

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

DATE: FRIDAY, JULY 12, 2013
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson William Aila called the meeting of the Board of Land and Natural Resources to order at 9:08 a.m. The following were in attendance:

MEMBERS

William J. Aila, Jr.
Dr. Sam Gon
Reed Kishinami

Rob Pacheco
James A. Gomes
Shawn Smith

STAFF

Randy Kennedy/DOFAW
Sam Lemmo/OCCL
Betsy Gagne/DOFAW
Larry Pacheco/LAND
Ed Underwood/DOBOR

Russell Tsuji/LAND
Emma Yuen/DOFAW/NARS
Dan Quinn/PARKS
Alton Miyasaka/DAR
Alyson Yim/ENG/Acting Admin

OTHERS

Pam Matsukawa/Deputy Attorney General
Barry Usagawa: C-1
Bebi Bloom: D-6
Branch Lotspeich: D-3
Jennifer Endo: D-8

Ross Smith/DOT: M1 – M4
Robert Bloom: D-6
Donna Kohl: D-18
Ali Ghalanfarsa: K-1
Melva Aila: F-2

Chairperson Aila introduced the new Land Board members: James Gomes from the island of Maui, Reed Kishinami from Oahu, and Shawn Smith from Kauai.

Item C-3 Request for Delegation of Authority to the Chairperson to (1) Negotiate, Approve, Execute, Amend, and Extend Right-of-Entry and Release of Liability Agreements for the Division of Forestry and Wildlife to Conduct Conservation Management on Private Lands, Including Invasive Species and Fire Control, Restoration or Introduction of Native Species, Infrastructure Installation and Maintenance, and Monitoring; and (2) Determine and Approve Chapter 343, HRS Environmental Compliance Requirements, Including Approval of Declarations of Exemptions for the Division of Forestry and Wildlife for Agreements with Private Landowners Related to Conservation Management Activities.

Chairperson Aila withdrew item C-3.

Item D-21 Issuance of (1) a right-of-entry permit for construction of an overhead guideway; (2) a grant of a perpetual non-exclusive easement for an overhead guideway; and (3) the issuance of a direct lease for a park-and-ride facility on State lands in East Kapolei, Honouliuli, Ewa, Oahu, TMK (1) 9-1-17:97 por., to City and County of Honolulu for its planned rail transit project.

Chairperson Aila withdrew item D-21.

Item M-1 Issuance of a direct Lease to Super Foods, Inc. 3219 Ualena Street, Honolulu International Airport Tax Map Key: (1) 1-1-14:18 (portion).

Ross Smith, representing the Department of Transportation (DOT), Airports Division, conveyed some background on item M-1, the approval to enter a five-year lease with an existing tenant on Ualena Street.

Unanimously approved as submitted (Gon, Pacheco)

Item M-2 Amendment to Prior Board Action of February 8, 2013, Item M-2, Issuance of a Direct Lease to Commercial Shelving, Inc., 2835 & 2845 Ualena Street Honolulu International Airport, To Delete the Specific Termination Date, Tax Map Key: (1) 1-1-04-:03 (portion) & (1) 1-1-04-:05.

Item M-3 Amendment to Prior Board Action of February 8, 2013, Item M-5, Issuance of a Direct Lease to Sharp 29 Corporation 2909 Ualena Street, Honolulu International Airport, To Delete the Specific Termination Date, Tax Map Key: (1) 1-1-04:11.

Item M-4 Amendment to Prior Board Action of February 8, 2013, Item M-4, Issuance of a Direct Lease to Mid Pacific Steel, Inc. 3169 Ualena Street, Honolulu International Airport, To Delete the Specific Termination Date, Tax Map Key: (1) 1-1-14-:104 & 106.

Mr. Smith conveyed some background on items M-2, M-3 and M-4 to amend prior Board actions with approval of five-year leases. Earlier submittals inadvertently left an expiration date which, either exceeded or was short of the five-year period. DOT is resubmitting five-year term lease

contracts without an expiration date in order to have a natural five-year term as soon as DOT signs the contracts.

Unanimously approved as submitted (Gon, Pacheco)

Item C-1 Request for Delegation of Authority to the Chairperson to Negotiate, Approve, Execute, Amend, and Extend a Memorandum of Agreement with the City and County of Honolulu Board of Water Supply (BWS) Regarding Disbursement of Funding for Watershed Protection Activities on BWS Priority Watershed Areas on Oahu.

Randy Kennedy, representing Division of Forestry and Wildlife (DOFAW), conveyed some background on item C-1. The Board of Water Supply (BWS) has funding available to promote Watershed protection and desires to work with DOFAW to help the Watershed Division with the Deputy Attorney General's (AG) approval.

Barry Usagawa, BWS staff, testified on item C-1 and thanked the DLNR for its financial support of the Watershed programs. Mr. Usagawa shared funding challenges but hopes that the ground projects would increase funding for the future. BWS has partnered with the Key project and is involved with other projects to manage properties and educate the community.

Member James Gomes inquired about invasive species control and miconia. Mr. Usagawa said that there is a lack of staff to support those types of projects, but there are many other outreach projects such as: planning and partnering with Koolau and the Waianae community groups, meetings and fire mitigation involvement in Makaha.

Chairperson William Aila shared that the Watershed partnerships provide grants and have multiplied funding sources significantly for endangered species removal.

Unanimously approved as submitted (Kishinami, Gon)

Item D-4 Approve Negotiated Development Agreement, and Proposed Plans and Specifications for Improvements for General Lease No. S-3961, Hilo-Hawaiian Associates, Inc., Lessee; Authorize the Extension, Amendment and Restatement of General Lease No. S-3961, Hilo-Hawaiian Associates, Inc., Lessee, for an Aggregate Term of 55 Years, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-03:05.

Russell Tsuji, Administrator for Land Division, provided lease information to the new Board members, including restrictions and issuances through public auction or the public propriety process. The lease term is a maximum of 65 years and ranges from 55-65 years pursuant to Hawaii Revised Statutes (HRS) Chapter 171.

Mr. Tsuji conveyed some background, history and the challenges on item D-4 with Hilo-Hawaiian Associates, Inc., in having an older lease and their need to borrow money for substantial improvements. Hilo-Hawaiian Associates was the first lessee to come forward to the

Board and apply for another term up to 65 years Mr. Tsuji recommended the lease renewal so the lessee may go forward with their improvements.

Unanimously approved as submitted (Gon, Pacheco)

Item D-5 Consent to Sublease General Lease No. S-3961, Hilo-Hawaiian Associates, Inc., Lessee, to The Travel Professionals, Inc., Jama Enterprises, LLC, Aaron and Vinel Sugino dba Blue Kalo and Lorna Karvas dba Jaymielee's Styling Salon, Sublessees, Waiakea, South Hilo, Hawaii; Tax Map Key: (3) 2-1-003:005.

Mr. Tsuji conveyed some background on item D-5 with a consent request for a sublease for a kiosk operation in front of the hotel.

Member Rob Pacheco asked whether the older leases have any provisions for the subleases and restating leases or extensions under HRS.

Mr. Tsuji said that part of the extension involves reviewing the lease and making sure it's up to date.

Member Gomes said that the lease will go up to 65 years but the lease says 55 years. Mr. Tsuji said that Land Division is making the change.

Member Gomes asked about the new owner's term if their new lessee decides to sell and whether their sublease is carried over, or if the new owners would come before the Board and renegotiate a new lease.

Mr. Tsuji said that the new owners must come before the Board and trigger the Board's consent to the new owners regarding the terms and conditions of the lease.

Member Gomes asked if the Board may default any of the requirements on any part of the lease duration. Mr. Tsuji said they could. Member Gomes asked when the lessee would first start, how was the fair amount assessed, and how was valuation increased over time? Mr. Tsuji explained the process of a long term lease rent that starts off by an auction and sets for a 10-year lease and reopens every 10 years.

Unanimously approved as submitted (Pacheco, Gomes)

Item D-20 Authorize the Chairperson to Execute Condominium Property Regime Documents; Hale Mohalu II Affordable Rental Housing Project on the State Land Set Aside by Governor's Executive Order No. 4349 to Hawaii Housing Finance and Development Corporation; Waimano, Ewa, Oahu; TMK (1) 9-7-019:035.

Mr. Tsuji conveyed some background on item D-20. The Board granted a governor's executive order to the Hawaii Housing Finance and Development Corporation (HHFDC) concerning the lands in Pearl City located behind the Flamingo Plaza. HHFDC has two projects and is requesting authorization from the Chairperson to execute condo documents.

Member Gomes asked what will be amended, and Mr. Tsuji said the other applicable documents described in the Background section.

Amended recommendation 1 to read: Authorize the Chairperson to execute the condominium project regime documents, including the Declaration and other applicable documents as described above in the Background Section, and any amendments thereto that may be required from time to time.

Unanimously approved as amended (Pacheco, Gon)

Item D-6 Rescind Prior Board Action of November 9, 2012, Item D-4, Sale of Storm Drainage Easement Reservations 1 and 2 in Favor of the State of Hawaii to Robert Glenn Bloom, Jr. and Bebi Latiefa Bloom, Paukaa, South Hilo, Hawaii, Tax Map Key: (3) 2-7-20:14.

Mr. Tsuji conveyed some background and history on item D-6. Land Division brought to the Board a request to sell a storm drain easement that is currently reserved on the property and is no longer necessary. The Statute allowed Land Division to sell it as a remnant under the storm drain section. Land Division has set up a selection fee, went through a qualified list, selected the appraiser, and informed the owners of the cost of the appraisal to proceed with the appraisal process. Mr. Bloom indicated that he was unhappy with the selection of the State's appraiser. Land Division explained the selection process to Mr. Bloom, who indicated in writing that he wished to cancel the purchase which brought the issue before the Board.

There was a discussion on why the state would charge the landowner for something that has not occurred and an easement that has not been executed. Mr. Tsuji said that there was a reservation on the land and a separate easement document, which may have lowered the value of the land at the time. Now, as part of the public trust, the state is entitled to sell that easement.

Robert and Bebi Bloom testified on item D-6 as to the cost and time they spent to make sure that their home was designed correctly. Mr. Bloom noted that the drainage easement restricts access to their home.

Member Pacheco shared his concern that the process be followed.

Member Pacheco motioned to defer and suggested to come back at the earliest possible date with an opinion from the AG with what the Board's options are so the Board may move forward.

Unanimously approved to defer (Pacheco, Gomes)

Item D-18 Amend Prior Board Action of March 14, 2008, Item D-6 by Revising the Easement Area, Consideration, Commencement Date, and Legal Reference; Rescind Prior Board Action of December 12, 2008, Item D-19; Grant of

Term, Non-Exclusive Easement to Sarajejan A. Tokunaga, Trustee, for Seawall and Filled Land Purposes, Kaneohe, Oahu, Tax Map Key (1) 4-5-047:seaward of 116.

Mr. Tsuji conveyed some background on item D-18 and shared the interesting yet complex issues concerning shoreline properties that were once a whole private property within dry lands. Within the State of Hawaii, people have built private property seawalls where the easement needed to be amended.

Donna Kohl testified on item D-18 and said that the property is being sold and escrow is almost closing. Ms. Kohl thought that the process was going to be simple and to convey encroachment. There were no changes to what was agreed in 2008.

Member Sam Gon asked if Ms. Kohl was fine with the recommendation and Ms. Kohl said yes.

Unanimously approved as submitted (Kishinami, Gon)

Item D-3 Issuance of Right-of-Entry Permit to The Kauai Lifeguard Association on Unencumbered Beaches of Kauai District and within the Na Pali Coast State Wilderness Park for the placement and maintenance of Water Rescue Tubes, Various locations along the shoreline of Kauai and at the stream crossing at Hanakapiai Stream.

Mr. Tsuji conveyed some background on item D-3.

Branch Lotspeich, Director of the non-profit, "Rescue Tube Foundation," headquartered in Kauai, and volunteer for Kauai Lifeguard Association, has been installing water rescue tubes in Kauai for four years and has documented 65 incidents on the Big Island. He wanted to make sure the water rescue tubes were available across the State. He shared his concerns when they had the water rescue tubes for four years, having a total of 210 tubes currently on the island. He is aware that 4-5 water rescue tubes have been vandalized and stolen, but noticed there is wonderful support within the community. Mr. Lotspeich thanked Joe Bordon, from the Division of Boating and Ocean Recreation (DOBOR) and thanked the Kauai Department of Supply Safety.

Unanimously approved as submitted (Kishinami, Gon)

Item K-1 Conservation District Use Application (CDUA) HA-3661 for a Single Family Residence by Kainaliu Kahakai LLC Located at Honua`ino, North Kona, Hawai`i, Tax Map Key: (3) 7-9-006:014.

Sam Lemmo, Administrator for the Office of Conservation and Coastal Lands (OCCL), shared a brief overview and the main functions of OCCL: regulating all the lands including State lands and the ocean district including terrestrial offshore areas (three miles out), beach conservation programs and beach restoration programs, and Waikiki beach restoration.

Mr. Lemmo conveyed some background on item K-1 with the typical scenario of a single family resident living on a private lot in a conservation district, who comes before the Board to consider whether the issue is permitted or not. OCCL has done their analysis and an environmental review process to make a recommendation report. Conservation District Use Application (CDUA) for a single family resident in Shout Tower, located in North Kona, is a limited subzone. OCCL has four subzones that are restricted due to lava flow or steep slopes. The proposed home is located on a firm area and during a flood, the property is able to comply with flood zone regulations.

One of the major concerns about the home is the archeology and cultural resources of the area. There are petroglyphs, significant pohaku (stones) and Konane stones (Hawaiian checkers). State Historic Preservation Division (SHPD) reviewed the archeological site and proposed to pass a protection plan and preserve area that could be set aside and not be disturbed in perpetuity. The preserve would have signage to indicate that the area is an easement. OCCL has a requirement for anyone to execute a waiver of indemnity and is not held responsible if the archeological site is taken over by Mother Nature.

Ali Ghalamfarsa, of Ali'i Architect, testified on item K-1 and said he is fine with the submittal and proposed a protection and preservation plan for the area.

Member Pacheco asked if there was any ground disturbance, and Mr. Ghalamfarsa said near the ocean and flood elevation for the area. Mr. Ghalamfarsa discussed Federal Emergency Management Agency (FEMA) and flood regulations and County rules and explained the landscape of his home and the archeological sites located in the mauka side near Oshima Store and near families that have resided in the area for a long time. Mr. Ghalamfarsa disclosed about his home being 2,500 square feet, having no air-conditioning unit but included solar panels.

Member Gomes asked how Mr. Ghalamfarsa would react to the cultural site that is located on his property. Would he allow access if other Hawaiian families showed that they are lineal descendants?

Mr. Ghalamfarsa said that he would support the families.

Member Pacheco pointed out a great naturalist named George Seniors who is a native and very involved with historical sites and a great steward of the land.

Member Gomes asked if there is sand and or iwi (human remains) located in the archeological site. Mr. Ghalamfarsa said no and that it's been surveyed and that the site is on lava rocks and the wall has been identified.

Member Gomes and Mr. Ghalamfarsa discussed that the wall is a cattle wall that has been restacked many times.

Unanimously approved as submitted (Pacheco, Gomes)

Item D-8 Issuance of Right-of-Entry Permit to Kaheawa Wind Power for the Redeployment of a Sonic Detection and Ranging (SODAR) Instrument for Data Collection Purposes at Ukumehame, Wailuku, Maui, Tax Map Key: (2) 3-6-001: Por. of 014.

Mr. Tsuji conveyed some background on item D-8.

Member Gomes indicated that his employer has wind power in Ulupalakua Ranch.

Jennifer Endo, representing First Wind, shared plans for wind power and said they intend to have solar for three years with an external solar power and self-contained antennae.

Chairperson Aila asked about the temperature, wind, speed, direction, and if it will be portable.

Member Gomes asked if it has a battery system, how will it be converted to solar and does the company have a backup during rainy days? What type of containment will they have if the battery spills on the land? Will they have provisions for that?

Mr. Tsuji said that he was not sure about the battery system, but Land Division would require insurance to cover environmental clean-up.

Member Gomes pointed out that the photo in the submittal was not in Kaena or part of West Maui, but indicated that the photo was in a dry location like Arizona.

Chairperson Aila reiterated Member Gomes' concerns about having a containment system for the battery.

Member Gomes made a motion to have a provision for containment to protect the land in an event of battery leakage and suggested there be required containment system language rather than the standard conditions. Member Gomes motioned to amend staff submittal and Member Pacheco seconded that.

The Board amended recommendation 2A to read:

The standard terms and conditions of the most current right-of-entry form, as may be amended from time to time; add a special condition that if a battery is part of the SODAR system, then Kaheawa Wind Power shall provide for an adequate containment system to prevent leakage or other contaminants from being released onto State lands.

Unanimously approved as amended (Gomes, Pacheco)

Item C-2 Update on "Hahai No Ka Ua I Ka Ululā`au – The Rain Follows the Forest – A Plan to Replenish Hawaii's Source of Water"

Randy Kennedy, Administrator for the Watershed Protection Program, conveyed some background on item C-2.

Emma Yuen, NARS planner, briefed the new Board members on the background, history and updates on item C-2 and gave a 15-minute power point presentation. In November 2011, the Watershed Protection Program was introduced for the purpose of protecting and maintaining Hawaii's water source, forest and watersheds, reducing erosion and supporting native species that are only found in Hawaii. For the next ten years (November 2011 to November 2021), the goal is to measure protection for the watersheds.

Member Pacheco asked if the lands that have been protected were private or public lands. Ms. Yuen said that the lands were across the State including Federal land.

Member Gomes asked how the areas are being prioritized for funding purposes. Ms. Yuen said that the climate zones, wet lands and native forest that provide ground water are the priority areas.

Member Pacheco asked if the funding also included outreach opportunities. Ms. Yuen said yes, for example, the news media, TV stations coverage, public service announcements, and newspapers have been used to spread the word. Ms. Yuen stressed the importance of spreading the word to the general public.

Chairperson Aila pointed out the importance of agriculture needs, and protection of these areas as intense storms due to climate change are expected over the next 15 years. He also pointed out that the State of Hawaii will be dryer as climate changes.

Member Gomes asked if the fencing in the power point is completely closed. Mr. Kennedy said that the boundaries include areas like steep cliff valleys that would have to be fenced.

Member Reed Kishinami was curious about the landowners who are implementing the projects. Ms. Yuen said that landowners, including State or public owners, have signed an agreement to protect the vast areas.

Member Pacheco invited the Board to educate themselves on the broad range between landowners, agencies, academic, and science that cross resource and conservation issues in the State of Hawaii. A lot of information is available at the Convention Center.

Unanimously approved as submitted (Pacheco, Gon)

Item C-4 Request to Extend the Closure of Kahauale‘a Natural Area Reserve, Island of Hawai‘i, to the Public Pursuant to HAR § 13-209-4.5 for Public Safety Purposes.

Mr. Kennedy conveyed some background on item C-4, indicating safety concerns regarding the volcanic fault zone.

Member Gomes asked how the hunters are made aware of cracks on the trail?

Betsy Gagne, DOFAW staff, said that hunters have a special permit that requires them to be aware of fumes or cracks for the hunters' protection.

Unanimously approved as submitted (Pacheco, Gon)

Item E-1 Request for Permission for the Diamond Head State Monument Foundation to Construct an Exercise Park along the Fort Ruger Pathway, Diamond Head State Monument, O‘ahu.

Dan Quinn, Administrator for the Division of State Parks (SP), conveyed some background on item E-1. The Diamond Head State Monument Foundation (DHSMF) has received a generous donation from Clark Hatch. Mr. Hatch wants to install some exercise equipment and name the area Brian Clay Exercise Park. For orientation, Diamond Head is along the exterior slope, the crater is on the makai side, and 18th Avenue is on the mauka side which is along the edges of the Fourth River pathway that SP is completing construction. The work-out area will consist of resistance equipment using body weight, both static and movable, and bench presses. Mr. Quinn visited Mr. Hatch's house to demonstrate and check for the safety of the equipment to include at the park.

Member Gon is aware of the area being a popular place.

Mr. Quinn said that many people use the park to stroll and exercise daily. The DHSMF is committed to maintaining it for 10 years.

Member Shawn Smith asked how fast they will put everything together, and Mr. Quinn said in a couple of months.

Member Gomes asked what is Brian Clay's association to Hawaii, and Mr. Quinn said that Mr. Clay was a Castle High School graduate.

Unanimously approved as submitted (Kishinami, Gon)

Item D-15

RESUBMITTAL:

- (1) **Rescind Prior Board Action of June 4, 2004, Item D-12, Fee Simple Sale of Reclaimed (Filled) Land to Michael Gallagher and Ada Murakami, Niu, Honolulu, Oahu, TMK (1) 3-7-002:seaward of 008; and**
- (2)(a) **Authorize Grant of 55-Year Term, Non-Exclusive Easement to Micheal Gallagher and Ada Murakami for Seawall and Filled Lands Purposes, Niu, Honolulu, Oahu; TMK (1) 3-7-002:seaward of 008; or alternatively,**
- (b) **Enforcement Action Against Michael Gallagher and Ada Murakami as Owners of TMK (1) 3-7-002:008 for Unauthorized Encroachment, Niu, Honolulu, Oahu, TMK (1) 3-7-002:seaward of 008.**

Mr. Tsuji made a request to defer item D-15 to August 23, 2013 because the applicant was traveling at the moment.

Unanimously approved to defer (Gon, Gomes)

Item D-10 RESUBMITTAL: Impose a \$1,000.00 Fine and \$420.00 in Administrative Cost Against KRS Investments LLC, dba South Pacific Kayaks & Outfitters, and Tiki Team Adventures, for Unauthorized Commercial Activities Conducted on State Unencumbered Lands at Olowalu, Lahaina, Maui, at TMK: (2) 4-8-003:001.

A written testimony from Roger Simonot was distributed to the Board members on item D-10.

Mr. Tsuji conveyed some background on item D-10, the issue of the location site, and the preliminary steps before the issue is brought before the Board to grant such request. An Environmental Assessment (EA) of the area is required and Conservation use permits may be necessary. According to the photos that were brought before the Board, the site barely has room to sustain such activity.

Larry Pacheco, Land Division's staff member, testified on item D-10 and explained the permit process through the County of issuing permits to vendors. Mr. Pacheco pointed out Pumehana Beach Park's Trade Winds, the vendor with the permit, conducted his unauthorized commercial activity on the State unencumbered land at Olowalu. Because Olowalu has less trade winds, the beach area has more reef and fish activity. Residents complained to Land Division concerning the commercial activity at Olowalu. The land is a public land and commercial activity is not allowed. Many times the vendors have been advised not to do any commercial activity at the site. The area is a small area where the general public goes. If commercial activities with kayaks are on the beach area, local families who normally go there are pushed out for lack of room.

Member Pacheco asked if the vendors are showing up with their cars (according to the photo), and Larry Pacheco said yes.

Mr. Tsuji asked if the vendor had a van. Larry Pacheco said sometimes the vendor would bring their vans depending on the group that the vendors are working with, such as Roberts of Hawaii Bus.

Member Pacheco was concerned that this issue is coming before the Board at this time.

Larry Pacheco noted that there are only two Land Agents on Maui and they have been tracking this issue on a daily basis. However, they will need to coordinate with the Division of Conservation and Resource Enforcement (DOCARE) before they can bring a violation before the Board.

Chairperson Aila noted his concerns for the community. Mr. Tsuji brought the issue of safety along that road and suggested that OCCL also document issues in the area.

Member Pacheco asked if there was a process where DLNR can work with the County concerning the commercial permit activity.

Chairperson Aila said that there is an existing process. Larry Pacheco said that Land Division has chosen to not issue a permit to the South Pacific Kayaks & Outfitters, and Tiki Team Adventures because the location site is not big enough to do commercial activity and will draw complaints from the public.

Member Gomes said that he is familiar with the area which is very small.

Larry Pacheco said that the next concern will be at Wailea beach which may be the same issue; as a result, there is a need to take action. Larry Pacheco suggested working with the County and educating per rules regarding what is allowed or what can be done. He shared a scenario that was

permitted by the County with a vendor having a big maroon tent in the middle of Wailea beach. The permittee was not properly educated on his permit to operate on State land. Member Gon said that there is opportunity for Maui to set a precedent.

Mr. Tsuji said that Larry Pacheco was a former DOCARE officer. Member Pacheco questioned how they would go about issuing a citation for the violation. Member Pacheco is positive that the issue will be brought before the Board again, but encouraged staff to start recording and documenting. Larry Pacheco said in the event the activity happens again, the fines will help vendors not to do it again.

Member Gomes would like to move forward.

Unanimously approved as submitted (Gomes, Gon)

- Item D-1 RESUBMITTAL: After-the-Fact Consent to Assign Grant of Non-Exclusive Easement, Kenneth M. Rowell, Assignor, to Shirley A. Jensen, Trustee of the Kenneth M. Rowell and Ellen A. Rowell Trust, Assignee, Wailua, Kawaihau, Kauai, Tax Map Keys: (4) 4-1-002:007 and (4) 4-1-009:002.**

- Item D-2 RESUBMITTAL: Request to Amend Prior Board Action of April 14, 2000, Agenda Item D-4, Set Aside to the DLNR - Division of Aquatic Resources, Freshwater and Marine Fisheries Development Program, and Issuance of Immediate Right-of-Entry; Request for a Revocable Permit to Darrell Horner for Aquaculture Purpose, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-007:046.**

- Item D-7 Authorize an Immediate Right-of-Entry for Construction Purposes, and Grant of Perpetual, Non-Exclusive Easement to Department of Defense, Civil Defense Division, for Public Warning Siren Purposes, Haneoo, Hamoa, Hana, Maui, Tax Map Key: (2) 1-4-007: Portion of 009.**

- Item D-9 Issuance of Right-of-Entry Permit to Hawaiian Dredging Construction Company on Lands Encumbered by Executive Order No. 3694, Kahului, Maui, Tax Map Key: (2) 3-8-001:019 por.**

- Item D-11 Issuance of Revocable Permit to The Harry and Jeanette Weinberg Foundation Incorporated, for Storage, Parking, Roadway and Office Purposes; Cancellation of Revocable Permit No.S-7797, Kalihi-Kai, Honolulu, Oahu, TMK: (1) 1-2-021:037.**

- Item D-12 RESUBMITTAL: Issuance of Right-of-Entry Permit to Fireworks By Grucci, Inc., for Set up and Firing of Aerial Fireworks Display on July 24 & 25, 2013, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:021 (Portion).**

- Item D-13 RESUBMITTAL: Issuance of a Right-of-Entry Permit to Oahu Hawaiian Canoe Racing Association and the Lanikai Canoe Club for the Duke Kahanamoku Long Distance Canoe Race Event to be held on August 18,**

2013, at Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037: portions of 021.

- Item D-14** RESUBMITTAL: Withdrawal from Governor's Executive Order No. 1997; Grant of Perpetual, Non-Exclusive Easement to the City and County of Honolulu for Traffic Signal Equipment and Sidewalk Easement; Set Aside to the Department of Land and Natural Resources, Division of State Parks for Baseyard Purposes; Issuance of Management and Construction Right-of-Entry Permits; Diamond Head, Honolulu, Oahu, Tax Map Key: (1) 3-1-042:portions of 006 and 020.
- Item D-16** RESUBMITTAL: Amend Prior Board Action of March 8, 2013 (Item D-7) by Removing Reference to Governor's Executive Order No. 1423 in the Submittal; Sale of Remnants to Grant T. Hamachi, as Trustee of the Grant T. Hamachi Revocable Living Trust, dated November 19, 1999 and Toyoko Hamachi, as Trustee of the Toyoko Hamachi Revocable Living Trust, dated November 19, 1999; Withdrawal from Governor's Executive Order Nos. 1598 and 1423, Waimanalo, Koolaupoko, Oahu; Tax Map Key: (1) 4-1-025:036 portion and 052.
- Item D-17** RESUBMITTAL: Amend Prior Board Action of July 27, 2012, (Item D-6) by Adding Legal Reference to the Submittal; Grant of Term, Non-Exclusive Easement to Frank H. Barton Trust and Elsie M. Barton Trust for Pier, Seawall, and Landscaping Area Purposes in Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-4-037:seaward of 033.
- Item D-19** Amend Prior Board Action of April 8, 2010 (Item D-13) by Removing Applicant's Requirement to Provide Written Historical Documentation and Current Photographic Documentation of the Subject Tunnel; Issuance of Direct Lease to the City and County of Honolulu for Emergency Operating Center Purposes, Lualualei, Waianae, Oahu, Tax Map Key: (1) 8-7-06: 002 (por) and 008.

Mr. Tsuji said that were no changes on items D-1, D-2, D-7, D-9, D-11, D-12, D-13, D-14, D-16, D-17 and D-19.

Unanimously approved as submitted (Pacheco, Gon)

- Item F-1** Request for Approval of a No-Cost Extension through August 22, 2014 for Contract No. IFB DAR-2012-002 (Amendment No.1) Between the Department of Land and Natural Resources (DLNR) and Pioneer Machinery, Inc. for the Casting/Manufacturing of Concrete Artificial Reef Habitats.

Member Pacheco was recused from item F-1.

Alton Miyasaka, representing the Division of Aquatic Resources (DAR), briefly provided an overview of DAR's responsibility for managing the State's aquatic resources. Mr. Miyasaka said there were no changes to item F-1.

Unanimously approved as submitted (Gon, Gomes)

Item F-2 Request for Approval to Hold Public Meetings and Hearings to Adopt a New Chapter Under Hawaii Administrative Rules ("HAR") as Title 13 Chapter 95.1, Island-Based Fisheries Rules, to Establish New Bag and Size Limits for Maui and Lana'i Island Fisheries.

Written testimony from Kamana'opono Crabbe was distributed to the Board members on item F-2.

Mr. Miyasaka conveyed some background on item F-2, proposed draft rules for minimum sizes and bag limits for the islands of Maui and Lanai. Item F-2 does not apply to any of the other islands. Many commercial fishermen and noncommercial fishermen have concerns about the bag limits and their ability as commercial fishermen to make a living; as a result, they requested approval to hold a public meeting and hearings for their voices to be heard. Mr. Miyasaki recommended to amend the rules if there is a request from the public during the public meetings and to bring this back to the Board with amendments.

Member Gomes supported Mr. Miyasaka's recommendation.

Mr. Miyasaka also recommended the Board to instruct the Division to talk with the commercial fishermen concerning the rule amendment and work out an agreement.

Member Shawn Smith asked if other islands were brought forward before the Board. Mr. Miyasaka said that there was a movement for West Hawaii and there is a need to look at Oahu for island regulations.

Member Gomes, Mr. Miyasaka and Chairperson Aila discussed the approved West Hawaii rule package held on June 28, 2013.

Melva Aila, a part time fisherwoman, testified on item F-2. Ms. Aila lives on Oahu but her grandparents were born and raised on Maui. Ms. Aila strongly feels that the commercial fishermen will not be able to survive or be able to provide food for the people and the community having size and bag limits for Maui and Lanai.

Member Gomes approved staff recommendation.

Unanimously approved as submitted (Gomes, Kishinami)

Item J-1 Issuance of a Revocable Permit to Na Kalai Wa'a, South Kawaihae Small Boat Harbor, Kawaihae, Island of Hawaii, Tax Map Key: (3) 6-1-003: portion.

Item J-2 Cancellation of Revocable Permit BH-07-38 and Issuance of a new Revocable Permit to The Island of Hawaii YMCA, South Kawaihae Small Boat Harbor, Kawaihae, Island of Hawaii, Tax Map Key: (3) 6-1-003: portion.

Item J-3 Approval of Request for Contested Case Hearings by Maurice Rosete, Patrick Kirkland, Robert Jeralds, Donald Krispin, and Jonathan Alexander; Denial of Request for Contested Case Hearing by Sierra Masters and Delegate to the Chairperson the Authority to Select a Hearing Officer to Conduct the Contested Case Hearings Regarding the Enforcement Actions Brought Against the Individuals Listed Above.

Ed Underwood, Administrator for the Division of Boating and Ocean Recreation (DOBOR), said that there were no changes to items J-1, J-2 and J-3.

Unanimously approved as submitted (Pacheco, Gon)

Item L-1 Certification of Election of Arryl Kaneshiro And Appointment of Edward Kawamura, Jr. to Serve as Directors of the East Kauai Soil and Water Conservation District.

Item L-3 Certification of Election of Lynn P. McCrory And Appointment of Lance Dunbar to Serve as Directors of the Molokai-Lanai Soil and Water Conservation District.

Alyson Yim, Acting Administrator for Engineering Division, briefly shared Engineering Division's services of implementing both operating and capital improvement projects, help manage and regulate reservoirs, regulate geothermal resources, and administer the water conservation district program.

Ms. Yim conveyed some background on items L-1 and L-3 for east Kauai and Molokai and Lanai Districts for the election of a Director.

Unanimously approved as submitted (Gon, Kishinami)

Item L-2 Authorization to Issue Procurement Solicitations and Award of Contracts Under Hawaii Revised Statutes Chapter 103D for Various Capital Improvements Program projects Listed in Exhibit 1. Attached to this Agenda and Incorporated Herein are the Various Capital Improvements Program Projects (Exhibit 1).

Ms. Yim conveyed some background on item L-2, project lists that were presented to the legislature for the approval of the Chairperson to sign the contracts to issue solicitations.

Unanimously approved as submitted (Gon, Smith)

Adjourned

There being no further business, Chairperson William Aila adjourned the meeting at 11:42 a.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Marlou Lamblack
Land Board Secretary

Approved for submittal:



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