

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

DATE: FRIDAY, JANUARY 12, 2007  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HI 96813

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

MEMBERS

Mr. Peter Young  
Mr. Ron Agor  
Mr. Samuel Gon III

Mr. Tim Johns  
Mr. Jerry Edlao  
Ms. Taryn Schuman

STAFF

Ms. Charlene Unoki, Land  
Mr. Dan Quinn, State Parks  
Ms. Jennifer Bethel  
Mr. Russell Tsuji, Land  
Mr. Gavin Chun, Land  
Mr. Blaine Rogers, DAR

Mr. Sam Lemmo, OCCL  
Mr. Paul Conry, DOFAW  
Ms. Tiger Mills, OCCL  
Mr. Dan Polhemus, DAR  
Mr. Dolan Eversole, OCCL

OTHERS

{Note: language for deletion is [bracketed], new/added is underlined}

**Item A-1 Minutes of December 8, 2006**

**Unanimously approved as submitted (Johns, Agor)**

**Item D-1 Consent to Mortgage and Extension of Lease Term; General Lease No. S-4476, Freddy Nobriga Enterprises, Inc., Lessee; Withdrawal from General Lease No. S-4476; Set Aside to the Department of Land and Natural Resources, Division of Forestry and Wildlife for Forest Reserve, Wildlife Preservation and Related Purposes; and Issuance of Management and Construction Right-of-Entry Permit to the Division of Forestry and Wildlife at Piuhonua, South Hilo, Hawaii, TMK: (3) 2-6-18:01 (HDLO/Wesley)**

Mr. Russell Tsuji, Administrator for the Land Division, reported that the Division of Forestry and Wildlife (DOFAW) submitted a late amendment that was circulated to the Board earlier this morning. The first amendment is to make it clear that the purpose of the set aside is to add to the Hilo Forest Reserve and to add to the recommendation section, items 6 and 7.

Mr. Nobriga was present.

Member Edlao asked Mr. Tsuji to define cattle eradication as stated in the discussion section of the submittal.

Mr. Tsuji wished to defer to Forestry.

Chairperson Young responded that hunters are allowed to enter certain areas for such purposes. If this doesn't work, DLNR will look for a different eradication program.

Mr. Paul Conry, Administrator for the Division of Forestry and Wildlife, stated that this particular area is open to the forest reserve and public hunting.

Walter Schoettle, attorney for Mr. Nobriga, reported that there are 3 amendments they wish to make. The first is on page 3, under Applicant Requirements, item 2, states "Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost." Mr. Schoettle believes that when this was worked out with Wes, the applicant refers to the Division of Forestry and Wildlife, not Nobriga Enterprises. Page 9, paragraph 3c and page 10, paragraph C, states that the surveying and subdivision will be at Forestry's expense.

Mr. Conry confirmed that this was the intent.

Chairman Young stated that page 3 should be amended to say "DOFAW", instead of "Applicant", for clarity.

The second amendment Mr. Schoettle wished to make was the alignment of the boundary. He stated that there was a verbal agreement between himself, Roger, and Wes, on the alignment of the boundary, as seen in a map distributed to the Board, but it has not yet been finalized in writing. Mr. Johns mentions that the alignment can be approved by the Board subject to finalization by the Chair. The third amendment is an agreement for a buffer that Forestry will maintain on their side of the fence so that trees will not fall on the fence line. This is to ensure that the cattle remain out of the forest reserve area.

#### **The Board:**

##### **1. Amend the purpose of the set aside**

**"...Set aside 1,500 acres to the Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW) [~~for forest reserve, wildlife preservation and related purposes~~] addition to the Hilo Forest Reserve."**

**2. Add the following RECOMMENDATIONS:**

- “6. Authorize the Division of Forestry and Wildlife to conduct a public hearing to add portions of Tax Map Key parcel (3) 2-6-018:001 as detailed above at Piihonua, Hawaii, to the State Forest Reserve System, under provisions of HRS §183-11, Government Land for Forest Reserves and §183-12, Notice of Hearing.**
- 7. Authorize the Chairperson to set the date and time for a public hearing and appointment of a Hearing Master.”**

**3. Amend Applicant Requirements for DOFAW, Condition No. 2**

**“2. Provide survey maps and descriptions according to State DAGS standards and at [Applicant’s] DOFAW’s own cost...”**

- 4. Authorize the Chairperson to work with Freddy Nobriga Enterprises, Inc. as proposed by Mr. Walter R. Schoettle's letter dated January 3, 2007 to finalize the boundary alignment.**

**Unanimously approved as amended (Johns, Schuman)**

**Item D-2 Termination of Term, Non-Exclusive Surface Grant of Easement No. 4227; Issuance of New Grant of Term, Non-Exclusive Surface Easement to KBH, Inc., Kahaluu, North Kona, Hawaii, TMK: (3) 7-8-13:042 (HDLO/Wesley)**

Mr. Tsuji reported that Staff had no changes to the submittal.

Jamae Kawauchi, attorney for KBH, and Joseph Spencer, a representative from KBH, were present. Ms. Kawauchi reported they have no problems with the submittal.

**Unanimously approved as submitted (Agor, Schuman)**

**Item D-5 Rescind Prior Board Action of October 24, 2003, Agenda Item D-20, Grant of 55-year Term, Non-Exclusive Easement to Michael A. Pietsch and Judy B. Pietsch for Seawall Purposes, Wailupe, Honolulu, Oahu, TMK: (1) 3-6-01:22, seaward. (ODLO/Al)**

Mr. Tsuji reported that after discussions with the DAGS surveyor, it was determined that an easement was not necessary.

Applicant agreed with Staff’s submittal.

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

**Item D-4**      **Amendment to Prior Board Action of September 28, 2001, Agenda Item D-17, Grant of Perpetual, Non-Exclusive Easement to R.R. Midkiff Luakaha Family Limited Partnershiip and Elizabeth Midkiff Myers, Trustee Under that Certain Unrecorded Revocable Trust of Elizabeth Midkiff Myers, dated April 24, 1989, as Amended for Waterline, Reservoir and Fire Pump Station Purposes at Nuuanu, Oahu, TMK: (1) 1-9-07:02 por. (serving TMK: (1) 2-2-55:12). (ODLO/AI)**

Mr. Tsuji reported that Staff had no changes to the submittal.

Robert Cunningham, representative of the applicant, agreed with Staff's submittal.

**Unanimously approved as submitted (Johns, Schuman)**

**Item D-6**      **Consent to Mortgage and Extension of Lease Term, General Lease No. S-3776, Claudia M. Chaille, Angela Chaille Meixell, Timothy Meixell, Lessee, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-27:12 (ODLO/Robert)**

Applicant agreed with Staff's recommendation.

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

**Item D-7**      **Sale of Reclaimed Land to Erich J. Wida and Catherine D. Wida, Kaneohe, Oahu, TMK: 4-4-37:05, seaward. (ODLO/AI)**

Mr. Tsuji reported that Staff had no changes to the submittal.

The applicant agreed with Staff's submittal.

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

**Item K-1**      **Conservation District Enforcement File No. MA 06-80 for Unauthorized Clearing of Land, Unauthorized Residential Use, Possible Disruption of Archaeological Sites Located at Honolua Bay, Kaanapali, Maui, TMK: (2) 4-1-001: 007, 008, 010 and 019**

Mr. Sam Lemmo, administrator for the Office of Conservation and Coastal Lands, reported that this enforcement case is about unauthorized land clearing, unauthorized commercial uses, unauthorized residential use, and possible disruption of archeological sites. The alleged is Mr. Narciso "Jimmy" Billianor. Mr. Lemmo gave some background information on the situation. He reports that this began in June 2006 when they received complaints that there had been some clearing done at Honolua Bay. The area was investigated and it appeared that parcel 7 was cleared and a camp erected in which Mr.

Billianor was believed to be the occupant. In parcel 8, there was evidence that a stream had been diverted and in parcels 10 and 19 there was evidence of portable toilets and signs posted asking visitors to donate \$3.00 to enter the area. On July 20, 2006, Staff issued a cease and desist order to Mr. Billianor for alleged clearing of land, unauthorized commercial uses, possible destruction of archeological sites and an establishment of a semi-permanent camp. The notice was delivered to him on July 24, 2006. Staff continued to receive complaints so a site visit was conducted on September 25, 2006 with representatives from DOCARE, Historic Preservation, and Maui Land and Pineapple. In October, Staff sent a notice to Mr. Billianor stating that he was under formal investigation for several violations. Notices were sent out to other Honolua Bay owners that there were problems in the area. Staff continued to receive complaints about harassment and people demanding admission to enter the Bay. It was reported that the port-a-potties and donation signs had been removed, but the camp infrastructure remains. Currently, Mr. Lemmo is unaware of the current condition of the land. During the site visit, Staff was unable to see the entire area because the family request that the area not be assessed. A request has been made for the State Historic Preservation Division to conduct a damage assessment of the area concerning the disruption of archeological sites and burial mounds. The issue of fishing in a marine life conservation district will be referred to the Division of Aquatic Resources. Staff is asking for the Board to impose a \$2,000 fine per day on Mr. Billianor, from July 24, 2006 up until present, creating a total fine of \$231,350, which includes some administrative fees. They are also asking Mr. Billianor to immediately clear the camp and in the event that he does not comply with the current order Mr. Billianor would again be issued a fine of \$2,000 per day.

Chairperson Young inquired if the daily fine has been computed up to today. Mr. Lemmo responded that it should be. Chairperson Young also asked if Mr. Lemmo knew the status of the area as of today. Mr. Lemmo responded that he did not, but he has been verbally told by a DLNR Maui employee that the camp was still there as of a few days ago.

Mr. Billianor, reported that originally the property was his mothers, and on behalf of his family, he is the caretaker of the property. The property has already been abused and the grave sites already ruined from people walking around on the property and using it as a bathroom. He and his family returned to the Bay after receiving a call informing him that Maui Land and Pineapple had bulldozed part of the property. He notified DLNR and Officer Stan came down to look at the area and took pictures and measured the trees that were cut. Mr. Billianor wants to know why Maui Land and Pineapple is not being involved in this enforcement case and how DLNR got involved with Honolua Bay. He reported that none of the families were notified that the area was going to be turned over to the Conservation District.

Mr. Norman Abihai, representing the Kingdom of Hawaii, questioned whether DLNR had jurisdiction and title. Chairperson Young responded that DLNR regulates the uses in the Conservation District, irrespective of ownership, therefore who ever does a land use without a permit is subject to a violation. Mr. Abihai responded that DLNR has been served papers and they have 7 days to respond to the notice. Chairperson Young

responded that it will be referred to the Attorney General's office. Mr. Abihai questioned what right DLNR has to charge Mr. Billianor \$200,000 if they don't have title of jurisdiction. He stated that if DLNR is going to impose any fines, they are going to have to take them to court.

Chairman Young informed Mr. Abihai that in cases such as this, there is an opportunity to request a contested case hearing, which follows a more judicial format where there is a hearing officer. To do so though, it must be requested at this meeting and then followed up in writing within 10 days.

Mr. Abihai and Mr. Billianor both requested a contested case hearing.

Mr. Billianor's daughter wished to clarify some of the claims that Mr. Lemmo made earlier. She stated the reason why they were not allowed on to the property is because she is a minor. There was no adult on the property that day. She also asked them if a letter was sent notifying the family that they were going to come. She stated that they had no notification that they were under investigation, no notification that Staff was going to come down and do any kind of survey. She told them not to return until an adult was present or notification given. They decided not to listen and disregarded what she said. She views this as trespassing onto their property.

Chairman Young asked Mr. Lemmo how the notices of July 20, 2006 and October 5, 2006 were delivered to the family. Mr. Lemmo responded that they were both hand delivered.

Another family member of Mr. Billianor reported that Honolua Bay was passed down to her family (estimated about 300 members) through Princess Pauahi, her great-great grandmother. Chairperson Young responded that no one is questioning ownership of the land. She stated that all she wants is for us to get off the land and leave her family alone. She feels that what they do with their land is their kuliana. Chairman Young responded that all of these issues will be addressed during the contested case hearing.

#### **Defer to contested case**

#### **Item K-2 Conservation District Enforcement File No. KA 06-72 Regarding Alleged Unauthorized Construction of a Chain Link Fence Within the Conservation District Wainiha, Hanalei, Kauai, TMK: (4) 5-8-009:025**

Mr. Lemmo reported that this enforcement case is about an unauthorized chain link fence built in the conservation district by the land owner, Mr. David Smith. The owner was served with a notice and order on June 26, 2006. Staff is seeking resolution for this issue which would include removal of the fence. This would be consistent with their policy on no tolerance for any kind of shoreline structure built after 1999. Mr. Smith can apply for a permit either with OCCL or the county after the original fence has been taken down. This has nothing to do with the appropriateness of the fence; it has to do with the law. There was no permit, therefore there is a violation. There was a document submitted by

Bernard Bays on behalf of Mr. Smith which explains that the property has been suffering from number of public safety issues i.e. trespassing, misuse of their property, threats, etc. According to the land owner, the fence was erected as a last resort. The land owner is asking the Board to dismiss the violation and so that he can then apply for a temporary variance. This would allow vegetation to grow in to create a buffer between the property and public beach, at which time the structure would be removed. Staff is seeking the Boards support in the removal of the fence and is also seeking a \$2,000 fine because the fence was not removed and they had asked Mr. Smith for his cooperation. There is also some administration costs included. Staff is recommending a total fine of \$2,200, removal of the fence within 30 days, and a follow up site visit to ensure that the fence was removed.

Mr. Bernie Bays, attorney for Mr. Smith, described the circumstances that led up to the construction of the fence. He provided the Board with additional photos. Mr. Bays stated that Mr. Smith did not want the fence. He built it as a last resort to protect his tenants, guests, and overall property from repeated acts of trespassing, theft, property damage (estimating \$20,000), threats of violence made to his tenants and guests, and the dangerous operation of ATVs on the property. Mr. Smith built the fence on his own property, out of the conservation district, only as a temporary, emergency measure to give the vegetation an opportunity to grow back, without the interference of foot and ATV traffic. When Mr. Smith bought the property, it was covered with dense vegetation, but construction activities destroyed much of the shoreline vegetation. The rest was destroyed by foot and ATV traffic along with the intentional uprooting of the vegetation. Mr. Smith's original reaction to the public safety issues was to repeatedly call the police and to post no-trespassing signs on the property; however, these signs were stolen. The police eventually told him that they cannot protect this property. Mr. Bays provided pictures of neighboring properties that shows a dense vegetation line, a fence, or both.

Board Member Johns wondered if it would be easier for Mr. Smith to just pay the fine, remove the fence and then put in an application and wait to see if it is accepted. Mr. Bays wished to continue on with the provided exhibits because there is a question about whether the proposed violation actually took place in the conservation district.

Mr. Bays reported that there is a public right-of-way, approximately 6 feet in width between Mr. Smith's property and the adjoining YMCA property. The YMCA built the fence around their property 2-3 years ago which appears to be mauka of the shoreline. Chairperson Young inquired if Mr. Bays is suggesting that the Board is going to evaluate where the shoreline is because he would argue that there is not enough information nor evidence present to make such a decision. Mr. Bays agreed with Chairman Young , but Mr. Smith's fence is at least 10 feet back from YMCA fence. Chairman Young asked where the conservation district is in this particular area. Mr. Bays responded that Mr. Smith's fence runs right along the boundary line, therefore it is their position that the fence lies on Mr. Smith's property, not the conservation district. The Board disagreed with Mr. Bays claim because the property line is not necessarily the conservation line. Chairman Young asked Mr. Lemmo exactly where the conservation district is in the area and if the parcel is zoned urban. Mr. Lemmo responded that the parcel is zoned urban

and is under the jurisdiction of the County. The State conservation district begins at the shoreline and extends in the seaward. There was a shoreline certification done in 2000, but it is no longer valid. Staff has been out to the site and has determined that the fence does reside in the conservation area because the shoreline is more landward than the 2000 shoreline. The photos in Staff's submittal show that the debris line is much further landward than the fence.

Board Member Johns mentioned that Mr. Smith is allowed a contested case, but inquired about the best approach to this violation issue and what should have been the proper procedure in the first place. Mr. Lemmo responded that Mr. Smith should have gotten a shoreline certification that would have determined whether he needs to work with the State or the County for a permit for his shoreline structure. Board Member Johns questions why Mr. Smith wouldn't want to get a shoreline certification done now. He also agreed with Chairman Young about not being able to make a decision on where the shoreline is and that's what needs to be determined before it can be decided if the fence lies within the State's jurisdiction or not.

Mr. Bays suggestion is that the Board defers this matter for a year during which Mr. Smith would apply for a temporary variance for the fence and at that time, depending on Staff's and the public's reaction to it, revisit this item.

Board Member Johns asked Dolan Eversole how far mauka the shoreline is of the fence. Mr. Eversole responded that the fence is clearly within the shoreline area and is about 10-20 feet mauka of the existing fence. Based on this information, Board Member Johns questions why Mr. Smith couldn't just build his fence 20 feet back from its current position. Chairman Young believes that people could interpret that having the fence would encourage induced vegetation to establish a shoreline farther makai because the chain link fence could possibly stop the wave action. Mr. Bays responded that the pictures show that the properties on both sides of Mr. Smith's property have vegetation that is substantially makai of the fence. Therefore, it appears that the vegetation is naturally growing. Board Member Johns asked Mr. Eversole why the aerial photographs show the vegetation appearing to be more makai. Mr. Eversole responded that this area has been induced artificially overtime. They do not have direct evidence, but have substantial public citizen concern and evidence that this vegetation is not natural. He also wished to note that the fence would complicate the shoreline certification.

Mr. Lemmo foresees that one of the issues would be, even if they distinguished where the shoreline was, if they told him to build his fence behind it, they would be telling him to build it in the County jurisdiction. Mr. Lemmo is unsure of what the County process is and is unsure if they would even permit the fence. Mr. Lemmo also states that if OCCL was to process the permit, he would be unsure whether they would be comfortable with that because of public access issues that may arise.

Mr. Bays stressed that the fence is built mauka of the last certified shoreline. Chairman Young pointed out that certified shorelines are only good for one year. He also asked Mr.



Bays how far the fence is from the house. Mr. Smith answered that it is about 80 feet away.

Mr. Johns asked Mr. Lemmo whether Staff has done any recent shoreline certifications in the area and if so, was that taken into account when making the determination for this fence. Mr. Lemmo responded that Staff has been assisting Land and Survey over the past year doing certifications and this information was taken into account when making the determination.

In regards to the requested temporary variance, Chairman Young responded that a provision in the rules calls for the Board to determine that no reasonable and prudent alternative promotes the public interest as well as the proposed land use. Therefore, he questioned if there were any alternatives, knowing that the fence is built approximately 80 feet from the house. Mr. Bays admitted that the fence could have been built 10 feet back, meaning there is an alternative.

Mr. Smith states that he wouldn't mind moving the fence back; however, because he is an off-island owner, there has been a lot of potentially deliberate disruption of the shoreline on his property. He believes that this is the only protection he has from the trucks and 4-wheelers tearing through his property, using it as a short cut to get to Kuhio Highway.

Mr. Bays again requested that this matter be deferred and if it is not possible, then they would ask for a contested case hearing.

Virginia Baldwin, property manager for Mr. Smith, reported that it was her concern for the safety of children that she went to Mr. Smith and requested something be done. She did not want the liability of having a child hurt on this property. Mr. Smith told her that he was very frustrated because he had spoken to the county about getting a fence, but was told that he was not going to get a permit for it. Board member Agor inquired about what the county said when Mr. Smith went to see them. Mr. Smith responded that he was told he couldn't build anything within 40 feet of the shoreline. He then asked if he could get a variance because other properties had fences within that area. No one mentioned to him that he could build behind the 40 foot shoreline. Board member Johns clarified with Board member Agor that Mr. Smith could build his fence 40 feet from the shoreline, in this case 40 feet from the house. Board member Agor agreed. Ms. Baldwin also mentioned that they have witnessed people intentionally removing the vegetation. Since the fence was built, it has alleviated the situation.

Caren Diamond reported that the entire beach front in this area was planted; most of it planted in 2001 and has encroached 30-40 feet of sandy beach. She believes it is inappropriate to take a pristine shoreline and plant it to make it blend in with the other properties. She also mentions that this house was originally part of a 3 house subdivision. As a requirement, these houses had to be set back 80 feet from the shoreline; therefore, at the time of building, the County waived a shoreline certification. The 1995 shoreline was used so that these 3 houses could be constructed fitting that 80 feet. When these houses were finished, a temporary construction fence was put up and acts as a good

measure in this case because it kept getting washed out by the waves and would end up near someone's house, 80 feet in. Ms. Diamond used pictures as evidence for this as well to show that when the houses were done and the landscaping began, the subdivision also had a requirement that the ironwood trees were not to be removed. She assumes, based on previous knowledge that nothing really grows beneath ironwood trees, therefore, there really wasn't much vegetation before. She claims that irrigation pipes were put in and naupaka planted across the front. The County issued a violation notice and told them to remove the plantings and irrigation and required them to get a certified shoreline to show where they could plant and/or irrigate. They removed the irrigation, but left the plantings. There was a disagreement whether it was on State or County land and the County agreed to do the enforcement. They required a current shoreline certification before granting any permits to do more planting. Ms. Diamond state, while the landowner may feel safer with the fence, the community is not. The water has washed up to this fence everyday for the last month. There is no access and a huge scarp and slope is left from all the plantings. The only ATV that she knows of is the one belonging to the lifeguard who rides up and down daily. She asks the Board not to defer their decision, but to have the landowner take the fence down before someone drowns; all irrigation and naupaka to be removed immediately, and that the land owner follow established procedures and gets a shoreline certification, then if he chooses, gets a permit for the fence and puts it in the right place. If the Board does not require Mr. Smith to take the fence down, she as well will be asking for a contested case hearing.

Member Johns notes that it appears that this matter will be going to a contested case hearing because if the Board waives condition number 4, then Ms. Diamond is requesting a contested case and if they don't Mr. Bays is requesting a contested case.

Gerald Shin, part owner of the property management team, reported that as a retired paramedic for the fire department, he sees no hazard with having the fence there. The tenants now feel safe and the criminal activity has come to a standstill. He believes that taking down the fence would have no bearing on anyone's safety. They understand that water is very rough, but there is a gate that the public can access in an emergency as well as the 6-8 foot public access path located right next to the property. He also believes that Mr. Smith had no other recourse but to construct the temporary barrier. When questioned by Chairman Young if he thinks that moving the fence back would create the same effect, Mr. Shin responded that moving the fence back would still help the situation.

Mr. Smith wished to note that naupaka does grow naturally in the area, it may not be a fast grower, but it does grow beneath the ironwood trees.

**The Board:**

**Accept Staff's recommendation, but amend recommendation number 4**

**"4. The landowner shall ~~remove the fence within the Conservation District within thirty (30) days of the shoreline determination by Departmental Staff~~ have 45 days to relocate the fence where appropriate agencies allow for it;"**

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

**Both Mr. Bays and Ms. Diamond requested a contested case hearing.**

**Item K-4 Conservation District Use Application (CDUA) OA-3372 for the City and County of Honolulu Sewer Line Replacement Located at Kaelepulu Stream, Kailua, Oahu, TMK: (1) 4-9-049:087**

Applicant/representative agreed with Staff's recommendations.

**Unanimously approved as submitted (Johns, Schuman)**

**Item K-3 Conservation District Use Application (CDUA) OA-3366 for a Single Family Residence (SFR) with Associated Improvements and Agricultural Use (Horse Barn) Located at Kokokahi, Keana, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-5-032:001**

Mr. Lemmo reported that the applicant is Mr. Peter Cooper and the project is located in Kaneohe, across the street from Bay View Golf Course. In 1980, the Board approved a single family residence at this site, but the house burned down in 2001. The applicant acquired the property in September 2005 and the property is currently for sale. The applicant proposes to build a single family residence, about 4,500 square feet and a 20 foot high, 1,600 foot horse barn. The barn would support the applicant's personal equestrian needs and enable the applicant to keep no more than 3 horses on the property. The management plan for the care and maintenance of the horses has been submitted which includes a pasturing area of about 3.5 acres fenced in. The total acreage of the property is roughly around 56 acres so only a small portion of the property is set aside for this use. The pasture area would be located 40 feet away from the closest property line. This application was solicited for comments from various agencies (i.e. Historic Preservation, the County, Kokokahi Community Association) and the community (who responded mostly through letters). The applicant did respond to all comments made and based on this, OCCL issued a FONSI (a finding of no significance impact) in December. Mr. Lemmo also wished to note a typographical error in the report on page 17, 2<sup>nd</sup> paragraph. It refers to a zoning of R-5 under the City and County of Honolulu's jurisdiction; it should actually be R-10 (an urban land use designation). Staff is okay with the house. Mitigation measures for the house has been determined and a small pool being proposed. Staff does have concerns about the horse barn and pasturing, mostly due to the smell, possible run off issues, and moving in and out of the property with horse trailers and transporting manure. The driveway is very steep, small, and narrow and exits onto the street which is a residential area. Staff is concerned with the traffic that would be generated and the impact on the surrounding community because it is a very dense residential community. The proposed development is concentrated in the area adjacent to the residential development. While Staff feels that the residence is justified based on previous occupation and the mitigation measures, they feel that the horse barn and pasturing may not be appropriate because of its proximity to the other residences. Staff

asks that the Board deny the request for the horse barn and in the recommendation section, Mr. Lemmo asked to delete the phrase "without prejudice". Chairman Young inquired that if the Board was to deny the barn today, could the applicant reapply without a time delay. Mr. Lemmo responded that was correct. Mr. Lemmo also wished to note that "without prejudice" means that there is some other reason for denying the permit. Chairman Young wished to clarify that the Board would be saying no to the horse barn now, but they're not saying that the applicant can't come back and apply for it again at a later time. Mr. Lemmo responded that the Chairman was correct. Staff is also asking for the Board to approve the house and the associated improvements. Member Johns inquired that if the FONSI also applies to the barn, then why is Staff recommending denial. Mr. Lemmo responded that it is due to the level of public concern. Mr. Lemmo mentioned that there are some conditions in the permit. One concern was the drainage issue, therefore, the applicant must do a drainage study before OCCL signs off on the construction plans for the house. There is also conditions included about historic preservation concerns; the applicant will have to work Historic Preservation Division (HPD) to determine a monitoring program to ensure that any burial or archeological sites aren't disturbed. They also are required to replace the cesspool with a septic IWIS system.

Chairman Young inquired if there is a denial for the agricultural use and the applicant comes back with an application at a later time, would the environmental assessment (EA) still apply? Mr. Lemmo responded that if the applicant is not proposing the horse barn in the same location as it is being proposed today, he would assume some changes would have to be made, either in a new EA or a supplemental EA.

Pete Cooper, applicant, reported that he understands the recommendation because he has many concerned neighbors. When he first started this process many of the neighbors did not like him because he was taking away a park that the community had been using for years. He does have some neighbors with legitimate concerns and he was trying to mitigate their concerns while not stopping him from using an approved use for his land. He notes that the prior house was an eyesore, but he is proposing something more user friendly, that fits into the environment. Chairman Young inquired if Mr. Cooper had any objections to Staff's recommendations about the house. Mr. Cooper responded that he had no problems with it. The biggest problem is with the barn. He believes that the last property owner had really upset the neighbors because he had transported the previous house to the property at night, messed up the telephone line, severely impacted the community, and had no concern for the traffic on the road. He has gone out of his way to meet with the community; he has gone to the neighborhood board 3 or 4 times and invited them all to the property.

Chairman Young asked how Mr. Cooper would feel if the Board acted on the house but deferred the decision on the barn to give Mr. Cooper more time to work with the community. Mr. Cooper agreed that this would be a good decision.

Mr. Johns asked if the neighborhood board ever took a position on this issue. Mr. Cooper responded that they have not. Chairman Young noted that it seems that the attention is

on the barn and maybe there is a chance that Mr. Cooper can work it out with the rest of the community. Mr. Lemmo interjected that the Board has to make a decision on the barn today. Mr. Cooper cannot request a time extension because there is no provision within the law that allows for a time extension for a CDUA. However, if the Board would like to allow Mr. Cooper to come back with the barn plans later, they should include the words "without prejudice" when making their motion. Chairman Young then asked Mr. Cooper, what if he withdrew barn from his application. Mr. Cooper responded that he didn't know what impact that would have on him as a landowner. Chairman Young clarified that the recommendation made would suggest that Mr. Cooper could always come back and their denial would not prejudice his right to come back or Mr. Cooper could always withdraw the barn component from the application. Mr. Cooper was okay with these suggestions.

Mr. Cooper requested to withdraw all portions of the application in reference to the barn.

Mr. Brian Nakatoshi testified that the proposed barn would be located directly in back of his house. The previous land owner had graded the land and now they have major erosion, coming down on to the neighboring properties.

Joseph Awa testified that his house is located directly below Mr. Cooper's property as well. He provided pictures showing the erosion from Mr. Cooper's land ending up on his property as well as his neighbor's property. While he agrees that the area looks nice, the grounds are sloping towards their property. He reported that they never had a problem with water coming down onto their property until 5-10 years ago and it's getting worse. The biggest concern he has is with the erosion and believes that the barn and grazing area will increase runoff because when the animals graze.

Chairman Young reassured the community members that because the barn has been withdrawn, no permit will be issued for it today.

Meryl Nishimura, is another of the neighbors who is directly affected. She inquired that if the provision for the barn is withdrawn, when Mr. Cooper applies for another permit, will the community be notified? Chairman Young responded that Staff is aware of the community's concern. They would also encourage comment from the neighborhood board as well. She also wondered why the barn had to be located at the edge of the hill. Chairman Young responded that the applicant had already suggested the possibility of relocation along with other suggestions that he had agreed to work with the community on.

Jim Tharp inquired about a wording of a phrase in condition number 18 of the staff report which says "Where any polluted run-off, interference, nuisance, or harm may be caused, or hazard established by the use..." Mr. Tharp wanted to know if the word "polluted" referred only to the run-off or the entire string of words. Chairman Young responded that in his reading of the sentence, "polluted" is associated with "run-off" and not any of the other terms. Mr. Tharp also asked for clarification on the word nuisance; whether nuisance could be construed as a continuous runoff problem. Mr. Cooper responded that

he wants to grade the land to change the way the water flows. Mr. Tharp mentioned that his family used to raise horses and is well aware of the problems caused by pasteurization. He is opposed to any application for any live stock use in the future.

One woman questioned whether the Staff submittal will be recorded as it is written currently with only the change from an R-5 zoning to an R-10. Chairman Young replied the record would also reflect that there was a withdrawal on the barn, pasture, and all other related issues. She also wished for clarification on page 4, in paragraph number 3, it says that there is no existing easement. She sees this as a conflict with the second sentence of the next to last paragraph on page 8 which states that there is an easement for access and utilities. Chairman Young responded that the first easement is for a connection to the City's waste water system. She rebutted that the second easement is for utilities as well. Chairman Young responded that it could be referring to water and electricity. The unidentified speaker also notes that the submittal cites the tax map key (TMK) incorrectly on 8; it should be TMK: (1) 4-5-031 not TMK: (1)4-5-0341. She again asks for clarification on why a separate easement is needed for the waste water. Chairman Young responds that some easements may be for access and utilities, but may not be appropriate, in a practical sense, for waste water disposal. Waste water is a gravity issue; while water, electricity, and cable can be run uphill and still work, but waste water doesn't run uphill very well.

Dan Lucy, another adjacent property owner, agreed with the other neighbors that the concern is about runoff.

Mr. Lemmo mentioned there are conditions in the granting of this approval that deal with runoff (i.e. making sure that areas are vegetated and requiring a drainage study). Staff is very sensitive to the problems of construction related runoff and long term runoff, therefore, Staff will be watching closely.

Member Gon asked Mr. Lemmo if during the prior grading, done by the prior owner, followed a similar procedure. Mr. Lemmo responded that there was an issue about grading in the early 80s, but due to record keeping, he doesn't have a lot of details on that particular case.

#### **The Board:**

**Approve Staff recommendations as amended, noting the withdrawal of those portions of the application in reference to the barn and pasture area.**

#### **1. Amend Page 8, next to last paragraph:**

**“The R-10 portion of the parcel is currently undeveloped and vacant. The Final EA has been revised to state that there is an easement for access and utilities over ~~[TMK: (1) 4-5-0341:077]~~ TMK: (1) 4-5-031:077 in favor of the subject parcel.”**

**2. Amend Page 17, 2<sup>nd</sup> paragraph:**

**“The subject property is part of a Condominium Property Regime (CPR), effective July 17, 2006 consisting of two units- Unit 45-020, zoned [~~R-5~~] R-10 under the City and County of Honolulu’s jurisdiction and...”**

**Unanimously approved as amended (Johns, Schuman)**

**Item F-1 Amendment to Board Resolution No. 33 – Relating to Appointment of William K.C.L. Puleloa, Public Hearing Master for the Division of Aquatic Resources.**

**Unanimously approved as submitted (Johns, Schuman)**

**Item F-2 Request for Authorization to issue one Northwestern Hawaiian Islands State Marine Refuge Research, Monitoring and Education Permit to Mr. Donald Palawski of the U.S. Fish and Wildlife Service, for Management Activities within Certain State Waters, Valid from February 1, 2007 to December 21, 2007.**

Dan Polhemus, Administrator for the Division of Aquatic Resources (DAR), reported that F-2 is a deferral because there was a titling problem in relation to the sunshine law.

**Item F-4 Enforcement Action Involving Violations of Northwest Hawaiian Islands Research, Monitoring, and Education Permit # *DLNR.NWHI06R008* by Dr. Greta Aeby of the Hawai’i Institute of Marine Biology.**

Mr. Polhemus is requesting a deferral because there was request for a continuance for more time to respond to this matter.

A representative from Kahea asked that the Board to defer all of the NWHI access permits, on behalf of the public, because there hasn’t been sufficient time to review the permits and the recent management plan.

Stephanie Fried testified that she liked the language used in F-2 where it is affirmatively stated that applicant will not engage in any taking, collecting, catching, or killing. She also liked that there was a CV enclosed showing the qualifications and experience of the manager.

**Unanimously approved as deferred (Johns, Schuman)**

**Item F-3 Request for Authorization to issue one Northwestern Hawaiian Islands State Marine Refuge Research, Monitoring and Education Permit to Ms. Aulani Wilhelm of the National and Atmospheric**

**Administration, Northwestern Hawaiian Islands Marine National Monument, for Management Activities within Certain State Waters, Valid from January 1, 2007 to December 21, 2007.**

Mr. Polhemus reported that this is a management permit by NOAA. Staff has recommended this permit be granted subject to certain conditions. The permit was sent out last November for review and comment to 5 different DAR scientific staff, the Division of Forestry and Wildlife, Historic Preservation, and the national Hawaiian Islands Marine National Monument native Hawaiian entities. Staff was generally supportive, but stressed concerns with the scope of activities proposed. They found that some tasks were consistent with the applicant's management mission, but they felt that some of the other activities did not seem necessary or justified under the management permit, rather they seemed more applicable to a research or monitoring type of permit. The applicant's position on the types of requested activities are for flexibility for them to do emergency response and monitoring. Staff's opinion is that the applicant has properly demonstrated a valid justification for the application and recommends allowing the management activities and vessel operations, as specified in the permit, to occur from the period of January 1 to December 31 of this year. The applicant is required to inform and consult with DAR on their cruise plans according to their trips. They felt that the following activities were consistent with the applicant's management purposes: entering refuge waters, anchoring and landing, small vessel operations, swimming, snorkeling and/or scuba diving, participating in native Hawaiian cultural activities, and conducting archeological research. Mr. Polhemus noted that he had reservation about co-mingling references to research in a management permit. This could be seen on the 3<sup>rd</sup> page of the permit application, where the box for archeological research was checked off, but Staff considered archeological research to be consistent because it would be done, mainly, by a native Hawaiian. There were also activities that Staff considered not to fall within the scope of management activities. These included interactions with sea turtles, monk seals, live coral, jack, etc. Staff felt that provisions to allow the applicant engage in emergency response activities were fine, but felt that the following activities should require prior approval or be detailed in a permit amendment or a separate permit: taking, harvesting, possessing, and transporting specimens, catching, disturbing, and observing wild animals, interacting with sea turtles, monk seals, sea birds, live corals, groupers, sharks, etc. Mr. Polhemus would also include the archeological research in a separate permit.

Member Johns inquired about who would authorize the prior approval. Mr. Polhemus responded that the approval could/would come from either DAR or DLNR.

Member Edlao was concerned with the swimming and snorkeling because while DAR doesn't want the applicant and any others covered by the permit to interact with any of the listed specimens, but once they jump in the water, there is nothing stopping the animals from approaching them, so there will be interaction. Therefore, he suggests eliminating the snorkeling/scuba from the permit as well.

Member Johns inquired whether there was a Sunshine law issue with this permit as well because the permit was checked off as a special activities permit, but the agenda title says



it's for a research, monitoring, and education permit. Bin Li, a Staff representative from DAR responded that this is consistent with how they granted the management permit for the U.S. Fish and Wildlife last season.

Aulani Wihelm, applicant, stated that the intent of the permit is for management purposes so they do not believe they checked the wrong box on the application. There is no intent for research, monitoring, or education. She related some history on the management permit. Prior to the refuge and the monument being establishment, NOAA had always required of itself to have a management permit to make sure there was a tracking of their activities and that it was in compliance with the Federal National Environmental Policy Act. When the permit process started to involve the other agencies, they were pleased because they believe that every agency planning on doing any management activities should have a record. This is the first year that they are approaching the Board with this permit and it is a learning curve for everyone. She again stated that their intent is management, but if the Board sees it as a research, monitoring, and education permit with the intention of management, then they have no problem with that. She also stated that there were two errors on the application; one being that when they checked the box for a special activities permit, they also checked that it was for an annual renewal which is incorrect because this is a new permit, but they do intend this to be an annual renewal permit in the future. The second error was the archeological research should not have been checked. They intend that any maritime archeology, cultural archeology or any native Hawaiian site based or land based archeology would come under a separate research permit. Therefore, they are asking for that request to be withdrawn.

Chairman Young inquired about the take, possess, and transport activities. Ms. Wihelm clarified that as Mr. Polhemus had stated before, it is for flexibility, this is because a manager or their scientific designees may, on rare occasions, need to conduct field work and make field collections with very little advanced warning. Examples include responses to events which cannot be predicted or anticipated such as coral bleaching, coral disease outbreaks, identification of significant quantities of alien or invasive species, and where there is a vessel impact and subsequent fuel spill. Such events including an assessment of the vessel grounding with the responsible party would not constitute as an emergencies, in the sense of an immediate threat of life or property because you would go afterwards as a follow up. While it may not be an emergency, it also doesn't fall into the time frame of being granted a permit; sometimes they may need to take care of the situation right after or try to get these activities to occur on the next possible vessel that's going out. She gave an example of when a cruise had discovered invasive algae and they went back on the very next cruise to collect samples. Therefore, the collection is necessary for monitoring purposes for management. She mentioned a grounding in 2005 which required biologists to go back up and do an assessment of the area, which included some sampling. These are the types of takings and interactions they are referring to in their permit application. Chairman Young wanted to clarify this in the permit. Ms. Wihelm also wished to clarify that in section 5, the prior approval is granted by the division or the department, not the Board. This is because if they were to need prior Board approval they believe it would defeat the purpose of a management permit and may tie their hands in the event of invasive species being found, coral bleaching

events, etc. To answer the question on snorkeling and swimming, Ms. Wihelm answered that to do the types of follow up activities intended, snorkeling and swimming are necessary. Chairman Young wished to clarify these intents into the permit as well.

Chairman Young also inquired about participating in Native Hawaiian cultural activities. Ms. Wihelm responded that she had participated twice before so that a management entity was there. Fish and Wildlife had also sent up a representative on one of those occasions to make sure the conservation requirements and the dialogue with the native Hawaiian community that was going, was consistent. Chairman Young mentioned that some make mistake this as a Native Hawaiian cultural access permit. Ms. Wihelm agreed and suggested that the language be changed to clarify their intent.

Chairman Young asked if this permit was time sensitive or could they wait until the January 26 meeting. Ms. Wilhelm responded that it was not. Mr. Young explained that he still felt the need for clarity between special activity versus research and some of the other issues, therefore, he asked if it would be okay to defer this item until the 26 where a clean application could be submitted with all of the clarifying language included. Ms. Wilhelm replied that it would be fine.

Stephanie Fried, senior scientist at Environmental Defense, testified that the guidelines that DLNR has published for a research, monitoring, and education permit, may be issued to researchers affiliated with government agencies etc, therefore, she believes it would a special activities permit. She still also has tremendous amount of concerns for item 5 and the idea that we have to allow for this "blanket" type of permit where NOAA can extract, take, kill, etc. in reference to Ms. Wihelm's comments earlier about a shipwreck scenario and having to go up after to do a follow up, Ms. Fried understands an exemption for emergency, but the case that Ms. Wihelm had mentioned, they didn't go back up until a few months later. She believe that if the time delay is two weeks or longer, than that is enough time for a Land Board hearing to be scheduled. Chairman Young clarified, that it would take more than two weeks to schedule a meeting; it would be more like a month. The reason for her concerned is that there is proposed plan that the Army Corps of Engineers is planning to go up and do some dredging activities and under such a broadly written permit and lack of a public review process, such an activity could occur. She again mentioned that she liked Fish and Wildlife's permit and is seeking for a affirmative statement, as found in the Fish and Wildlife permit, in regards to no taking, catching, collection, and killing. Also, the Fish and Wildlife permit requests permission for only applicant and Staff; the NOAA application asks for applicant, staff, consultants, volunteers, etc., plus others at discretion. This implies that an unlimited amount of people may be allowed to go up to the NWHI. She requests that it be limited to staff unless there is somebody they have hired to work on a certain project and that name(s) should be made explicit. Another concern is that any description of the vessels to be used is missing. While they may not know, she believes this to be extremely important because in the last season NOAA's vessels were dumping waste in violation of a number of rules and regulations into the reserve area. They don't list the vessel, therefore, they don't list the waste treatment methodology. She also mentioned that at the end of last season, the Board was requesting a waste log, therefore, she would request this again.

Also if they don't know what vessel is going to be used, it is obvious that they aren't leaving any time soon and therefore NOAA should come back to the Board when they do along with the waste treatment plan. She also wanted to note that the Fish and Wildlife permit included a CV of the manager; she wished to see one for the NOAA applicant. In Section 14, the certification section, gear and equipment was not checked off; they would like to see that added on.

Dan Polhemus wished to make one last note on discharge issues; the proclamation prevents discharges so at this point. In regards to the NOAA vessels, if we are issuing NOAA a one year permit, they will be using a variety of vessels and may even get a new one so listing them all would be problematic. In terms of disinfection protocol, a 5% bleach solution is commonly used.

**Unanimously approved as deferred (Johns, Edlao)**

**Item E-1 Request From the Big Island Body Surfing Association and the Honolulu Body Surfing Club to Use a Portion of the Hapuna Beach State Recreation Area for a Body Surfing Contest.**

**Unanimously approved as submitted (Johns, Agor)**

**Item C-1 Request for Approval to Enter Into a Contract With Land Prep LLC to Cut and Chip 20 Acres of Non-Native Trees in Kanaha Pond Wildlife Sanctuary, Maui, For the Division of Forestry and Wildlife**

**Item C-2 Request for Approval to Enter into a Contract with Hui Ku Maoli Ola to Plant Four Species of Native Hawaiian Plants on 20 Acres in Kanaha Pond Wildlife Sanctuary, Maui, For the Division of Forestry and Wildlife**

Mr. Paul Conry, administrator for the Division of Forestry and Wildlife, wished to make corrections to C-2; first to the name of the applicant (add LLC) and to correct, in the contract, the spelling of the contract person.

**The Board:**

**1. Amend agenda title**

**“Request for Approval to Enter into a Contract with Hui Ku Maoli Ola LLC to Plant Four Species of Native Hawaiian Plants on 20 Acres in Kanaha Pond Wildlife Sanctuary, Maui, For the Division of Forestry and Wildlife”**

**2. Amend Contract Provisions:**

**“...Bids were opened on October 2, 2006 and Hui Ku Maoli Ola LLC was identified as the lowest responsible and responsive bidder whose bid met the requirement and criteria set forth in the invitation...”**

**3. Amend Staff Recommendation:**

**“That the Board authorize the Chairperson to negotiate and execute a Contract for goods and services in the estimated amount of \$49,384.96 with Hui Ku Maoli Ola LLC, subject to availability of funds and approval as to form by the Attorney General’s Office.”**

**4. Amend Contract for Goods or Services**

**“The Contract, executed on the respective dates indicated below, is effective as of, between Department of Land and Natural Resources, Stae of Hawaii (“STATE”), by its Chariman of the Board (hereafter also referred to as the HEAD OF THE PURCHASING AGENCY or designee (“HOPA”)), whose address is Department of Land and Natural Resources Post Office Box 621, Honolulu, HI 96809 and Matt Schirman[~~n~~], dba Hui Ku Maoli Ola, (“CONTRACTOR”), a Limited Liability company...”**

**Unanimously approved as submitted (C-1)/amended (C-2) (Johns, Gon)**

**Item D-8 Approval in Principle of an Acquisition of Private Lands for State Park Reserve, Pupukea-Paumalu, Koolauloa, Oahu, Tax Map Keys:(1) 5-9-05:38 & 82 and (1) 5-9-06:01, 18 & portion 24; and After-the-Fact Approval to Apply for a Coastal and Estuarine Land Conservation Program Grant Administered by National Oceanic & Atmospheric Administration. (PROJECT DEVELOPMENT/Gavin)**

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

**Item D-3 Set Aside to the County of Hawaii, Department of Water Supply for its Waiohinu Well Development project at Waiohinu, South Kona, Hawaii, TMK: (3) 9-5-03: portion of 19 (HDLO/Wesley)**

Member Johns recused himself.

**Unanimously approved as submitted (Johns, Schuman)**

**Item D-9 Amend prior Board actions of:**

**October 11, 2002 (agenda item D-20), Quitclaim of land from the United States of America, Department of Army to the State of Hawaii; Lease of Land to the United States of America, the Department of Army, Waialua, Oahu TMK (1) 6-8-14 por. 01, 6-9-01:05 & 016; and**

August 22, 2003 (agenda item D-20), Amend Prior Board Action at its meeting of October 11, 2002 (agenda item D-21), Cancellation of Governor's Executive Order No. 1530, Kaena, Waialua, Oahu, TMK: (1) 6-9-14:01 portion and (1) 6-9-01:29 (PROJECT DEVELOPMENT/Gavin)

**The Board:**

1. Amend the purpose of the set aside of tax map key: (1) 6-9-01:29, page 5, 3<sup>rd</sup> paragraph:

“ Whereas DOFAW is currently using Parcel 2 as an endangered plant nursery, staff further requests that the Board approve and recommend to the Governor the issuance of an Executive Order (“EO”), placing parcel 2 under the management of DOFAW for [~~endangered species recovery and other appropriate forestry purposes~~] an addition to the Mokuleia Forest Reserve.”

2. Add the following RECOMMENDATIONS:

“7. Authorize the Division of Forestry and Wildlife to conduct a public hearing to add Tax Map Key parcel (1) 6-9-1:29 as detailed above at Piihonua, Hawaii, to the State Forest Reserve System, under provisions of HRS §183-11, Government Land for Forest Reserves and §183-12, Notice of Hearing.”

“8. Authorize the Chairperson to set the date and time for a public hearing and appointment of a Hearing Master.”

3. Amend Recommendation 4:

“Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands identified as TMK (1) [~~6-9-01:02~~] 6-9-01:29 to Department of Land and Natural Resource...”

Unanimously approved as amended (Schuman, Johns)

**Item D-10** Set Aside to the State Department of Transportation, Highways Division for Highway Right-of-Way and Highway Boundary Purposes, Cancellation of Revocable Permit Nos. S-7152, S-7329 and S-7402 and Re-issuance of New Revocable Permits Covering the Remaining Areas and Issuance of a Right-of-Entry for Construction and Construction Staging Area Purposes, Honouliuli, Eva, East Kapolei, Oahu, TMK's: (1) 9-1-18: Portions of 3 and 5, and (1) 9-1-17: Portions of 86 and 88 (SUPPORT BRANCH/Gary)

**The Board:**

**Amend Revocable Permit No. in Recommendation B:**

**“Approve the cancellation of Revocable Permit Nos. S-7152, S[7359] 7329 and S-7402 and re-issue new revocable permits to the permittees covering their respective remaining areas...”**

**Unanimously approved as amended (Johns, Schuman )**

**Item L-1 Appointment of Kona Soil and Water Conservation District Directors**

**Item M-1 Amendment No. 6 to Lease No. DOT-A-92-0018 Restaurant and Lounge Concession Lease Host International Inc., Honolulu International Airport.**

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

**Item L-2 Direct Issuance of a Revocable Permit for a Non-Exclusive Pipeline Easement at Kaunakakai, Molokai, Hawaii.**


**Unanimously approved as deferred (Johns, Edlao)**

**Item J-1 Issuance of a Revocable Permit for Inconsistent Use Honolulu Freight Service Honolulu International Airport.**

**Unanimously approved as submitted (Johns, Schuman)**

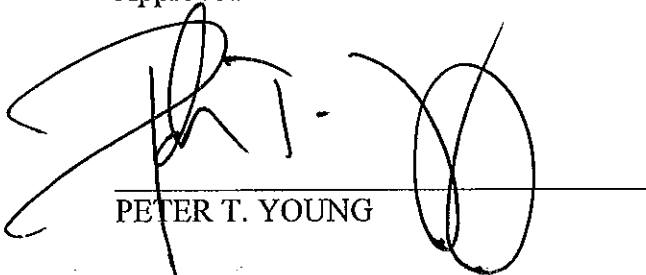
There being no further business, Chairperson Young adjourned the meeting at 12:50 p.m. Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson’s Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Lauren Yasaka

Approved for submittal:



PETER T. YOUNG