

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

DATE: FRIDAY, APRIL 10, 2015
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Acting Chairperson Carty Chang called the meeting of the Board of Land and Natural Resources to order at 9:00 a.m. The following were in attendance:

MEMBERS

Carty S. Chang
Stanley Roehrig
Christopher Yuen

James Gomes
Thomas Oi
Keone Downing

STAFF

Sam Lemmo-OCCL
Maria Carnavale-PMNM
Curt Cottrell-PARKS
Ed Underwood-DOBOR
Andrew Chow-DOCARE
Steve Soares-PARKS
Chris Takashige-ENG

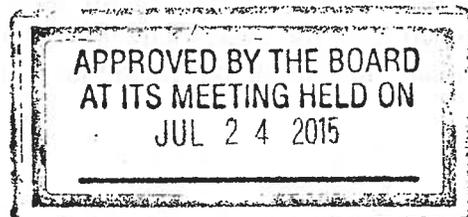
Russell Tsuji-LAND
Lisa Hadway-DOFAW
Kevin Moore-LAND
Molly Schmidt-DOFAW
Dietra Myers-DOFAW
Alotn Miyasaka-DAR

OTHER

Bill Wynhoff/Deputy AG
Dan Purcell/ F-6,J-1,C-2, D-11 to D 13
Kristi Arakaki/ J-1
Laura Kaakua/ C-2
Laura Thompson/ C-2
Ann Marie Kirk/C-2
Moani Cullens/ D-11 to D-13
Hope McKeen/D-2
Sam Kahng/F-5

Anne Shigi/DOT-AIR
Ethan Tomokiyo/M-4 to M-8
Jacqueline Gardner/ J-1
Elizabeth Riley/ C-2
Jessica Kirk/ C-2
Donald Neveau/C-2
Allen Okamoto/D-11 to D-13
Scotty Smith/D-9

Chairman Carty Chang introduced Kenoe Downing as the newest Board member. He also acknowledged Member Chris Yuen and Member Ulalia Woodside who were also confirmed by the Senate last week.



Item F-6 Informational Briefing re: Hawaiian Monk Seal Management in Papahānaumokuākea Marine National Monument. (Non- Decision Making Item/No Staff Submittal)

The Following Items Will Not Be Heard Earlier Than 10 AM.

Maria Carnevale, State Co-manager for Papahānaumokuākea Marine Monument, introduced Charles Littnan, NOAA Fisheries, who would be giving the presentation.

Dr. Charles Littnan the lead scientist for the monk seal Hawaiian Monk Seal Research Program thanked the Board for this opportunity. He explained that he would be discussing shark predation and strategies to mitigate it. He gave in update on the population of monk seals. Their focus on Papahānaumokuākea is chronic long term, poor juvenile survivals. The biggest problem is if you're a monk seal born in the Northwest Hawaiian Islands (NWHI) you are less likely to survive adult hood. One of their efforts is to increase the survival of young female seals so they can grow to be mothers. In the main Hawaiian Island the population has been growing. Overall the population as a whole is in decline of about 2.8-3% per year. In NWHI there is the problem of marine debris that has swept up, so the do a lot of disentanglements. They also collaborate with other agencies to do marine debris pick up. Littnan showed some pictures of various monk seals and gave history on them. There is an issue with monk seal male aggression. The Research Program has strategies to deal with that such as moving them bring them into captivity and if there are no other options, they may have to euthanize an aggressive male. They also have a program of chronically starved individuals in the NWHI. They also do lots of medical care. Littnan gave an example of a monk seal that needed her eye removed. Monk seals can survive with only one eye. They also work with fisherman and other ocean resource users to try to figure out with the interaction with monk seals are going to be in the NWHI. They do this by seeing how much they eat and how much they interact with the environment. This information is available online.

Their program is very diverse, they do a number of other things such as vaccination development, mom pup interventions, translocations, and everything they can to intervene these animals. There is a tracking system where they can track the monk seals they have interacted with, they can also track the offspring of the females they have helped so they can track the offspring. They predict that about 30% of the population is alive today because of their interventions.

Littnan addressed shark predation at French Frigate Shoals. French Frigate Shoals (FFS) is located in the middle of the Hawaiian archipelago; it used to be the largest population of monk seals up until a few years ago. Littnan is going to focus on Trig Island, where these Galapagos sharks seem to be taking suckling and recently winged pups. After these pups are taken, they either go to Round Island or the Gins. At FFS pup has been known to have the lowest survival rate than any other NWHI location primarily attributed to Galapagos shark predation on pre-weaned pups. Up to 30% of all pups at FFS are lost annually to shark predation. Littnan explained how the sharks lure the mothers out so they can take the pups. Littnan gave some historical information explained that within the last 17 years shark predation has affected at least

253 pups. From 1989-2010 the population decreased by 75% caused by a decrease in juvenile survival.

Each year many tons of bait was tossed from the lobster trap into the water, which was either going into Galapagos sharks or Elua. When that food stream was taken away the sharks were distressed so they started exploring other foodsets.

Removing a number of Galapagos sharks from FFS has the potential to be an alternative source. These sharks are the top predators at this atoll and the removal of a limited number of sharks has not been decided upon without the intensive evaluation. None of these are long term solutions for this problem. They are proposing for their shark removal permit, this seems to be the only activity that is left. The original permit they were asking for was for the removal of 40 sharks they have removed two and the permit that will come before the Board will be for the removal of an additional 18. They only want to catch the sharks that are performing this type of behavior. They don't remove juvenile sharks.

Member Gomes asked if there were more sharks than there were seals. Littnan disclosed that the population estimates from 600-1400, the monk population at FFS was 117. This predation is going to continue and if they see sharks replace them then they are going to have to find other strategies.

Dan Purcell asked Littnan what the next best option would be. Littnan said they have tried other things, this is the best option, there just aren't many other options. The information he presented is available online.

Non decision making, no action item.

Item A-1 Approval of November 14, 2014 Minutes

Unanimously approved as submitted (Oi, Yuen)

Item M-1 Issuance of a Revocable Permit for Helicopter Storage and Maintenance, City and County of Honolulu, Honolulu Fire Department, Honolulu International Airport, Tax Map Key: (1) 1-1-72:13 (Portion of).

Item M-2 Issuance of a Revocable Permit for Helicopter Storage and Maintenance, City and County of Honolulu, Honolulu Police Department, Honolulu International Airport, Tax Map Key: (1) 1-1-72:13 (Portion of).

Item M-3 Issuance of a Revocable Permit for Office Space, Bruce J. Mayes, Kalaeloa Airport, Island of O'ahu, Tax Map Key: (1) 9-1-13:32 (Portion of).

Anne Shigi Property Manager with the Department of Transportation-Airports Division-DOT-AIR reviewed items M-1 through M-3.

Unanimously approved as submitted (Gomes, Oi)

- Item M-4** **Consent to Assignment of State Lease No. DOT-A-08-0002 and Addendum to Said Lease from Universal Enterprises, Inc. to Keystone Holdings, LLC, Kona International Airport at Keāhole, Tax Map Key: (3) 2-1-12:90 (Portion of).**

- Item M-5** **Issuance of a Revocable Permit for Parking for an Aircraft Tie-Down, Hawaii Wilderness Adventures, LLC, Hilo International Airport, Tax Map Key: (3) 2-1-12:90 (Portion of).**

- Item M-6** **Issuance of a Revocable Permit for Office Space, U.S. General Services Administration for Transportation Security Administration, Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43:40 (Portion of).**

- Item M-7** **Amendment No. 1 to State Lease No. DOT-A-13-0023 to Extend the Deadline for Submission of Building Plans, Issued to Helicopter Consultants of Maui, Inc., DBA Blue Hawaiian Helicopter and Subsequently assigned to Blue Hawaiian Holdings, LLC, Līhu‘e Airport, Tax Map Key: (4) 3-5-01:08 (Portion of).**

- Item M-8** **Consent to Assignment of State Lease No. DOT-A-12-0008 and Addendum to Said Lease, and Amendment No. 1 to Said Lease from Universal Enterprises, Inc., to Keystone Holdings, LLC, Līhu‘e Airport, Tax Map Key: (4) 3-5-01:08 (Portion of).**

Ethan Tomokiyo Property Manager Supervisor DOT-AIR for the neighboring airports presented items M-4 through M-8.

Member Roehrig asked if item M-8 “Līhu‘e” should be Kona. Tomokiyo confirmed that was a typo.

Dan Purcell thanked Member Roehrig for addressing the error, and commented that he wasn’t sure if this would be a sunshine law violation.

Member Roehrig made a motion to approve items M-4 through M-8 with the amendment to M-8. Member Gomes seconded.

Unanimously approved as amended (Roehrig, Gomes)

- Item J-1** **Resubmittal: Jacqueline Gardner’s Request for Transfer of an Offshore Mooring Permit (Permit No. RMO10837) Held by Earl Edwards (Deceased) at Nawiliwili Small Boat Harbor, Island Of Kaua‘i.**

Written testimony was submitted by Kristi L. Arakaki.

Ed Underwood Administrator for the Division of Boating and Ocean Recreation-DOBOR explained that the Board asked DOBOR to work with the attorneys. After looking at this taking

their arguments into account and after looking at the Hawaii Administrative Rules (HRS) as written DOBOR doesn't have the ability to transfer a regular mooring permit from one individual to another. DOBOR's request again is to deny the request of the transfer of the offshore mooring permit.

Member Roehrig asked Underwood for his written response from the attorney's office. Underwood thought it was put in the Board submittal. Member Roehrig explained that last time this item came before the Board they wanted a written opinion from the attorney general's office and Jacqueline Gardner's attorney. They asked for that so they could closely examine this. Member Roehrig disclosed that a response was received from Gardner's attorney, but not from the department.

Underwood explained that the attorney general at the last meeting said she would provide an analysis, which was provided in the Board submittal. Member Roehrig said he didn't hear that, the motion was to defer this item with the understanding that a written opinion would be provided.

Member Yuen asked if the department's counsel wanted to say anything.

Deputy Attorney General Bill Wynhoff explained that when a written request is requested, it is provided as attorney/client privilege. Wynhoff added that he and his office have much respect for this Board, and apologized to Member Roehrig and the Board for not providing what they Board wanted. His office did look into this, and the advice is written in the submittal.

Member Yuen wanted to be clear that the department's position as signed by Underwood was worked out in consultation with the Attorney General's office and they concur. Wynhoff said yes.

Member Yuen asked Underwood for clarification about a certificate of number. Underwood explained that you can apply to get a new person on your certificate of number, but it will affect your mooring permit. If you came in with a co-owner at the time, then that would be fine, but you cannot change any of the ownerships after the fact. When a person comes in for a mooring permit on a boat, they already have a mooring permit. There can only be one principle owner. Member Yuen asked how come there can't be more than one principle owner, but there can be more than one person named on the certificate of number. Underwood explained that when a mooring permit is issued, it's issued to one entity, not more than one entity.

Member Yuen was trying to understand when this cause would apply that you can transfer to a principle owner upon the death or moving out of state of a principle owner. Underwood disclosed that it would apply if you were issued the mooring permit initially, and I was the co-owner of the boat with you and I decided to move out of State, you can assume my ownership of the boat, and it won't affect the mooring permit. You can't bring in anyone new, or transfer to anyone else.

Member Downing asked if you run this as a business and the business owner has ownership that could actually go to perpetuity because as long as there's people coming in, that's okay, but a

single person or individual doesn't have that same option because once that person dies that has the mooring, they lose everything. Underwood said the only time a company can retain a permit on a transfer is if they also holds a commercial permit authorizing commercial activity, then the corporation can transfer and all permits will go with the corporation. No permits are transferable, they only stay with the business entity if they are allow to transfer.

Member Roehrig commented that whatever is set is equal across the state. The rules as they as they exist are not very clear.

AG Bill Wynhoff told Member Roehrig that he made a good point about uniformity. Wynhoff gave examples of other cases were the department stuck to this law/rule and were successful. Wynhoff and the department have been so successful is because of uniformity. Member Roehrig didn't agree; he felt things should be taken on a case by case basis. AG Wynhoff didn't agree.

Kristi Arakaki attorney for Jacqueline Gardner pointed out that the rules do allow or the transfer of ownership to Ms. Gardner from Mr. Edwards. She said they were relying on HRS 13-231-13 that allows for the transfer of a permit in certain instances where people die or they move out of state. It says nothing about retaining the permit. Arakaki said Gardner wasn't trying to retain a permit, she just wants to retain the mooring space and have a permit be issued to her. Arakaki explained that she spoke with Deputy Attorney General Cindy Young, and Young said that HRS 13-231-13b2 means if a person that has a permit acquires the interest of a co-owner, then that person that had the permit can still hold on to the permit and it doesn't affect their ownership of the permit. Arakaki stated that this law is talking about a principle owner of a vessel, which is what Ms. Gardner is. She added that there was nothing in the statute that talks about the principle owner being just one person. Arakaki said the other thing that seems to be causing confusion is that the department thinks that Ms. Gardner is not a principle owner, and they are relying on the definition that's show on HRS 13-230-8. According to Young, certificate of owner is not the same as a coast guard document. She said certificate of number was a number issued by the State under some kind of State system for Boats. Arakaki said this was a problem because certificate of number isn't defined in the Hawaii Administrative Rules. Their position is that the definition of principle owner is a person whose name appears on a certificate of number or who's named on a coast guard managing vessel. Certificate of number could be a certificate of issuance. They have a certificate of liability insurance and Gardner is listed on that so she would be a principle owner.

Member Yuen said he looked up that a certificate of number was an ownership or type of registration document. He asked Arakaki if Gardner's name has ever been on any kind of document like that. Arakaki disclosed that Gardner was in the process of having her name transferred on to the coast guard certificate.

Member Yuen understood that the definition of principle owner was when used in this part, part I. Arakaki thought they were two different parts.

Member Oi asked if Edwards never had a coast guard title or a title from the State. Gardner clarified that Edwards has a Coast Guard number. Edwards was a boat builder, he was issued an id number, he was under a coast guard application but never had a document. She disclosed that

she did bring in the mooring permit before it expired, but the document had never been issued. The coast guard has been backed up and no longer issue letters. They have received all their information, and Gardner is still waiting to get her document of certification from the Coast Guard. It is coming and is in her name. Gardner added that they never had to fill out a waiting list to begin with, she has always been on the mooring permit listed as an emergency contact. She is here today because she believes this is her mooring. It was Earl Edward's mooring, and it is now her mooring.

Member Oi commented that half of the boats in that harbor don't have a State number on it. He asked Gardner if it would be possible to dry dock her boat and finish working on the boat on land, then the whole issue of the mooring permit would end. Gardner said that was good advice, but this is a 130x80 ft. boat. She does have plans to take it and haul it to Oahu, but the mooring is the issue. She has another boat. Gardner said that if they would have understood the rules, than this would have been done before. The rules aren't written for people to understand.

Member Roehrig asked Gardner's counsel what she recommended. Arakaki said they would recommend the permit be transferred to Ms. Gardner or a permit be reissued so she can attain the mooring space. Arakaki added that the department was prejudicial by waiting until after they produced their brief/position to submit theirs.

Member Yuen said the department did state their position in their submittal of February 27, 2015 and have not changed their position since then. The Board deferred this action on February 27, to give Gardner and the department to present what they had in writing. Member Yuen asked Arakaki if they didn't have enough time. Arakaki said that her understanding was that they would work with the department to see if they could all come to some kind of agreement, if not then they would each be submitted written briefs. She said it was disturbing that the department didn't submit their written position until after Gardner submitted hers.

AG Wynhoff responded that the submittal on February 27, 2015 contains the AGs opinion. The first argument that occurred was the permit expired. He was aware that this Board directed Ms. Gardner through counsel to respond in writing, which she did. That was our opening brief, she had her answering brief, and we have our reply brief. The idea that the expiration was on February 27 was belied by looking at it. Wynhoff also said that what the AGs came back with were 3 arguments 1) it expired 2) she's not an owner and the subparts are bellied by looking at the rules and then looking at the fact that it's late, Gardner's not an owner, and ever was an owner. 3) there was discussion of what these other rules mean. Wynhoff made it clear that Gardner got the department's position on February 27, there's nothing for the department to respond. She got the opinion and it was given to her a week ago.

Member Yuen recalled that at the last meeting he was having trouble jumping through all this on the fly so he did not feel comfortable making a decision and he wanted to see everything laid out in writing. He said to counsel, you have the departments position so you submit your positon. Member Yuen said he was satisfied that the main things being said by the State on February 27 were said. From DOBOR's point of view, Gardner has been unlawfully harboring in the harbor since May and has been accruing permitting fees. Arakaki felt those fees would have never been accrued if the department had a valid position, she would've moved. Arakaki added that they

didn't receive the February 27, 2015 board submittal. Member Yuen didn't understand because everything was discussed at that meeting on February 27.

Member Roehrig said he thought we were going to get council's briefs from both parties because he couldn't understand who the principal owner was.

Member Gomes asked Gardner for clarification of what she meant when they said they would move. Gardner said if they understood and knew their position then she would've moved that vessel.

Member Yuen asked Wynhoff if the definition of principle owner applies throughout a part that includes HRS 231 as well. Wynhoff said yes.

Dan Purcell testified that he wanted to be clear that if someone owns a mooring permit, they are married for 20 years, he dies and her name is never on anything in that case would she not have the permit? Underwood said if she's named in a will then she could retain it, but she has to be named in a will. Purcell commented that he wondered how many women in this State might be in similar situations with common law.

Member Oi made a motion to approve as written.

Member Yuen seconded the motion but wanted to make an amendment. He made an amendment that Ms. Gardner only be charged with the amount that she would owe under the mooring permit, not the penalty amount for being illegally moored.

Member Yuen explained that his sympathies are the same as Member Roehrig's. He feels for Ms. Gardner and sees that she is a difficult situation, he looked at this at the stand point, was there legal way to continue the mooring permit for her. He came to the conclusion that it couldn't be done, the rules are clear and he can't let his sympathies out way the rules. He made the amendment about the fees because in the course of this there was not a complete explanation of the department's position.

Member Roehrig commented that he believes the principal owner language is not the same definition as principle owner in the other section. They are two different section ones, they are not identical. The common sense definition of principal owner is that you can have more than one principal owner. He opposed this motion and if the current motion doesn't pass, his alternative motion would be to allow the transfer based on the provisions of 13-231-13 b2 as presently drafted and applied to this situation.

Member Downing and Member Roehrig were opposed.

5-2 vote.

Jacqueline Gardner requested a contested case.

Approved as amended (Yuen, Gomes)

11:43AM RECESS

2:33 PM RECONVENE

Item C-2 Review of Project Recommendation for Funding from the Fiscal Year 2015 Legacy Land Conservation Program (Land Conservation Fund) and Recommendation to Deny Amendment and Approval of the Following Grant: Ka Iwi Coast Mauka Lands; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$1,000,000 for Acquisition of 181.14 Acres in Ko'olaupoko, Island of O'ahu.

And Recommendation to Approve the Following Grants: Pūpūkea Mauka; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$583,875 for Acquisition of 3,716 Acres in Waiālua, Island of O'ahu. Helemano; Department of Land and Natural Resources, Division of Forestry and Wildlife, at \$416,125 for Acquisition of 1,420 Acres in Waiālua, Island of O'ahu.

Written testimony was submitted by Trevor Ozawa.

Lisa Hadway Administrator for the Division of Forestry and Wildlife-DOFAW explained that this was part of the legacy land program and back on February 27, 2015 the Board took up approval of funding 5 of the 6 recommended projects of the 2015 fiscal year. The Ka Iwi Coast mauka land was deferred and DOFAW was present today to present that. The original application for the project went in in September 2014 with the DLNR being the fee owner in the application process in partnership with the City & County (C&C) of Honolulu and the Ka Iwi Coalition also known as the Livable Hawaii Kai Hui. At that time the Chair, William Aila wrote a letter of support but it didn't define which division within the department would be the managing entity. It also did not state how that would happen. So it was left open in the application. Post application, come December 2014 when the Legacy Land Conservation Commission took up the application DOFAW agreed to be the managing entity and the fee holder with the idea that it would become a forest reserve. As it proceeded DOFAW also needed to consider the conservation easement. It was recommended by the attorney generals that a nonprofit not hold a conservation easement over a State designated forest reserve. That was the original proposal in February. The Livable Hawaii Kai Hui requested that the item be deferred so that DOFAW could work with them in a stewardship agreement in either a lease, or a memorandum of understanding (MOU). After the deferral DOFAW met with Livable Hawaii Kai Hui and Trust for Public Lands, the Hui made it clear that they would like to have the fee themselves which is fine, but it is a substantive change to the application to the project. DOFAW received a letter in March 2015 requesting that the Board change the fee ownership from State of Hawaii DLNR Division of Forestry and Wildlife to Livable Hawaii Kai Hui. Based on program procedures and fairness in process and fairness in other projects, DOFAW is requesting to deny change, because this is a substantive change that arose after the Legacy Land Conservation Commission's approval. Hadway said that it wasn't because they don't value the importance of this project, it is a very important project. DOFAW is requesting the denial of the change and also requesting with the approval of two additional projects, to add #6 and #7 which would add

three thousand seven hundred and sixteen acres at Pupukea Mauka and also Helemano which would be over 14 hundred acre addition that would provide lots of great recreational uses including public hunting access. Hadway noted that the Legacy Land Commission and staff's recommendations are advisory and the Board has the authority to make the decision. Molly Schmidt who oversees the Legacy Land Program was present to answer any questions.

Chair Chang why a nonprofit cannot be the owner can't hold the easement of a conservation easement. Schmidt explained that her understanding of one of the issues was if you're going to have a forest reserve with forest reserve administrative rules and you're going to have a private non-governmental entity holding part of that land interest weather those two scenarios are compatible.

Member Yuen asked how often the Legacy Lands Commission meets. Schmidt said they meet about 6 times a year, it's an annual grant program so they make recommendations on projects once a year in December.

Member Yuen asked if this could go to the Legacy Lands Commission and we ask them weather they cared or not. Schmidt said that they did do that. The process is the applications come in in September 2014, the commissioners go out for site visits in October and they make their decisions in two public meetings in December 2014. At that time the applicants are to present their projects and any substance changes to projects must be made prior to the voting meeting. In March 2015 there was a meeting for a different issue and it was brought to the commission. Staff recommended that the Legacy Land Commission don't act on this because it interferes with their process. The commissioners discussed it among themselves and came up with this specific recommendation which was; "the Commission has been briefed on this issue and affirms its support of the protection of the Ka Iwi Coast".

Member Gomes asked if the Board denies this request per the recommendation, it's not saying that next year they can't apply to come back. Schmidt confirmed and pointed out that the commission and DOFAW are advisory to the Board. The Board is the final decision maker.

Member Downing asked even though DOFAW went to the Legacy Land Commission with the substantive change, they still agree that they still want Ka Iwi to be done? Schmidt said they were briefed them on the project and DOFAW recommended that they not reconsider one project apart from and after the other projects and their answer was the commission was briefed on this issue and confirms its support for protection of Ka Iwi Coast. Schmidt thought they really supported the project and protection of the area; they don't want to harm the integrity of the procedures that they have established.

Member Downing asked who the substantial change came from. Hadway said the substantive change came from a request from a letter date March 26, 2015 from the Trust for Public Land and the Livable Hawaii Kai Hui requesting that the Board take up the consideration of the changing the application which stated that DLNR would be the fee owner to Livable Hawaii Kai being the fee owner.

Member Yuen said one option would be to do what the submittal says, kick them off, move up the other two and have them come in the next grant cycle. The other option, let Livable Hawaii Kai be the fee owner, and the department is okay with that except for the procedural issue. Hadway confirmed.

Schmidt explained that the C&C natural lands program would hold the conservation easement over that project. The Legacy Land Program puts restrictions in the deed that require if the property if it is ever sold the owner must come back to the Board to ask approval of the Sale in whole or in part of any interest of that property. A proceed of that portion would come back to land conservation fund. They must also manage the land consistently for the purposes which were awarded the grant. A third option would be the department takes title, does not enter into a conservation easement, but enters into some type of management agreement with Livable Hawaii Kai.

Member Roehrig asked if the Board had the authority to do one of those three. Hadway believed yes, and DOFAW would want to be sure that Livable Hawaii would enter into a stewardship agreement with the department without the conservation easement. Livable Hawaii was present.

Laura Kaakua with the Trust for Public Land explained that they were a non-profit organization that helps public agencies and community groups to protect their special natural places. They were asked by the Ka Iwi Collation to see if there was some way Trust for Public Land would be able to assist the community to protect the Ka Iwi Coast Mauka lands. They were presented the opportunity to purchase the property came up last year, and that is how they reengaged with Ka Iwi Collation under Livable Hawaii Kai Hui.

Elizabeth Riley President of Livable Hawaii Kai Hui acknowledged some kupuna from the area; Laura Thompson, the Weatherfords, and Aunty Jessica Kirk. Riley thanked them for being present, they have taught her about Ka Iwi.

Kaakua presented a slideshow of the property.

Member Downing asked if everyone was in agreement. Kaakua said that they were, it's all outlined on page #4.

Laura Thompson, Ann Marie Kirk, Donald Neveau and Dan Purcell all testified in support.

Member Roehrig made a motion to delete recommendation in #1 and substitute the language in page #4 and #5 until number #5. Member Downing seconded.

The Board approved the following:

- 1) Approve amendments to the Ka Iwi Mauka Lands project application as described herein.**

2) Authorize the Chairperson to enter into agreements and encumber FY15 funds with the listed grant recipients for the following grant to a nonprofit land conservation organization:

- a. Ka Iwi Coast Mauka Lands; Livable Hawaii Kai Hui, at \$1,000,000 for acquisition of 181.14 acres in Ko'olaupoko, Island of Oahu, for the protection of scenic and cultural resources.**

using a total of \$1,000,000 from the LCF, subject to:

- a. compliance with H.R.S., Chapter 173A;**
- b. compliance with H.R.S., Chapter 343;**
- c. execution of a Grant Agreement with the BLNR;**
- d. certification of an appraisal for each project by the Department;**
- e. insertion of Legacy Land Conservation Program restrictions into the deed as a**
- f. condition of contractual agreements with the grant recipients;**
- g. approval of the Grant Agreement and of the Deed by the Attorney General's office;**
- h. the availability of funds;**
- i. the approval of the Governor; and**
- j. such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.**

3) Require the imposition of Legacy Land Conservation Program restrictions into the deeds as a condition of contractual agreements with the grant recipients and exempt project from any additional conservation easements that may be required under Section 173A-4, HRS.

4) Declare these awards of funds exempt in accordance with Class 1, Exemption 15, on the June 12, 2008, Division of Forestry and Wildlife Exemption List.

5) Authorize the Department to proceed with all due diligence and negotiations that may be necessary to carry out the grants and acquisitions mentioned above.

Unanimously approved amended (Roehrig, Downing)

Item D-10 Issuance of Land Patent in Confirmation of Land Commission Award No. 7825 to Ka'aukai situate at Paalaea 3rd, District of Hamakua, Hawaii, Tax Map Key: (3) 4-5-002:021 and 084, (portion of).

Item D-11 Issuance of Land Patent in Confirmation of Land Commission Award No. 7802 to Kaheana situate at Papa'anui, District of Hāmākua, Island of Hawai'i, Tax Map Key: (3) 4-5-002: 024 and (3) 4-5-002:082 (portion of).

Item D-12 Issuance of Land Patent in Confirmation of Land Commission Award No. 7816 to Kukalepa, situate at Pa‘alaea 3, District of Hāmākua, Hawai‘i, Tax Map Key: (3) 4-5-002:084 (portion of).

Item D-13 Issuance of Land Patent in Confirmation of Land Commission Award No. 9971, Apana 5 to W.P. Leleiohoku, situate lying and being the Ahupua‘a of Pa‘alaea, District of Hāmākua, Island of Hawai‘i, Tax Map Key: (3) 4-5-002:084 (portion of).

Russell Tsuji Administrator for Land Division- LAND presented items D-11 through D-13. Counsel, Allen Okamoto was present; the State abstractor was also present.

Member Roehrig disclosed that Okamoto does work for his family. AG Wynhoff told Member Roehrig said he didn’t feel like he had to, but recommended he did in case Mr. Okamoto came before the Board again.

Member Reohrig recused from items D-11 through D-13.

Dan Purcell testified that he did research on this company that is behind this, they are a large multi company corporation that deals in finance. Purcell said he just wants to make sure the Board is doing everything right. He also commented that there was inadequate information given to the public. Purcell asked the staff member what diligence he went through in approving this.

Moani Cullens explained that this was as routine patent. The purpose of this is to produce a document which is evidence through the title company that the governments commutation has been either released or satisfied.

Allen Okamoto disclosed that his client is an agricultural lender. Okamoto gave the history of these land patents.

Unanimously approved as submitted (Yuen, Gomes)

1:17PM RECESS
1:50PM RECONVENE

Chair Chang doesn’t return, Senior Board Member James Gomes takes over.

Item D-2 Resubmittal: Deny Lessee’s Request for a One-Year Holdover and the Issuance of a Month-to-Month Revocable Permit, of General Lease No. 3157, Natalie Marie McKeen, Lessee, Ocean View Lease Lots, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-1-007:023.

Written testimony was submitted by Natalie McKeen.

Tsuji conveyed item D-2. As noted in the submittal this tenant has not been stellar in the past, there have been issues with the tax lien and structures on the property. At the last meeting the applicant sent in testimony asking the Board to approve her request.

Member Oi asked what kind of illegal structures were attached. Tsuji referred to the pictures in the submittal. He said he understood why his Hilo staff made the recommendation, but he compared this lease to other leases where the department has received notices from the County. Here, the basis for staff's recommendation was that lack of permits for the structures.

Member Oi commented that this has been in default since 2009. Member Yuen asked how the County gets our lessee to pay the property tax. AG Wynhoff said the County might be able to go after the lease hold interest. In this case it would be a 1 year holdover then a revocable permit.

Hope McKeen testified that she was present for her mom Natalie McKeen. She explained that the structures are there; her family has been there for a very long time on the property. They have experienced financial hardships since the passing of her father and grandmother and it has been hard to recover from it. It was never their intent to let the property go. She has personally had to take on the hardship for her mom and family. They had to build the front structure for her dad because he got sick and had to have his leg amputated. Following her father's passing all her siblings moved out. Since 2002 Hope has been supporting her mother who has been on disability. They are just starting to recover; she's a teacher and can't afford rent for herself and her two children. She didn't pay the taxes because she couldn't afford it. She doesn't have lavish things. She goes to work, takes care of her kids and pays her bills to the best of her ability. She understands there are laws, and it's their kuleana to take on the lease payments. She has been trying to keep up with the property; there are lots of invasive species that have been growing on the property. She is committed to take care of the property. She understands this is her kuleana.

Member Oi asked if she would be able to go to the County and get the proper building permits. H. McKeen said she can try. She tried to go to the bank in 2005 to get a loan to fix up the house. She was told that at that time the lease wasn't long enough to justify a loan because there were only 10 years left.

Member Oi read that the only illegal structure was the garage. He asked if she would be able to get an after the fact permit. H. McKeen said she would try.

Member Oi asked Member Yuen if the County would be able to make a payment plan. Member Yuen said they should. Member Oi suggested H. McKeen give a timeline where she can make cure the defects. He said he would be willing to do that for her since she does pay her rent.

H. McKeen said she can commit to making a payment plan, but her mother needs to negotiate because her name is on the lease.

Member Oi made a motion to amend to recommendation to allow the 1 year holdover and month to month permit on the consideration that the lessee structure and work on a payment plan with the County.

Member Yuen said this looks unsafe. H. McKeen said there are wires hanging, but that's not active electricity.

Member Yuen asked if they were all living in the garage, and no one lives in the house. The garage electricity comes from extension cords that comes from the house. H. McKeen confirmed they are working on it.

Member Yuen told H. McKeen that the staff is concerned about the safety. Member Yuen asked her about the permits, if they have tried to get a permit. H. McKeen said they did but since her dad and grandma passed within two weeks of each other and their names were the names on the lease, everything just came to a stand-still.

H. McKeen said she didn't know that things were the way they were until March.

Member Gomes asked about the waste water system being altered. H. McKeen said they connected it to the cesspool.

Member Oi made a motion to allow the one year holdover, in such time she will acquire the after the fact permits and make a payment plan.

Member Yuen made a modification and would like the priority to be on the electrical permit because an after the fact building permit can be difficult. He wants it in the motion that the lessee will pursue that. The electrical he would like to be done in a year. Member Yuen said he was very concerned about the family and the neighborhood with the electrical the way it is. If this comes back for an RP then it can be reexamined at that time. Member Oi seconded.

Member Downing and Member Gomes also voted in favor.

The Board amended staffs' recommendation by approving a one-year holdover; with any request for issuance of a revocable permit to come back to the Board for its consideration before the one-year holdover expires. As conditions to the granting of the one-year holdover, the lessee shall: (1) negotiate a payment plan with the County of Hawaii on the delinquent real property taxes; (2) apply for and obtain a permit for the electrical work servicing the front structure; and (3) apply for a building permit for the front structure.

Unanimously approved as amended (Yuen, Oi)

Item D-9 Issuance of Right-of-Entry Permit to Hi-Tech Rockfall Construction, Inc. for Construction Staging Area (for Rockfall Mitigation Project) on Lands Encumbered by General Lease No. 5309, Waimānalo, Ko'olaupoko, O'ahu, Tax Map Key: (1) 4-1-013:017.

Kevin Moore Assistant Administrator for LAND reviewed item D-9.

Scotty Smith representing High Tech Rockfall said they would like access to move material, they agree with the staff's recommendation.

Unanimously approved as submitted (Oi, Yuen)

Item E-3 Request Approval to Initiate Rule-Making Proceedings, Including Public Hearing to Add Hawaii Administrative Rules (HAR) § 13-146-6 To Set Fees For Camping, Lodging, Day-Use Pavilions, Parking and Entrance at State Parks.

The rules can be reviewed online at: <http://files.hawaii.gov/dlnr/meeting/submittals/150410/E-3-Ex-A.pdf> or can be reviewed in person at any State Parks District Office from 8:00am to 3:00 pm, Monday through Friday, except holidays.

Written testimony was submitted by Glenn Shiroma.

Curt Cottrell with State Parks-PARKS welcomed Member Keone Downing and had some changes to the submittal. He first gave some history and explained that the fees that are being collected have already been approved by the Board. Upon consultation with the AG's they have determined that PARKS needs to place the fees that the Board approved into the rules. This is just a house keeping amendment. PARKS is asking for approval to go out into public hearing so they can rectify the list of these fees being included in the body of their rules.

Member Roehrig commented that someone from the park service needs to down to Wailoa River State Park because the homeless problem is getting out of control.

James K. Manaku Sr. signed up to testify, but he was no longer present.

Cottrell handed out the draft changes (see attachment 1).

Member Roehrig made a motion to approve, Member Yuen seconded with the amendments that were distributed.

Unanimously approved as amended (Roehrig, Yuen)

Item F-5 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Drs. Christopher Winn and Samuel Kahng, Hawai'i Pacific University, for Access to State Waters to Conduct Seawater Carbon Research Activities.

Maria Carnevale State Co-manager for Papahānaumokuākea-PMNM reviewed item F-5. The applicant Sam Kahng was present for questions.

Unanimously approved as submitted (Oi, Yuen)

Item B-1 Request Chairperson's Signature on Memorandum of Understanding Between the County of Hawaii Department of Parks and Recreation and The State of Hawai'i Department of Land And Natural Resources' Hunter Education Program Equipment for The Hilo Trap and Skeet Range.

Andrew Chow program manager with the Hunter's Education Program presented item B-1. He noted that the department entered into a similar MOU in the fall of 2014 for a replacement generator.

Unanimously approved as submitted (Roehrig, Yuen)

Item C-1 Memorandum of Understanding Between the Division of Forestry and Wildlife and the United State Department of Interior, U.S. Fish and Wildlife Service, for Providing Firefighting Assistance.

Dietra Myers Forester DOFAW conveyed item C-1 this MOU is to compensate the State for expenses for fighting fire on U.S. Fish and Wildlife lands statewide.

Unanimously approved as submitted (Oi, Yuen)

Item D-3 Issuance of Right-of-Entry Permit to the World Triathlon Corporation onto State-Owned Lands for Access Purposes on May 30, 2015, at Lālānilo, South Kohala, Hawai'i, Tax Map Key: (3) 6-9-001: portion of 015.

Item D-4 Issuance of a Right-of-Entry Permit to Trade-Winds Management Group, Ltd. for a Team Building Event (Beach Volleyball) at Wailea Beach fronting the Four Seasons Resort at Honua'ula, Wailea, Maui, Tax Map Key: (2) 2-1-023: seaward of 007.

Item D-5 Partial Withdrawal of Land (Lot 1-B) from Governor's Executive Order No. 2823 to Department of Education; Issuance of Immediate Right of Entry to County of Maui for Roadway Improvements; and Sale of 1,681 sq. ft. Remnant (Lot 1-B) via Quit Claim Deed to County of Maui for Roadway Improvements, Kihei, Maui, TMK: (2) 2-2-002:043 por.

Item D-6 Issuance of Right-of-Entry Permit to Rodney Kilborn of Handsome Bugga Productions for Stand Up Paddle Board Event at Lipoa Point, Honokohau, Honolua, Lāhainā, Maui, Tax Map Key: (2) 4-1-001: Portion of 010.

Item D-7 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on April 23, 2015, Waikīkī, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:021 (Portion).

Item D-8 Grant of Term, Non-Exclusive Easement to Christopher K. Eldridge and Wana'ao W. Eldridge for Seawall and Steps Purposes; Waikīkī, Honolulu, O'ahu, Tax Map Key: (1) 3-6-001:seaward of 042.

Item D-14 Consent to Assign a Grant of Non-Exclusive Easement No. S-5340, Kenneth V. Krebs, as Assignor, to Global Oasis Investments Pty Ltd. as Assignee; Amendment of Easement Condition by Allowing the Easement to Inure to the Benefit of the Abutting Private Property; Pūpūkea-Paumalū Beach Lots, Ko'olaupia, O'ahu, Tax Map Key: (1) 5-9-020:049 seaward.

Kevin Moore representing Land Division- LAND had no changes to items D-3 through D-8 and D-14. The Board had no questions.

Unanimously approved as submitted (Oi, Roehrig)

Item E-1 Consent to Assign General Lease No. SP-0136 Barbara Clare Childers, Trustee of the Barbara Clare Childers Trust, Assignor, to Ruth Elizabeth Piccard, Tenant in Severalty, as Assignee, Lot 22 Koke'e Campsites Lots, Koke'e State Park, Waimea (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-004:013.

Steve Soares property manager with PARKS explained that periodically PARKS gets request from lessees to reassign their leases, this is routine. He noted that there is a recommended premium of \$4,500 which is consistent with the Board's assignment policy, that policy is attached to the lease.

Member Oi asked who the structures were owned by that were left by the lessees. Soares said that PARK's position was that the structures are owned by the State. They are leasing the land and the structure as part of the lease. When the lease is acquired, they acquire a fresh new lease regardless of who made improvements in the past. This is the second time the premium has been paid on this lease. The premium is a function of the schedule as part of the Board's requirement.

Unanimously approved as submitted (Oi, Roehrig)

Item E-2 Establishment of a Volunteer Agreement with the North Shore Community Land Trust for Pūpūkea-Paumalū State Park Reserve, Ko'olauloia, O'ahu Tax Map Key: (1) 5-9-05: 38, 82 and 5-9-06: 1, 18, 36, 37.

Steve Soares –PARKS Conveyed item E-2. Soares recognized that the North Shore Community Land Trust was the key the State acquiring the property in the first place. The department has good relationship with them and would like to keep that.

Unanimously approved as submitted (Oi, Roehrig)

Item F-1 Request for Approval to Add Funding (\$326,000 Federal, \$74,000 General Fund) and Extend through FY16 the Project Agreement (Contract No. 58627, Amendment No. 6) between the Board of Land and Natural Resources (BLNR) and The Research Corporation of the University of Hawai'i (RCUH) for the Division of Aquatic Resources (DAR) Research Project Titled "Maui/ Oahu Marine Resources Assessment."

Item F-2 Request for Approval to Add Funding (\$617,00 Federal, \$13,000 Sport Fish Special Fund) and Extend through FY16 the Project Agreement (Contract No. 60395, Amendment t No. 4) between the Board of Land and Natural Resources (BLNR) and The Research Corporation of the University of

Hawaii (RCUH) for the Division of Aquatic Resources (DAR) Research Project Titled “Investigation of Estuarine Habitats.”

Item F-3 Request for Approval to Add Funding (\$559,000 Federal, \$141,000 Commercial Fisheries Special Fund) and Extend through FY16 the Project Agreement (Contract No. 60393, Amendment t No. 4) between the Board of Land and Natural Resources (BLNR) and The Research Corporation of the University of Hawaii (RCUH) for the Division of Aquatic Resources (DAR) Research Project Titled “Hawaii Marine Recreational Fishing Survey.”

Item F-4 Request for Approval to Add Funding (\$330,000 Federal, \$20,000 Commercial Fisheries Special Fund) and Extend through FY16 the Project Agreement between the Department of Land and Natural Resources (DLNR)/ University of Hawaii (UH) Contract No. 60379 (Supplemental Contract No. 4) for the Project Titled “Collaborative Administration of the Hawaii Fish Aggregating Device System.”

Alton Miyasaka Acting Administrator for the Division of Aquatic Resources had no changes. Miyasaka welcomed the new Board members.

Member Yuen asked how long the project has been going on in item F-1. Miyasaka disclosed that the lay net ban went into effect about 7-8 years ago. They are still observing that data to see if any changes have been made. Early results have not shown a change. They are trying to determine if the methodology is at fault, or if there in fact is not a change.

Member Yuen commented that these are important, and hoped that the feedback comes back. He asked who the investigators were. Miyasaka explained that in most of these the department is the prime investigators but experts will be contracted. This is a federally funded project. RCUH provides the accounting and reporting.

Member Roehrig asked how the DLNR staff that is paid through RCUH would remain under this plan. If they don't like their working conditions, who do they talk to? Miyasaka explained that there are contract people and State employees. The contract people are hired through RUCH and RCUH provides them their benefits.

Unanimously approved as submitted (Yuen, Roehrig)

Item L-1 Appointment of Tom Baribault to Serve as Director of the Mauna Kea Soil and Water Conservation District.

Item L-2 Certification of Election of Frank James Oliveira to Serve as Director of the Hana Soil and Water Conservation District.

Chris Takashige Acting Chief Engineer reviewed items L-1 and L-2. He had no changes.

Unanimously approved as submitted (Yuen, Roehrig)

There being no further business, Acting Chairman Carty Chang adjourned the meeting at 3:14 p.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,



Ku'ulei Moses
Land Board Secretary

Approved for submittal:



Suzanne D. Case
Chairperson
Department of Land and Natural Resources