

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

DATE: FRIDAY, MAY 23, 2014  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

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

**MEMBERS**

William J. Aila Jr.  
James Gomes  
David Goode

Sam Gon  
Reed Kishinami  
Thomas Oi

**STAFF**

Colin Lau-Deputy AG  
Russell Tsuji-LAND  
Bill Andrews-DOBOR  
Curt Cottrell- PARKS  
Dan Quinn- PARKS

Sam Lemmo-OCCL  
Gordon Heit-LAND  
Fraizer McGilvary-DAR  
Maria Carnavale-PMNM  
Carty Chang-ENG

**OTHERS**

Patti Miyashiro/ DOT-HAR  
Dan Purcell/ All M items, F-5  
Harold Brownstein/K-1  
Ed Young/ D-4  
Sol Kahoohalahala/ J-1, F-7  
Presley Wann/ F-7  
Suzanne Case/ F-7  
H. Chang Wong/ F-7  
Willy Kaupiko/ F-7  
Ray Samborn/ E-2  
Jerry Vasconcelos/ E-2  
Kamaka Seipp/ F-2  
Charles Littnan/ F-4, F-5  
Don Straney/ D-6

Ross Smith/ DOT-AIR  
Lloyd Maki/ DOD  
Mark Delventhal/ K-2  
Jim Coon/ J-1  
Luka Mossman/F-7  
Kevin Chang/F-7  
Ed Young/ F-7  
Healani Kehea/ F-7  
Hoku Sivion/ F-7  
Uncle Bobby/ E-2  
Noelani Puniwai/ E-2  
Courtney Couch/ F-3  
Mark Royer/ F-6

**Item D-1 (1) Report to the Board on Uncured Defaults for Performance Bond and Improvement Bond, and on Plans Submitted by Lessee for Review under**

**General Lease No. S-5844, WHR, LLC, Lessee; and (2) Authorization of Forfeiture of Lease in Event Defaults are not Cured, Waiākea, South Hilo, Hawai‘i, Tax Map Keys: 3<sup>rd</sup>/ 2-1-01:12 and 2-1-05:13, 16, 17, 27, 32, 46.**

**Withdrawn**

- Item C-1 Memorandum of Understanding between the Division of Forestry and Wildlife and Kaua‘i Fire Department for Providing Firefighting Assistance.**

**Withdrawn**

- Item M-3 Issuance of a Revocable Permit to the Pasha Group dba PASHA Hawai‘i for an Office Trailer at Pier 1 Warehouse, Kahului Harbor, Maui.**
- Item M-14 Amend Prior Board Action of March 8, 2013, Item M-3, Acquisition of Private Lands and Set Aside to the Country of Hawai‘i for Roadway Purposes, Hilo, Island of Hawai‘i, Tax Map Key: 3<sup>rd</sup> Division 2-1-007: Portions of 005 and 007.**

Patti Miyashiro representing the Department of Transportation Harbors Division (DOT-HAR) property management section reviewed items M-3 and M-14. Miyashiro had no changes, but was present to answer any questions.

**Unanimously approved as submitted (Goode, Gomes)**

- Item M-4 Consent to Assignment of State Lease No. DOT-A-77-0030 and State Lease No. DOT-A-87-0019 from Simply Wheelz LLC dba Advantage Rent A Car to Advantage OPCO, LLC dba Advantage Rent A Car, Honolulu International Airport, Tax Map Key: (1) 1-1-003: Portion of 001.**
- Item M-5 Issuance of a Revocable Permit to Kahala Surf Corporation for the Purpose of Operating an Aircraft Fueling Business, Honolulu International Airport, TMK (1) 1-1-072:022.**
- Item M-6 Issuance of a Revocable Permit to Morphotrust USA, LLC dba MT USA, LLC, for Pre-check Enrollment Office Purposes, Inter-Island Terminal, Honolulu International Airport, Tax Map Key: (1) 1-1-003:073 (Portion).**
- Item M-7 Island Movers, Inc., Amendment No. 1 to State Lease No. DOT-A-13-0028 for the Purposes of Adding Space and Extending the Term of Lease, South Ramp, Honolulu International Airport, Tax Map Key: (1) 1-1-072:035 (Portion) and 036.**

- Item M-8** Issuance of a Revocable Permit for Aircraft Storage, Kōlea Leasing, LLC, Honolulu International Airport, Tax Map Key: (1) 1-1-076: Portion of 021.
- Item M-9** Issuance of a Revocable Permit for a T-Hangar for Aircraft Storage Purposes, Mokulele Flight Service, Inc., Kahului Airport, Tax Map Key: (2) 3-8-001: Portion of 019.
- Item M-10** Issuance of a Revocable Permit for a Heliport Facility, Sunshine Helicopters, Inc., Kahului Airport, Tax Map Key: (2) 3-8-001: Portion of 019.
- Item M-11** Issuance of a Revocable Permit for Parking for Aircraft Tie-Down Purposes, Air Ambulance Specialists, Inc., Kahului Airport, Tax Map Key: (2) 3-8-001: Portion of 019.
- Item M-12** Issuance of a Revocable Permit for Office Space, Maui Island Air, Inc., Kapalua Airport, Tax Map Key: (2) 4-3-001: Portion of 073.
- Item M-13** Issuance of a Revocable Permit for Terminal Use and Ramp Equipment Parking, Hawaiian Airlines, Inc., Kapalua Airport, Tax Map Key: (2) 4-3-001: Portion of 073.
- Item M-15** Issuance of a Revocable Permit for Parking for Aircraft Tie-Down Parking Purposes, George Tamlin, Hilo International Airport, Tax Map Key: (3) 2-1-012: Portion of 090.
- Item M-16** Issuance of a Revocable Permit for a Courtesy Desk, U.S. Aviation Services Corp., Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-043: Portion of 040.
- Item M-17** Consent to Assignment of State Lease No. DOT-A-09-0046 and State Lease No. DOT-A-09-0047 From Simply Wheelz LLC dba Advantage Rent A Car to Advantage OPCO LLC dba Advantage Rent A Car, Līhu‘e Airport, Tax Map Key: (4) 3-5-001: Portion of 008.
- Item M-18** Issuance of a Heliport Lease, Sunshine Helicopters, Inc., Līhu‘e Airport, Tax Map Key: (4) 3-5-001: Portion of 008.
- Item M-19** Amendment No. 1 to State Lease No. DOT-A-12-0008 to Delete Space No. 004139, Add Space Nos. 004140, 004141, Universal Enterprises, Inc. dba Air Service Hawai‘i, Līhu‘e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.

Ross Smith representing the Department of Transportation Airports Division (DOT-AIR) went through items M-4 through M-13 and M-15 through M-19.

Dan Purcell commented that he felt like these items should be more than just the purview of the Land Board because the Board has a lot of very serious issues to deal with. Purcell said these items should be viewed by a different body or in a different format.

Chair Aila recommend he bring it up with the state legislature.

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

**Item A-2 Approval of March 28, 2014 Minutes**

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

**Item M-1 Request Approval of a Use Permit Between the State of Hawai‘i, Department of Defense (DOD) and the Arc in Hawai‘i for the Use of a Portion of the Paved Parking Lot, Located at the Intersection of Diamond Head Road and 22<sup>nd</sup> Avenue, Honolulu, O‘ahu Tax Map Key (1) 3-1-042:041.**

Lloyd Maki with the Department of Defense Engineering Office (DOD) reviewed item M-1 and asked to amend the proposal. The proposed use will not require a Chapter 343 review.

Member Gon felt that in regards to chapter 343, it states that there will be no significant event, therefore its exempt from an EA, so that’s consistent with what Maki said, so there is no need to change the recommendation.

**Unanimously approved as submitted (Gomes, Goode)**

**Item M-2 Request Approval of a Use Permit between the State of Hawai‘i, Department of Defense, Hawai‘i Army National Guard (HIARNG) and the Pacific Regional Medical Command and Telehealth (PRMC/TH) for Access to, and Partial Use of, the HIARNG’s Pu‘unene Armory Building 1 located at 2701 Mokulele Highway, Kihei, Maui, Tax Map Key 3-8-00:014.**

Maki asked to defer this item. After discussing with the attorney general, they have received comments and would like time to address those comments and resubmit.

**Unanimously moved to defer (Gomes, Goode)**

**Item K-1 Enforcement Action Regarding Alleged Unauthorized Structures and Vacation Rentals Within the Conservation District Protective Subzone by Lance Laney Located at Hanalei, Kaua‘i, Tax Map Key: (4) 5-4-002:032.**

Sam Lemmo, Administrator for the Office of Conservation and Coastal Lands explained that this involves unauthorized vacation rentals and unauthorized construction. Staff is recommending that the land owner be fined totaling \$31,000 and two structures be removed. For one of the structures, they may file an after-the fact site plan approval to make that pono. OCCL asks that these matters be taken care of within 120 days.

Harold Brownstein, the attorney representing Lance Laney and Ms. Morita gave history of the property. Brownstein explained that this property was created through the land act of 1885. One purpose of the act which was to put indigenous people back on the land. They were given 999 year leases, which they couldn't sell, but could leave to their family. The lease for this property started in 1914 and has been sold twice. Once in 1956 to Louisa Halekala and again in 1981 to the current owners. Hurricane 'Iwa struck in 1982, and Hurricane 'Iniki in 1992. After Iniki the Chairperson authorized Laney to rebuild this home. In doing so, the Board stated that the property was a legal preexisting use that does not conform to the present conservation district. There were two conditions that were not found in the final letter, #4 said there shall be no expansion of the single family dwelling beyond that which existed prior to hurricane Iniki and #6 said, the rebuilt single family dwelling should never be used for rental or any other commercial purpose. In 1996 the department informed Laney that they had received several complaints regarding the possibility of construction occurring on the property without the necessary permits. Laney immediately responded that when he purchased the property it had one house and two smaller outbuildings on it. Having been through 'Iwa and 'Iniki, necessary repairs were made, but nothing has been changed on the property. Brownstein said Laney never received a response following that letter. Twelve years later the department sent another letter regarding the approximate 1440 square foot structure, which had been the subject of the original complaint. Laney immediately responded attaching his previous letter dated 12 years prior and explained what was on the property. On August 6, 2008 the department asked to schedule a site inspection, the department representative went out and did the inspection, but Laney never heard back so he assumed everything was okay. In December 2013, Laney was informed there was a problem on his property. Brownstein then reviewed the zoning rules/laws. He stated that it is clear that the structures on the property are accessory and the site plan is the only thing needed for approval. Brownstein said that "if" there was any violation, it's the failure to get a site plan approval for the accessory structures on the property, which is a minor violation. The cottages are under 500 square feet and can be occupied by 1-2 people at most. Brownstein said he sent a letter last week to clarify which two buildings were to be taken down, not that they agree, but to resolve this (exhibit 6B). Brownstein added that there has been no damage to the resources or lands and suggested that if there has to be a penalty, it be no more than \$5,000 including the \$1,000 administrative costs.

Member Gomes asked how long the term of the initial lease was. Brownstein replies that it was for 999 years. He explained that this land was for citizens that didn't have the capital to buy land. They couldn't sell the land but it could be inherited, there was no lease payment and no capital. Chair added that there were conditions and there was also the opportunity to purchase in fee, which happened in this lease. Brownstein said it was called the Land Act of 1885 (?) and this lease started (?) in 1914.

Member Oi asked Brownstein how he considered this a minor harm when stable one explains that an unauthorized structure is considered major harm. Brownstein said that these structures were “accessory” structures, which are allowed as a non-conforming use. He said that it shouldn’t fall under major because major harm is anything that harms the resources,, which these two structures do not.

Member Oi then explained the site plan approval process which included getting the involved with the County. Brownstein argued that after ‘Iniki, they received a permit from the Board because temporary measures gave authority to do so to the BLNR.

Member Gon asked Brownstein to describe the amenities found in the cottages. Brownstein said he wouldn’t disagree with what is in the packet; small kitchen, small living area and small bathroom. One structure is less than 500 square feet, the other is around 400 square feet. There is an outdoor shower to one. Member Gon said he was getting a feel for what the nature of those structures were, if in his mind they were structures built for accessory or structures built for a nice vacation rental. Brownstein insisted they were not used for vacation rental; they were built for personal use. Member Gon asked about the internet characterization in exhibit 8 that described two cottage availability and comments from the guestbook. Brownstein said that they have admitted it was used for TVA (Temporary Vacation Accommodation), it was wrong, it has stopped and they won’t do it again. He said that didn’t mean that back when it was built in 1992/1996 it was built for that.

Member Goode asked how many years this operated as a TVR. Brownstein said off and on maybe 5-6 years, but was never a constant thing.

Member Gomes asked Brownstein how he got the \$5,000 total. Brownstein said \$2,000 for each violation and \$1,000 for the administrative costs.

Chair Aila asked Lemmo to expound more about this sensitive subzone. Lemmo explained that the conservation district has 5 subzones, which are regulated by the department; the protected, the limited and the resources’ in general. The protected is the most restricted, it’s the subzone in which there are especially sensitive designated areas.

Member Oi asked if other violators paid the fine of \$15,000 for the illegal use of the structures. Lemmo explained there was a major violation case for a number of TVRs that were brought to the Land Board for prosecution, they hired an attorney to represent all of them, they asked for a contested case hearing, and ultimately they ended up withdrawing the request for a contested case hearing so OCCL reopened the violation proceeding and went through with the process. OCCL found clear proof of TVR through the website searches. OCCL settled \$15,000 for one, and is working out the other. They are currently in the investigation process of other TVRs in that area and all over the state. Member Oi explained that he can’t see reducing the fine for certain cases and is against vacation rentals. Member Oi feels like the \$15,000 fine seems reasonable for the amount of money they made over the 5 year period. Member Oi also addressed the fact that Brownstein said they would take the two structures down; Member Oi asked Lemmo if waiving the \$15,000 would be reasonable since they are willing to tear down the two structures. Lemmo explained that OCCL’s job isn’t to punish people; they are here to help

people and protect the resources. The \$15,000 is nothing compared to the amount of money they are making for these types of properties annually. OCCL could actually be charging them on a per day basis; \$15,000 per day of the rental. Lemmo said the structures are getting punished by taking them down, whether or not the Board wants to fine them for the unauthorized construction aspect is a discretionary decision and doesn't bother Lemmo. What does bother him is not charging them \$15,000 for the vacation rentals because when he tries to do prosecutions across the state he may have some attorney walk up to him asking why they should have to pay the \$15,000 if Mr. Laney didn't have to.

Member Gon praised Lemmo for having the internet evidence that this was in fact a TVA. Member Gon also commented on the size of the accessory structures noting they exceed the size of the initial residence. Member Gon recommended investigating the shed because it is bigger than the two structures put together.

Dan Purcell testified that he was disappointed that the Chair of the Public Utilities Commission, who is a co-owner isn't here to answer questions about the structures on the property. He encouraged the Board to not go light on this because it will set a precedent.

Member Oi made a motion to move forward with the \$15,000 TVR fine, since the structures are going to be removed, remove the \$15,000 fine and to include \$1,000 administrative fee totaling \$16,000. Member Goode seconded.

Member Gon said he had a hard time with that motion, because there are two vacation rentals and the fine should come out to \$45,000 with the unauthorized construction and \$46,000 with the administrative fees. Member Gon said he can see removing the \$15,000 for the inappropriate approval process, but would add another \$15,000 for the two violations of the commercial rental.

Member Gomes agreed and would go with staff's recommendation of \$31,000.

Member Goode commented that he views the structures as one, but understands that it's two.

Member Gon said that they were listed on the website as two, so that's two income streams and they are separated by a very large shed.

Chair Aila said that the ultimate goal of the department is compliance and they need to be careful of the precedent they set. He said he would view the structures concurrently and would disagree with members Gomes and Gon.

Member Goode read an insert from the internet website on exhibit 8C stating that one of the structures had recently been remodeled by adding a new kitchen and a new larger living room. That being said Member Goode said he's starting to feel the need for a higher fine and makes him wonder about the construction.

Chair Aila restated the existing motion; to amend staff recommendation, move forward on the \$15,000 for TVR, the \$1,000 for the administrative fees and to remove the \$15,000 for the

unauthorized structures. Chair Aila and Member Oi were in favor, Member Gon, Member Goode, and Member Gomes were opposed.

Member Gomes made a motion to accept staff's recommendation as written. Member Gon seconded. All were in favor of staff recommendation except Board Member Oi.

**Approved as submitted (Gomes, Gon)**

Brownstein made verbal a request for a Contested Case.

**Item K-2 Time Extension Request for Conservation District Use Permit OA-3494 for the Honolulu Marine Shipyard at Ke'ehi Lagoon by Honolulu Marine, LLC. Located at Kapālama, O'ahu, Tax Map Keys: (1) 1-2-025: 113 &114.**

Lemmo reviewed item K-2 noting Honolulu Marine, LLC would like another 2 years which would take them up to December 31, 2016 to complete construction. Staff is recommending that approval.

Member Goode asked when the water quality test was submitted. A representative stated it was submitted two years ago.

Mark Delventhal with Honolulu Marine and Kelly Powell, their design agent testified. He said the permits have conditions that have conditions and it has been a challenging process. He gave some background on their project explaining that they had to start from scratch, but are moving ahead quickly now. Powell added that the state supports the relocation. An Environmental Assessment (EA) was done with a finding of no significant impact. Delventhal and Powell are okay with staff's recommendations.

Member Gomes asked what the dollar value was for the permitting process. Delventhal said they are about \$750,000 into the permitting process.

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

**Item D-14 Sale of Remnant to Kole Group, LLC; Withdrawal from Governor's Executive Order No. 1598, Waimānalo, Ko'olaupoko, O'ahu; Tax Map Key: (1) 4-1-024:portion of 068.**

Russell Tsuji Land Division Administrator had a change on page 1 of the submittal. It's noted that it's agricultural 2 lands, but it's actually agricultural1 lands. The representatives were present and were okay with staff's recommendations.

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



**Item D-4 Request for Consent to Extension of Lease Term Pursuant to Act 207, Session Laws of Hawai'i 2011, General Lease No. S-3606, The Food Basket Inc., Waiākea, South Hilo, Hawai'i Tax Map Key: (3) 2-2-50:96.**

*Written testimony was submitted by En Young.*

Tsuji presented item D-4 reminding the Board that this item came before them once before, but since the lessee wanted to change it from a market lease to a zero, nonprofit lease of a nominal rent, they were denied. The Food Basket is back, making their request under legislative Act 207, Session laws of Hawaii, 2011, requesting for an extension instead. This will allow them a 10 year extension. Staff is recommending the extension be granted at market rent. The Food Basket is requesting the extension but they want it with nominal rent. They are currently paying market rent. This is an area where the Land division relies on income to support their programs. There are other lands in this area that they could've possibly used, but Tsuji understood that the Food Basket wanted this industrial zone area.

Chair Aila asked Tsuji if the Food Basket was currently making a difference in the community right there. Tsuji commented that they are doing a fine activity by acting as the food bank. They have addressed any management issues.

Member Gomes commended the Food Basket for their substantial improvements.

Gordon Heit, the district land agent for the Hawaii district land office gave a summary of the lease. The lease was originally done through in executive order back in 1960. The original lessee held the lease until he retired, and Food Basket took over. The department made sure the Food Basket knew this was in industrial lease, assessed at market value, when they took it over as an assignment with 5 years remaining. The Food Basket did numerous improvements.

Ed Young representing the Food Basket clarified that they are different from other non-profits in that their operations are industrial. They run a warehouse using forklifts, commercial freezers, etc. That's why they believe the zoning for industrial is the correct for the work they do. They are willing to work with the department and know that there are other lands that maybe appropriate. For now the 10 year extension will work for them, it will give them time to look for a new home. The Hilo location serves 7,000 people and the Kona location serves between 2,500 and 3,000 people.

Member Goode ask what their annual operating budget is. Young said they were earning about \$950,000. Member Goode commented that the current lease was about \$17,000 a year. Young agreed that they were making a good amount of money. Young explained that about \$400,000 of the budget is the cost of food so any extra profit would probably be spent on more food. Young added that they have 30% of the eligible food stamp population in the state.

Tsuji explained that the act only allowed a 55 year lease as the max, you couldn't ask for another 10 making it a max 65 years. Now those with 55 can ask for another 10 years making it 65.

Chair Aila asked Tsuji what his thoughts were given the statement that Young made that the state controls all of the industrial lands. Chair Aila stated that the Board needs to think of not only what's best for the department, but also what's best for the people in the community. Tsuji said the land division relies on this funding. He likes that the Food Basket is considering being relocated once their 10 years is up. The nominal rent now is \$480 a year/ \$40 a month.

Member Goode said he would like this to go on with the nominal rent and to see that money used to buy more food to serve the people in that community; this would benefit the state.

Member Goode made a motion to accept staff recommendations with the change that we go to the nominal rent with the period ending in 2026. Chair Aila seconded.

Member Gomes asked if with the nominal rent, their rent would remain \$480 a year. Member Goode said yes, and explained that during his time on the Board, they have granted almost all nonprofits nominal rent. Chair Aila confirmed that amount is the standard rate for a nonprofit; it's a fee involved in processing the permits on an annual basis.

Member Oi found it difficult to go with a nominal rent. The Food Bank has been paying the \$17,000 annually and he saw no reason to change it. Member Oi suggested maybe if sometime down the road they are unable to pay the \$17,000, then come back and ask for nominal rent.

Chair Aila agreed with member Goode stating that sometimes the Board has a larger responsibility then just creating revenue for the department. The community in Hilo is less financially stable than the rest of the island and there are not a lot of options there for people that are providing community services.

Member Gomes agrees with Chair Aila and Member Goode.

Member Gon offered a suggestion, he said he was looking at the appraised value of about \$17,000 and suggested changing the motion and taking the amount down to 10% of the appraised value.

Tsuji said the lease was not an auction lease, it was a direct lease. It was always for private entities, now its run by a private owned C3, nonprofit which would under 43.1-171 qualify them for direct negotiation. It's okay to amend the lease.

Member Goode said he was amenable to the amendment; the new motion is to accept staff's recommendations with the modification that the lease term moving forward is 10% of the new appraisal as outlined by staff. Chair Aila seconded.

**Unanimously approved as amended (Goode, Aila)**

**Item J-1      Authorize a Consent to Mortgage and Amendment of Boating Lease No. B-93-02, Trilogy Corporation for Extension of Lease Term, Manele Small Boat Harbor, Lāna‘i, Tax Map Key: (2) 4-9-017-006-0002.**

*Written testimony was submitted by Rochelle Alboro, Janona Alconcel, Toby Alconcel, Alfred Dia, Elsie Baltero, Jacob Baltero, Courtney Batoon, Diane Jacobs-Belez, Isaac Belez, Samuel Belista Jr., Pauline Benance, Rex Brines, Jacob Lumeng, James E. Coon, Larry Cornsby, Kathleen Couch, Leimana DeMate, Fely Dimaya, Delia Divina, Edmund Eskarina, Renato Espiritu, Dicky Eharis, Eleanor, Augie Figuerres, Ron Gingrich, Alvin Haban, Rosalinda Degamo, Brigitte Hanog, Nida Ige, Valerie Janikowski, Raymond Kanao, Charlene Ka`aikola, Yasha-Ann Kahananui-Peralta, Sol P. Kaho`ohalahala, Raschelle Kipi-Diesta, Kimberly Lamay, Melanie Langer, Dareen Llamelo, Brenda Lopez, Michael Lopez Jr., Hydia, Angie Maltezo, Shantell, Mamuad, Donna Miranda, June Mercado, Kelly Matsumura, E.J., Maltero, Keaumoe Mamo, Maggie Musachima, Karen Nunies, Odette Ocafeda, James Dhasah, Norraine Pascua, Georgiann Pedersen, Nina Piel, Janet Rey, Josephine Reinicke, Fred Sandi, Hideko Saruwatari, Mapuana Soriano, Greg Sturm, Pua Turqueza, Puwa Villarimo, Nicole Woolsey and Jernilyn Yumol.*

Bill Andrews Property Manager for the Division of Boating and Ocean Recreation (DOBOR) reviewed item J-1. The 20 year extension lease term is a request for the applicant to qualify for mortgage and lending to amortize the cost of the improvements and upgrades to this site. Andrews asked to make an amendment to correct the TMK in the submittal. The Tax Map Key on the submittal should read (2) 4-9-17:06 to match the Tax Map Key on the agenda, not (4) 4-9-17:06. Should the Board approve the extension today, the lessee will immediately move ahead with the architect and complete the plans and provide them to the department for approval.

Jim Coon started Trilogy in 1973 to take visitors from Maui to the island of Lanai. In 1993 the Board granted Trilogy a lease to develop the unimproved harbor lands to build a pavilion. This facility ended up being a million dollar project that took almost 5 years to build. The facility is now complete and did help Trilogy in having a stable business environment on Lanai. Coon asked the Board to approve this so they can move forward. He is fine with staff's recommendations, and will do what needs to be done, but did ask for flexibility. They are looking into putting photovoltaic on the property to help contribute to being as "green" as possible.

Member Gomes congratulated Coon for being for being such a great steward to Lanai and Maui County. Member Gomes asked if there would be any pilikia or problems that the state needs to be aware of coming from Ellison or that harbor. Coon said no, time will tell. The Lanai community is very optimistic of what Ellison is doing for Lanai.

Chair Aila commented that the Board has received at least 70 letters of support, most of them from Lanai residents.

Sol Kahoohalahala, whose family has lived on Lanai for seven generation, testified that his family has been and is employed by the Coon family. He said the Coons have been the only consistent employers of Lanai and he and his family support their efforts

**Unanimously approved as submitted with the change to the Tax Map Key as requested by staff (Gomes, Gon)**

**Item F-7 Request For Approval to Hold Public Meetings and Hearings to Adopt a New Chapter Under Hawai'i Administrative Rules ("HAR") As Title 13 Chapter 60.8, Hā'ena Community-Based Subsistence Fishing Area, Kaua'i, to Manage and Protect Fish Stocks and to Reaffirm Traditional and Customary Native Hawaiian Subsistence Fishing Practices Within the Ahupua'a of Hā'ena.**

*Written testimony was submitted by Adam L. Ayers, Suzanne D. Case, Holly K. Coleman, Sterling Wong, Scott Crawford, Leimana DaMate, Rae DeCoito, Jonathan Giddens, Debbie Gowensmith, Isaac "Paka" Harp, Paulette Olds Hedemark, Maka'ala Ka'aumoana, John N. (Jack) Kittinger, Ph.D., Carol Leina`ala, Keakealani Lightner, Edwin "Ekolu" Lindsey, Matthew Lynch, Melvin A. Malinowski, Robin Newbold, Pua`ala Pascua, Kelson "Mac" Poepoe, Jennifer Rodwell, Shauna Kēhaunani Springer, Larry Stevens, Nicole Tachibana, Johanna Ventura, Charles Young, Dr. Kamana Beamer, Malia Akutagawa, Esq., Dr. Greg Chun, Dr. Mehana Vaughan, Hannah Bernard, Kevin K.J. Chang, Malia Chow, Ph.D., Elia Y.K. Herman, M.E.M., James "Jay" Carpio, Rachel Dacks, Jade M.S. Delevaux, Kimokeo Kapahulehua, Kaiali'i Kahele, Leivallyn Kaupu, Luna Kekoa, Malia L. Kipapa, Joshua Noga, Jason Vasques, Presley Wann, Aubrey Yee and the Ka'upulehu Marine Live Advisory Committee Makaala Kaaumoana.*

Fraizer McGilvray Administrator for the Division of Aquatic Resources (DAR) presented item F-7 and explained that DAR has been working with the Hā'ena community. In 2011 the fisheries committee submitted a management plan to DLNR and DAR has been working with DOBOR and the Division of Conservation and Resource Enforcement (DOCARE) have been working with the community on the refinement of that management plan. Staff is requesting the authorization and approval to hold public meetings regarding this new rule.

Member Gon asked McGilvray to confirm that there was no revision in the rules today, just the authorization to move forward with the process. McGilvray confirmed that was correct.

Luka Mossman stated that he stood on his written testimony in support.

Chair Aila said there were over 40 letters of support submitted for this item.

Presley Wann has family from Hā'ena and president of Hui Makana, a non-profit organization funded in Hā'ena in 1999. They are comprised of lineal descendants and longtime families of that area. They are dedicated to the restoration of the taro complex within Hā'ena state park. They support the submittal, and thanked the department for their assistance.

Member Gomes commended Wann for putting his hui (of 40-50 people) together.

Kevin Chang a team member of Kua'aina Ulu' Auamo testified in support and stood on his written testimony.

Susanne Case, Executive Director of the Nature Conservancy (TNC) of Hawaii testified in support. She acknowledged that the Hā'ena community is strongly supportive of the community taking care of the fisheries and land and they have worked very hard to draw on tradition and the state process. They have done lots of outreach and are prepared.

Ed Young from the Hawaii Food Basket testified in support, stating that this will help reestablish the community's ability to feed themselves.

H. Chang Wong from Ewa Beach, who has family from Hā'ena, testified in support.

Healani Kehea a cultural practitioner from south Kona testified in support. Most of her work is done at the shoreline, primarily educating youth.

Willy Kaupiko representing Milioli'i, testified in support. He said that the issues are in the community so there should be hearings held within the community to get their input.

Hoku Sivion a youth member of Papa Pono'i expressed his support for the sustenance fishing area. He finds there is an issue with over fishing and feels those areas should be preserved.

Sol Kahoohalahala testified in support and feels marine resources are tied to land resources. If you cannot care for your land, you cannot be responsible for you ocean, as well. Kahoohalahala submitted his written testimony.

Member Oi was touched that this was going to happen. He said this is something that is going to help throughout the state of Hawaii. Member Oi made a motion to accept staff's recommendations. Member Gon seconded.

Audience applauded.

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

11:32AM RECESS

11:46AM RECONVENE

**Item E-2 Requesting Approval to Grant a Construction Right of Entry to the Puakea Foundation in Collaboration with Kama'aina Care Inc. under General Lease SP0067 for the Construction of a Canoe Repair and Interpretive Pavilion at He'eia State Park, Kāne'ohe, O'ahu, Tax Map Key No.: (1) 4-9-005:002, 004, 009.**

Curt Cottrell Assistant Administrator of the Division of State Parks (SP) distributed handouts that would help clarify the Board's request. Cottrell explained that the park is very well managed by Kama'aina Care Inc (Kama'aina). He reviewed item E-2 and explained that this project is excellent because this park has some of the most qualified canoe builders in the state of Hawaii.

Ray Samborn with Kama'aina acknowledged how much of an asset Uncle Bobby is to the park. Uncle Bobby is the ambassador of the park; he has so much knowledge that he shares with all the kids and people at the park.

Uncle Bobby shared some photos with the Board and spoke about the different kids from all over the world that go to the park not knowing anything. He said it's his job to explain to them what everything is. Uncle Bobby said he has been at He'eia for about 14/15 years; it is a sacred place, which is why it is important to him. Uncle Bobby gave some history about canoes he's worked with and explained that the building is to be used as a learning center.

Jerry Vasconcelos, a Board member, testified in support. He is a retired ocean and recreation specialist from the City & County. Although he retired almost 3 years ago, the C&C has not replaced his position. Vasconcelos said he struggled for years to get the C&C to teach ocean and recreation.

Noelani Puniwai a Board member a Puakea Foundation testified that they want to make the foundation statewide so that people from all over the state can go here, not just the people of Oahu. Puniwai said that they are committed to making this happen so that this is something that the state can be proud of.

Cottrell had a small amendment to the recommendation, authorizing the chairperson to issue a construction right of entry for the construction of the canoe hale.

Member Gon made a motion to approve the staff's recommendation with the amendment previously stated by Cottrell. Member Gomes seconded.

**Unanimously approved as amended. (Gon, Gomes)**

**Item F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Native Hawaiian Practices Permit to Ms. Bonnie Kahape'a-Tanner, Māna Maoli / Kānehūnāmoku Voyaging Academy, for Access to State Waters to Practice Traditional Wayfinding and Seamanship Activities. Request Approval of Declaration of Exemption to Chapter 343, HRS Environmental Compliance Requirements for the Project.**

**Item F-2 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Special Ocean Use Permit to Ms. Bonnie Kahape'a-Tanner, Māna Maoli / Kānehūnāmoku Voyaging Academy, for Access to State Waters to Conduct Photographing and Filming of Ola I Ke Au a Kanaloa Voyaging Activities. Request Approval of Declaration of Exemption to Chapter 343, HRS Environmental Compliance Requirements for the Project.**

Maria Carnavale, State Co-Manager for Papahānaumokuākea Marine National Monument (PMNM) reviewed items F-1 and F-2. All permits have gone through multi-agency review and

have been evaluated for all federal requirements and combined with the exemption of chapter 343 analysis.

Kamaka Seipp gave a brief description of her program and explained that Kānehūnāmoku is the name of their canoe but is also the mystical name of kane that is part of their genealogy.

Member Gon made a motion to approve items F-1 and F-2. Gomes seconded.

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

**Item F-3 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Courtney Couch, Hawai‘i Institute of Marine Biology, University of Hawai‘i, for Access to State Waters to Conduct Coral Health and Community Structure Assessment Activities. Request Approval of Declaration of Exemption to Chapter 343, HRS Environmental Compliance Requirements for the Project.**

Carnavale presented item F-3.

Courtney Couch from Hawaii Institute of Marine Biology added that this project is building on a lot of the previous work that has been done in the monument. This will also provide a lot of information for not only Hawaii, but other Marine areas around the globe. Their hopes are that by studying these larger marine protected areas, they will get a better sense of the impacts of climate change.

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

**Item F-4 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Dr. Frank Parrish and Ms. Alecia Van Atta, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, for Access to State Waters to Conduct Shark Removal Activities. Request Approval of Declaration of Exemption to Chapter 343, HRS Environmental Compliance Requirements for the Project.**

*Written testimony was submitted by Matthew Kawaiola Sproat.*

Carnavale noted that the items proposed are consistent with the items proposed last year. NOAA updated the Board with a briefing during the interim. Charles Littnan was present to answer any questions.

**Unanimously approved as submitted (Gomes Goode)**

**Item F-5 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Mr.**

**Todd Jacobs, National Oceanic and Atmospheric Administration, Office of Ocean and Atmospheric Research Unmanned Aircraft Systems Program, for Access to State Waters to Conduct Unmanned Aircraft Systems Environmental Monitoring Activities. Request Approval of Declaration of Exemption to Chapter 343, HRS Environmental Compliance Requirements for the Project.**

Carnavale reviewed item F-5.

Member Gon asked about the bird strikes and the missions. Charles Littnan, a biologist with the NOAA monk seal program, explained that the missions that were flown were not in the Northwest Hawaiian Islands, they were channel islands but in situations where there are very dense bird colonies. Member Gon said that was the main thing that he wanted to make sure they were in similar areas. Member Gon then asked if the zero bird strikes was because the birds can see it coming easily. Littnan said it was due to the altitude that the birds use during take-off and landing. If something changes from with they predict, then they will modify accordingly or stop.

Member Gomes said he doesn't understand the bird strikes and asked why a drone was up in the first place. Littnan said the drone is testing to see if you can fly an entire survey of a bird colony using photos and use that to estimate how many birds are there. So far no birds have hit the drone and died. Littnan explained that the same species of birds are on other islands but in lower population sizes.

Member Gon expressed how disappointed he was that a narrative was the only description they got about the device. He would've liked to know what it looks like, how big it is, how much noise it makes, etc. Littnan was surprised no pictures were provided in the submittal, but he said he could provide pictures and video. Littnan explained that the device is very quiet, it is battery powered, the wingspan is about 5.5-6 ft. Its hand launched, so it's very small and light. It's tan in color. It's designed to crash in the water.

Dan Purcell testified that he would've appreciated a more robust presentation. He said a briefing would really be a good idea.

Littnan responded by explaining that there is going to be media footage available shortly after they return from the cruise. He said lots of briefings will follow for public presentation because they do hope that this will be an instrument that will be used much more broadly than just Papahānaumokuākea.

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

**Item F-6 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Carl Meyer, Hawai'i Institute of Marine Biology, University of Hawai'i, for Access to State Waters**



**to Conduct Top Predator Feeding Habits and Movement Research Activities.  
Request Approval of Declaration of Exemption to Chapter 343, HRS  
Environmental Compliance Requirements for the Project.**

Carnavale had one administrative change to the submittal, requesting to change the date to be effective from August 1, 2014 to July 31, 2015. The project has been reviewed and endorsed.

Mark Royer was present to answer any questions.

**Unanimously approved as amended (Gon, Gomes)**

**Item D-6 Report to the Board on the Early Termination of the Sublease for the United Kingdom Infrared Telescope under General Lease No. S-4191, University of Hawai‘i, Lessee, to Science and Technology Facilities Council, Sublessee, Ka‘ohe, Hāmākua, Island of Hawai‘i, Tax Map Key: 3rd/ 4-4-15: 09 por.**

Tsuji explained that UH is reporting to the Board the termination of the sublessee, but they would like to continue to operate the telescope. Attached as exhibits are termination agreements that indicate that the United Kingdom has agreed to deposit 2.5 million dollars for UH to hold on to and when it longer decides to cease use of the telescope they will use that money to close the telescope down. UH is informing the Board that they would like to guarantee the removal of the telescope at the end of its use.

Don Straney, UH Hilo Chancellor was present to answer any questions. Straney said that this telescope is one of the most productive telescopes in Hawaii. UH is willing to continue operating the telescope until the use declines. He explained that the 2.5 million dollar deposit exceeds the amounts of three estimates for the cost of decommissioning.

Member Gomes asked where the information gathered from this telescope goes. Straney explained that it goes back to the domain of published science.

**Non-Action item.**

**Item D-2 Issuance of Right-of-Entry to the United States Department of Agriculture (USDA) Forest Service, for Forest Data Collection Purposes, at Ola‘a, and Kapāpala, Puna, South Hilo, and Ka‘ū, Hawai‘i, Tax Map Keys: (3) 1-8-011:044, 2-1-013:002 & 170, and 9-8-001:010 & 013.**

Tsuji asked the Board to amend the agenda title to match the submittal title. The agenda title should include “Waiakea” in the description.

**Unanimously approved as amended (Gomes, Gon)**

**Item D-3 Authorize One-Year Holdover of General Lease No. S-3158, I.C. Haunani Henry and Leonard K. Bolinger, Lessee; Issuance of Revocable Permit; and Issuance of a Bill of Sale Transferring All Improvements Upon the Premises**

to the Lessee, Ocean View Lease Lots, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-1-007:024.

- Item D-5** Rescind Prior Board Approval, Consent to Assign General Lease No. S-5811, Jackson Thong and Mandy Thong, Assignor, to Douglas K. Awai, Jr., Assignee, and Consent to Assign General Lease No. S-5811, Jackson Thong and Mandy Thong, Assignor, to Andy Trang, Assignee, Kamaee-Wailua, North Hilo, Hawai‘i, Tax Map Key: 3<sup>rd</sup>/3-1-04:02.
- Item D-7** Issuance of Right-of-Entry Permit to Na Wahine O Ke Kai for Canoe Race Event to be held on Sunday, September 21, 2014, at Waikīkī, Honolulu, O‘ahu, Tax Map Key: (1) 2-3-037: portions of 021.
- Item D-8** Issuance of Right-of-Entry Permit to O‘ahu Hawai‘ian Canoe Racing Association for Canoe Race Event, on October 11 and 12, 2014, at Waikīkī, Honolulu, O‘ahu, Tax Map Key: (1) 2-3-037: portions of 021.
- Item D-9** Cancellation of Governor’s Executive Order No. 3918 to Department of Land and Natural Resources, Division of State Parks, Waikīkī, Honolulu, O‘ahu, Tax Map Key: (1) 3-1-042:011.
- Item D-11** Approval of Expenditure of \$50,000.00 from the Special Land & Development Fund as a Grant to the Hawai‘i Department of Health and Execution of a Memorandum of Agreement between the Department of Land and Natural Resources and the Department of Health to Support Marine Debris Removal Projects to Benefit the State of Hawai‘i.
- Item D-13** Issuance of Right-of-Entry Permit to Waikīkī Beach Activities, Ltd. for Beach Activities Purposes from June 12 to 17, 2014, Waikīkī, Honolulu, O‘ahu, Tax Map Key: (1) 2-3-037:Portion of 021.
- Item D-14** Sale of Remnant to Kole Group, LLC; Withdrawal from Governor’s Executive Order No. 1598, Waimānalo, Ko‘olaupoko, O‘ahu; Tax Map Key: (1) 4-1-024:portion of 068.

No changes to items D-3, D-5, D-7, D-8, D-9, D-11, D-13 or D-14.

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

- Item E-1** Approval to Enter into a Grant-in-Aid Agreement with Hui o Laka, dba Kōke‘e Natural History Museum, to Develop and Install Exhibits at Kōke‘e Natural History Museum and for Expenses Related to Volunteer Programs at Kōke‘e State Park, Kaua‘i.

Dan Quinn, State Parks Administrator clarified that this grant was subject to review and approval by the Attorney General’s Office.

**Unanimously approved as amended (Oi, Gomes)**

**Item L-1**      **Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai'i Administrative Rules, Job No. A00CM90C, DOCARE Maui Base Yard Paving, Kahului, Maui, Hawai'i.**

**Item L-2**      **Amendment to Prior Action of November 8, 2013, Item L-1, Authorization to Enter Into Agreements With the Private Property Owners of 1071 Ko'oho'o Place, 1081 Ko'oho'o Place, 1111 Ko'oho'o Place, 1115 Ko'oho'o Place, 1123 Ko'oho'o Place, 1129 Ko'oho'o Place, 1129A Ko'oho'o Place, 1135 Ko'oho'o Place, 1141 Ko'oho'o Place for Job No. J45C041A Lanikai Rockfall Mitigation, Kailua, O'ahu, Hawai'i.**

Carty Chang, Chief Engineer had no changes to items L-1 or L-2.

**Unanimously approved as submitted (Goode, Gomes)**

**Item D-12**      **Report on the Status of Lease Rent Re-Opening Arbitrations in General Leases Nos. S-3583, S-3592, S-3599, S-3609, S-3611, S-3620, S-3621, S-4331 and S-4332, Waiākea, South Hilo, Hawai'i, which are the subject of In the Matter of the Arbitration Between, CENTRAL SUPPLY, INC., et al. v. STATE OF HAWAI'I, DEPARTMENT OF LAND AND NATURAL RESOURCES, S.P. No. 12-1-0029, and In the Matter of the Arbitration Between, STATE OF HAWAI'I, DEPARTMENT OF LAND AND NATURAL RESOURCES v. YAMADA CONSOLIDATED, INC., et al., S.P. No. 13-1-0035. The Board may go into Executive Session pursuant to Section 92-5(a)(4), Hawai'i Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities.**  
***NO STAFF SUBMITTAL***

**Non-action item.**

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

12:40            EXECUTIVE SECESSION

There being no further business, Chair Aila adjourned the meeting at 12:40 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Ku'ulei Moses  
Land Board Secretary

Approved for submittal:



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