

Unanimously approved as submitted (Yuen, Gomes)

Item D-6 Amendment of Perpetual, Non-Exclusive Easement, Land Office Deed No. S-28,499, for Access and Utility Purposes, Waiohuli, Maui, Tax Map Key: (2) 3-9-009: 013 por. The Purpose of the Amendment is to Increase the Area of the Easement to Cover Existing Encroachments.

Unanimously approved as submitted (Yuen, Gomes)

Item D-7 Issuance of Right-of-Entry Permit to Olowalu Elua Associates LLC for Clean-up and Maintenance Purposes of State Unencumbered Land within the Olowalu Beach Reserve at Olowalu, Lāhainā, Maui, Tax Map Key: (2) 4-8-003:003.

Unanimously approved as submitted (Yuen, Gomes)

Item D-10 Consent to Issuance of Revocable Permit under Governor's Executive Order No.3447 to New Direction IRA, Inc. Honolulu, O'ahu, Tax Map Key: (1) 2-1-026: Portion of 027.

Unanimously approved as submitted (Yuen, Gomes)

Item D-14 Approve Rent Determination for the First Ten Years of Extended, Amended and Restated General Lease No. S-3961, Hilo-Hawaiian Associates, Inc., Lessee, Waiākea, South Hilo, Hawai'i, Tax Map Key: 3rd/2-1-03:05.

Member Yuen asked for clarification on this item. Moore explained that normally there is a statutory process for resolving an arbitration process. However, in this case it was a lease extension under Act 219.

Member Roehrig expressed his concern about the inadequate parking. He asked if the lease extension would allow the Board/DLNR to encourage them to reconfigure the parking. Gordon Heit, district land agent for Hawaii Island, said that of all the leases in the area Hilo-Hawaiian has the best parking. Member Roehrig was not happy that there was no representative present.

Item D-14 was deferred until a representative from O'ahu could be present.

Gary Oda with HSS which is the entity that owns the Hilo Hawaiian Hotel showed up to answer questions.

Chair Aila explained that the Board had a concern with the parking facilities at the Hilo Hawaiian and the concern is how cooperative they would be with dealing with the parking situation and the master plan that all of the facilities are facing. Oda said originally they wanted to address the parking issue in their master plan if they got the bid for the Naniloa Hotel, but they didn't. Oda explained that they are definitely interested and interested in helping to improve the entire Banyan Drive area. Their general manager joined the working group that is trying to come up with a master solution.

Member Roehrig was happy to hear that, he asked Oda if they could get more parking, would they like to have it. Oda said absolutely. Member Roehrig was satisfied.

Dan Purcell testified that it is helpful to have people here, and thanked Oda for coming.

Unanimously approved as submitted (Roehrig, Yuen)

Approved as submitted. After discussion among the Board members, the Board approved the staff recommendation on the rent for the first ten years of the lease extension period, and expressed appreciation to Gary Oda for attending the meeting to answer questions.

Item D-16 Issuance of Right-of-Entry to the Big Island Invasive Species Committee (BIISC), Pursuant to Hawai'i Senate Resolution 41 for Conducting Strategic Management Plans for Control of Invasive Albizia Trees at Pi'ihonua, South Hilo, Hawai'i, Tax Map Keys: (3) 2-3-029:012 and 2-5-010:001.

Unanimously approved as submitted (Yuen, Gomes)

Item D-18 Rescind Prior Board Action of September 12, 1997, Item D-11, Regarding Issuance of Revocable Permit to Office of Historic Preservation for Maintenance and Restoration Purposes; and Issuance of Revocable Permit and Immediate Right-of-Entry to the Kaupo Community Association, Inc., for Landscape and Maintenance Purposes, Mā 'alo-Kaumakalua, Kaupō, Hāna, Maui, Tax Map Key: (2) 1-7-002:015.

Unanimously approved as submitted (Yuen, Gomes)

Item D-19 Approval of the Issuance of a Construction and Management Right-of-Entry Permit to the Division of State Parks for Unencumbered Public Lands at Waikapū, Wailuku, Maui, Tax Map Key (2) 3-8-007:104.

Unanimously approved as submitted (Yuen, Gomes)

Item D-20 Grant of Term, Non-Exclusive Easement to Scott Mitsuo Miyasaki and Beverly-Jo Leinani Miyasaki, and Tracy Leiko Miyasaki Lindo for Encroachment (including Portions of Family Residence, its Foundation and Lanai) Purposes; Assess Administrative Cost of \$500 and Fine of \$500, Hau‘ula, Ko‘olauloa, O‘ahu, Tax Map Key: (1) 5-4-010:Seaward of 009.

Dan Purcell commented that he wanted to make sure that all Board members are reviewing all items and are taking this job seriously. He also addressed housekeeping issues, all items are important.

Unanimously approved as submitted (Yuen, Gomes)

Item K-5 Proposed settlement in 2 cases, Henry Chang Wo, Jr. v. Board of Land and Natural Resources, et al., Civ. No. 12-1-0835-03 (Agency Appeal) and Henry Chang Wo, Jr. v. Board of Land and Natural Resources, et al., Civ. No. 12-1-0834-03 (Declaratory Action). (No Staff Submittal)

The Board anticipates going into executive session pursuant to Section 92-5(a), 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.

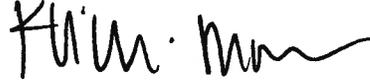
Member Gomes made a motion to go into executive secession pursuant to Section 92-5(a), Hawaii Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities. Member Yuen seconded.

No decision made; discussion purposes only.

1:10PM EXECUTIVE SECESSION
1:43PM RECONVENE

There being no further business, Chairman William Aila adjourned the meeting at 1:49 pm. 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,



Ku'ulei Moses
Land Board Secretary

Approved for submittal:



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