

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

**DATE:** FRIDAY, MAY 22, 2015  
**TIME:** 9:00 A.M.  
**PLACE:** KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAI'I 96813

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

**MEMBERS**

Suzanne D. Case  
Stanley Roehrig  
Vernon Char  
Ulalia Woodside

James Gomes  
Thomas Oi  
Christopher Yuen  
Keone Downing

**STAFF**

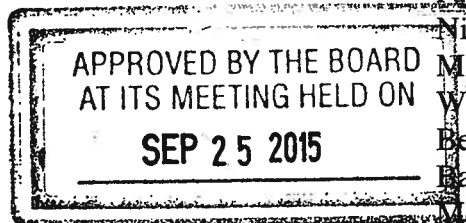
Jason Redulla-DOCARE  
Marvin Mikasa-LAND  
Lisa Hadway-DOFAW  
Randolph Lee-SHPD  
Carty Chang-ENG

Russell Tsuji-LAND  
Maria Carnevale-PMNM  
Steve Soares-PARKS  
Dan Quinn-PARKS

**OTHER**

Bill Wynnhoff/AG  
Ross Smith/DOT-AIR  
Toni Bassin/D-14  
Gregg Naskey/D-10  
Charlotte Hamada/D-2  
Thomas Oi/D-2  
Kalei Nu'uhiwa/ F-6  
Kekuewa Kikiloi/F-5  
Frank Hay/E-1  
Ed Bushor/D-6  
Dan Purcell/D-6  
Brutus La Benz/ D-1  
Kippen de Alba Chu/E-2

Amanda Weston/AG  
Ethan Tomokiyo/DOT-AIR  
Blance Mcmillan/D-14  
Gerald Cysewski/D-10  
Chad Hamada/D-2  
Jennifer Jasper/D-2  
Pualani Kanake'ole Kanahale/F-6  
Nick Agorastos/C-1  
Michael Lam/D-6  
William Brillhante/D-6  
Ben Kudo/D-6  
Bart Howk/D-9  
Mahealani Kahau/E-2



**Item M-1 Issuance of Direct Lease to The Gas Company, LLC, dba Hawai'i Gas for Construct, Install, and Maintain Storage Facility for Liquid Propane (LPG) and Gas Pipeline Easement Purposes, Nāwiliwili Harbor, Līhu'e, Kaua'i, Tax Map Key: (4) 3-2-004:016 (Portion), 021, 022, 053.**

**Withdrawn**

**Item A-1 Approval of February 27, 2015 Minutes**

Member Yuen noted that in item C-4, "resource" is misspelt and on page #7, council should be spelt "counsel". Also "Steve Burgfield" should be "Steve Bergfeld".

Member Woodside added in item J-2, principle owner is misspelt.

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

**Item M-2 Issuance of a Revocable Permit for Aircraft Parking, Christopher B. Bennett, Honolulu International Airport, Tax Map Key: (1) 1-1-76:Portion of 23.**

**Item M-3 Issuance of a Revocable Permit for Aircraft Storage, Adam T. Townley-Wren, Dillingham Airfield, Waiālua, Hawai'i, Tax Map Key: (1) 6-8-14-17 (Portion).**

**Item M-4 Issuance of a Revocable Permit to Park a Storage Container, Atmos, Inc., Kalaeloa Airport, Island of O'ahu, Tax Map Key: (1) 9-1-13: Portion of 32.**

**Item M-5 Amendment No. 3 to Retail Concession Agreement No. DOT-A-11-0005 to Extend Lease Term under Provisions of Act 46, Sessions Laws of Hawai'i 2012, as Extended by Act 126, Session Laws of Hawai'i 2014, DFS Group, L.P., Kahului Airport, Tax Map Key: (2) 3-8-01:Portion of 19.**

**Item M-6 Issuance of a Revocable Permit for Baggage Claim Storage Cages at the Commuter Terminal, Mokulele Flight Service, Inc., Kahului Airport, Tax Map Key: (2) 3-8-01:Portion of 19.**

**Item M-7 Issuance of a Revocable Permit for Ticket Counters and Baggage Make-up Area at the Commuter Terminal, Mokulele Flight Service Inc., Kahului Airport, Tax Map Key: (2) 3-8-01:Portion of 19.**

**Item M-8 Issuance of a Revocable Permit for Ticket Counter and Baggage Make-up Spaces, Schuman Aviation Company, Ltd., Kahului Airport, Tax Map Key: (2) 3-8-01:Portion of 19.**

- Item M-9** Issuance of a Revocable Permit for Office Space-Second Floor, Mokulele Flight Service, Inc., Kapalua Airport, Tax Map Key: (2) 4-3-01: Portion of 73.
- Item M-10** Issuance of a Revocable Permit for Ticket Counter Space in Main Lobby, Mokulele Flight Service, Inc., Kapalua Airport, Tax Map Key: (2) 4-3-01:Portion of 73.
- Item M-11** Issuance of a Revocable Permit for Ticket Counter Space, Schuman Aviation Company, Ltd., Molokai Airport, Tax Map Key: (2) 5-2-04:Portion of 8.
- Item M-12** Issuance of a Direct Lease for Space for a Plant and Animal Quarantine Station, New Cargo Building, State of Hawai'i, Department of Agriculture, Hilo Plant Quarantine Branch, Hilo International Airport, Tax Map Key: (3) 2-1-12:Portion of 90.
- Item M-13** Issuance of a Revocable Permit for a T-Hangar and an End Room, Safari Aviation, Inc., Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 90.
- Item M-14** Issuance of a Revocable Permit for a T-Hangar, Hawai'i Planing Mill, Ltd., Hilo International Airport, Tax Map Key: (3) 2-1-12:Portion of 90.
- Item M-15** Issuance of a Revocable Permit for a T-Hangar, George Burkley, Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 90.
- Item M-16** Issuance of a Revocable Permit for a T-Hangar, Helicopter Consultants of Maui, LLC, Hilo International Airport, Tax Map Key: (3) 2-1-12:Portion of 90.
- Item M-17** Issuance of a Revocable Permit for a T-Hangar, K & S Helicopters, Inc., Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 90.
- Item M-18** Issuance of a Revocable Permit for a T-Hangar, Manuiwa Airways, Inc. dba Volcano Helicopters, Hilo International Airport, Tax Map Key: (3) 2-1-12:Portion of 90.
- Item M-19** Issuance of a Revocable Permit for a T-Hangar, Realty Investment Company, Ltd., Hilo International Airport, Tax Map Key: (3) 2-1-12:Portion of 90.
- Item M-20** Issuance of a Revocable Permit for Two T-Hangars and an End Room, William J. Phillips, Jr., Hilo International Airport, Tax Map Key: (3) 2-1-12:Portion of 90.

- Item M-21 Issuance of a Revocable Permit for Airport Land for Storage of a Propane Fuel Tank, The Gas Company, LLC, Lihue Airport, Tax Map Key: (4) 3-5-01:Portion of 8.**
- Item M-22 Issuance of a Revocable Permit for Airport Land for Overflow Vehicle Parking, Garden Isle Disposal, Inc., dba Garden Isle Storage, Lihue Airport, Tax Map Key: (4) 3-5-01:Portion of 8.**
- Item M-23 Issuance of a Revocable Permit for a T-Hangar, Bruce A. Coulombe, Lihue Airport, Tax Map Key: (4) 3-5-01: Portion of 8.**
- Item M-24 Issuance of a Revocable Permit for a T-Hangar, Fredstan Kaluahine, Lihue Airport, Tax Map Key: (4) 3-5-01:Portion of 8.**
- Item M-25 Issuance of a Revocable Permit for a T-Hangar, Island Helicopters Kauai, Inc., Lihue Airport, Tax Map Key: (4) 3-5-01:Portion of 8.**
- Item M-26 Issuance of a Revocable Permit for a T-Hangar, James E. Turturici, Lihue Airport, Tax Map Key: (4) 3-5-01:Portion of 8.**
- Item M-27 Issuance of a Revocable Permit for a T-Hangar, Ronald Heller, Lihue Airport, Tax Map Key: (4) 3-5-01:Portion of 8.**
- Item M-28 Issuance of a Revocable Permit for a T-Hangar, Safari Aviation, Inc., Lihue Airport, Tax Map Key: (4) 3-5-01:Portion of 8.**
- Item M-29 Issuance of a Fixed-Base Facility Lease, Helicopter Consultants of Maui, LLC, Lihue Airport, Tax Map Key: (4) 3-5-01:Portion of 8.**

Ross Smith Property Manager for the Department of Transportation Airports Division-DOT-AIR introduced Property Manager Ethan Tomokiyo. They were both present to answer questions.

Member Yuen asked why Item M-5 was in the public interest. Smith explained that in this case work will be done not just in the concession itself, but in the public space. Additionally there are other improvement projects that will be split 50/50. Right now it's looking like 1.3 million dollars.

Member Yuen asked if the State was giving up a potential of having a concession relet possibly for a higher amount in exchange for a CIP project that's not a big priority for the State. Smith said it was a big priority within the way they budget. DFS is going also going to be building new stores and expanding stores. It's not that they are just making a trade for a CIP project.

Member Roehrig said he wanted to see the details of this proposal before voting on this. He was concerned that Louis Viton had special privileges and not others.

Smith clarified that this is a retail store, not a duty free store. It was open for bid for retail concession and this is not the only extension that they have granted.

Chair Case clarified that the original lease was bid and the extension is legal under the statute.

Member Yuen asked if Duty Free was going to create two other concessions that are not under their concession. Smith said no, they are going to build in a restroom that is larger than 400 square feet. They will build a store in the remainder of the space that was used for some other use prior, then they will build a brand new store in a place that one does not exist. They also intend to do some other improvements. This will all be part of this contract and will all be part of this extension.

Member Roehrig asked Smith to bring pictures so the Board can see visually with he is talking about.

Member Yuen made a motion to defer M-5 and approve M-2 to M-29. Member Roehrig seconded. All were in favor.

**The Board deferred item M-5 and approved all others.**

**Unanimously approved as amended (Downing, Roehrig)**

**Item B-1 Request Board Approval to Extend Contracts for Furnishing Helicopter Transportation Services for the State of Hawaii Between the Department of Land and Natural Resources, Division of Conservation and Resources Enforcement, Windward Aviation, Inc. and Manuiwa Airways, Inc.**

Jason Redulla Acting Administration with the Division of Conservation and Resources-DOCARE reviewed item B-1.

Member Roehrig asked if we have funding for this. Redulla said yes.

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

**Item D-14 Approval in Principle for Issuance of Direct Lease to Pu`a Foundation and Hui Mahi`ai for Community Farming Purposes; Authorize the Issuance of an Immediate Right-of-Entry for Due Diligence Purpose; Waimānalo, Ko`olaupoko, O`ahu, Tax Map Key (1) 4-1-008:008.**

Russell Tsuji Administrator for the Land Division-LAND conveyed item D-14. This is for about 14 acres in Waimanalo, the applicant would be pursuing an Environmental Assessment-EA then, that would need to come back to the Board. The organization members were present. Tsuji referred to page #3 to give background on the bylaws of the organization.

Member Oi asked if there was any land use zone for this. Tsuji said that it would be agriculture.

Member Yuen asked if this has been leased before why would there be a need for a new EA. Tsuji explained that the laws have changed, and because it's a new lease. AG Bill Wnhoff said that was a good question. The AGs have not been asked that question. Wynhoff wasn't for sure if every new lease needed an EA.

Member Yuen thought this needed to be looked at, his view would be to say this is subject to AG advice weather they are under exemption.

Chair Case clarified that the recommendation is to provide approval in concept then provide a period of time for this due diligence for chapter 343.

Member Downing was concerned about the selling of excess versus giving to the community in some form. Toni Bassin and Blance Mcmillan representing the applicant explained that the majority of how they want to operate would be to give to the community.

Member Woodside asked if there would be a farm plan when they come back to the Board. Bassin and Mcmillan said yes. Member Woodside asked if there has been any interest and if they have an idea of where the community farmers would come from. Mcmillan said yes, the farm is right behind her back door. The community is in an agreement, they just need approval from the Board.

Member Roehrig asked if it would appropriate for the Board to exempt this group on this lease given the nature of the project. AG Wynhoff didn't think today was appropriate to do today, it may be appropriate in the future. Wynhoff said they would have to come back.

Member Yuen suggested adding an amendment that the AGs and LAND will consult on whether this qualifies for an exemption.

Member Woodside made a motion to approve with the amendment that the AG and LAND consult on 343 exemption process. Member Gomes seconded.

The Board approved the staff recommendation but asked staff to inquire with the Department of the Attorney General on whether in this case an environmental assessment is required, or whether an exemption from Chapter 343, HRS exists for what appears to be a continuing use of these agricultural lands.

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

**Item D-10 Consent to Mortgage of Sublease K-4 with Estoppel Certificate, General Lease No. S-5619, Natural Energy Laboratory of Hawaii Authority, Lessee, Cyanotech Corporation, Sublessee/Mortgagor, Pacific Rim Bank, Mortgagee, Kalaoa 1<sup>st</sup>-4<sup>th</sup>, North Kona, Hawaii, Tax Map Key: 3<sup>rd</sup>/ 7-3-043: 063.**

Tsuji-LAND detailed that NELHA Board has already taken up this matter and has approved it. Tsuji had nothing to add. Testimony was submitted.

Gregg Naskey counsel for Cyanotech and Gerold Cyseushi were present for questions. They were before the Board 3 years ago for the approval of the first mortgage of \$5.5 million and are back today they are going for another \$2.5 million secured by a second mortgage.

Member Gomes asked what type of projects were going to be implemented. Naskey explained that the 5.5 million 3 years ago was to pay for the custom manufacture in Germany of extraction equipment so microalgae could have all the assets needed for bioastin.

Member Gomes asked what makes this so ideal to be here in Hawaii. Naskey said there were only two other companies like Cyanotech in the world. The weather here is ideal.

Dr. Gerald Cysewski chief science officer explained that after looking all over the U.S. for a suitable area to produce microalgae, they were fortunate to find the natural energy laboratory. The natural energy laboratory gets more sunlight than any other coastal location in the U.S., has low rainfall and they have access to deep cold ocean water which is very useful.

Chair Case asked to describe the capacity improvements and asked if they were limited to this project. Cysewski disclosed that capacity improvements are that they are expanding their ability of production capacity on their construction site. If they reconfigure their cultural ponds then they can obtain as much as 70 more kilos per acre. Significant portions of their funds will be used to support that.

Member Roehrig asked if this money would be used for the work at this site. Cysewski said all expenditures would be directed at this site. Member Roehrig asked if there was someone that would be monitoring this because of the size of the loan. Cysewski told Member Roehrig that their bank has a use of funds and the bank goes out and inspects the progress of the projects. They are a public company and they report their finances each month.

Chair Case asked if it would be possible for them to send a report in to Land Division when they send their reports into the bank. Cysewski said that would not be a burden.

Member Gomes if there were any types of waste emitted from these projects, if so what do they do with it and is it hazardous to anything. Cysewski said that on their spirulina system they recycle everything; there is not waste coming from their production.

Member Roehrig commented that this is an excellent product, lots of his friends use these products but its busts up their stomach so they use cod oil instead. Cysewski thanked Member Roehrig and they would look into it.

Member Roehrig made a motion to approve with the request that they submits reports to the Land Division. Member Gomes seconded.

The Board amended the staff recommendation by requiring the lessee NELHA and the Sublessee Cyanotech Corporation to submit periodic reports to the Land Division showing the loan proceeds being used for Cyanotech's operations at the Keahole site.

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

**Item D-2 Forfeiture of General Lease No. S-4436, Tenrikyo Taiheiyo Kyokai, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-5-008:008 .**

Russell Tsuji - LAND introduced Kaua'i District Land Agent, Marvin Mikasa. On Monday, May 18<sup>th</sup> the tenant came in with a \$4,553 payment. This leaves \$1,021.41 remaining which leaves \$1,725 due June 1, 2015. LAND wishes to continue with the forfeiture proceeding. There were lots of different defaults but also references to the poor conditions of the property as well as structures that weren't authorized by the county.

Member Oi recused from voting; he has worked with the family.

Tsuji disclosed that testimony was submitted from counsel of a neighbor. Tsuji explained that the Kaua'i office has been doing the best they can.

Member Gomes asked this lease were terminated, would the lessee be required to take down all the illegal structures. Mikasa said yes, they would be required to, if not it would become an enforcement action.

Charlotte Hamada reverend of the Church testified admitting that she has been a very bad accountant. She gave some background of the Church. She would like to extend the lease for just a little longer. They have been known as the church as helping and taking in anyone. She wants to transfer all the bills and responsibilities to her son who will take over. Hamada told the Board about the back house that her other son, who is now in jail used to live in. All utilities have been turned off for that house because that son would bring in all kinds of druggies. The house has been almost cleared out. The last couple leaves this weekend.

Member Roehrig asked Chad Hamada, Charlotte Hamada's son what the future of the Church would be. Chad Hamada felt that the people that his parents have helped have been made good people in the community.

Member Roehrig asked how Chad Hamada would keep the druggies out. Chad Hamada explained that when he goes there they all scatter, because he will not let them do anything to hurt him or his family.

Member Gomes commended the family on the intent, but he doesn't know how this will be fixed. Chad Hamada understood there were 33 violations that they have against them. He's not asking for sympathy, just a chance. His mom made a promise that she is trying to help them fulfill.

Member Roehrig asked if it was possible to set a time limit for Chad Hamada to move to Kaua'i. AG Bill Wynhoff told Member Roehrig that the Board is welcome to defer the item.

Member Gomes suggested the Board vote on the item.



Thomas Oi testified as a member of a public. They had a rental reopener and that has made it hard for them to pay their rent, however every time they had a delinquency they always found a way to pay their rent.

Member Yuen clarified that they pay \$575 a month.

Member Gomes asked Oi if the structures were there how they got a lease to begin with. Oi said that was before his time. There should've only been one structure, which was the church.

Member Roehrig asked if this was not a 501(c)3, was this under a different statute. How did they get this lease in the first place. Chad Hamada said the back structure should've been torn down, but they were given a variance.

Jennifer Jasper a neighbor testified that she has been dealing with this for 20 years. She has called DLNR many times and planning and no one wants to do anything. If anyone went there at any time of the day you would see everything. Jasper said she has never seen anyone in the church but family. For a while there was no activity at the church whatsoever. Jasper explained how she feared for her life; she has been harassed, shot at. Their house has been burglarized. The cops come all the time and everyone flees, but they all come back. There are extension cords that run to the houses. The other big structure got dissolved. Everyone knows about the illegal activities go on there. She said she knew she was going to get retaliation when she gets home, she lives in fear. Jasper said they shouldn't be granted this, people learn to relocate all the time. Member Roehrig asked Chad Hamada to come up and asked him what his comments were. Chad Hamada said that it was hard to keep these kinds of people in line.

Chair Case said that the submittal talks about a series of defaults. She was concerned that with a long history of these violations it doesn't seem fair to allow them to continue their lease. She asked what indications can they give that these are going to be cured. Chad Hamada said the he would be able to cure everything, he can afford it.

Member Gomes made a motion to approve per staff recommendation, Member Yuen seconded.

Member Roehrig commented that he would prefer to defer this matter for 3 months to see if the Hamadas can show improvement. He had reservations about throwing them out. Member Roehrig made a motion to amend ether recommendation to defer for 3 months and ask for a progress report from the land agent. There was no second.

All Board members were in favor of approving this item per staff recommendation except Member Roehrig.

6:1 vote.

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

11:14AM RECESS

11:29 AM RECONVENE

**Item F-6 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Native Hawaiian Practices Permit to Dr. Pualani Kanaka‘ole Kanahahele, Edith Kanaka‘ole Foundation, for Access to State Waters to Conduct Summer Solstice Cultural Research Activities.**

Maria Carnevale, Papahānaumokuākea Marine National Monument Co-manager-PMNM conveyed item F-6.

Member Gomes asked where is the information going with the prior research and where has it gone. Carnevale said it depends on the project or the activity; for example some of the information is going into manuscripts.

Member Yuen commented that maybe the idea that the permits should be renewed annually should be re-examined. If someone wants a permit for 5 years, why not issue a permit for 5 years. Carnevale said she would look into that.

Kalei Nu‘uhiwa and Dr. Pualani Kanaka‘ole Kanahahele from Hawaii Island introduced themselves and asked Member Gomes to ask them his question again.

Member Gomes said that he has seen research come to the Board where it comes once, then comes back again. If the same research is being done, why do they need to come back and does this research filter back to the people of the Hawaiian Islands.

Nu‘uhiwa explained that they were going for the uprights of the islands. They are looking for alignments during certain times. They have been there in 2005, 2007 and 2009.

Dr. Kanahahele explained that some of the features have changed during the times. Nu‘uhiwa added that they have been looking at the sun, now when they go back they will be looking at the stars.

**Unanimously approved as submitted (Roehrig, Yuen)**

**Item F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Loren Scott Godwin, National Oceanic and Atmospheric Administration, Papahānaumokuākea Marine National Monument, for Access to State Waters to Conduct Reef Assessment and Monitoring Study Activities.**

**Item F-2 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.**

**Item F-4 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Native Hawaiian Practices Permit to Dr.**

**Kekuewa Kikiloi, University of Hawai‘i at Mānoa, Kamakakūokalani Center for Hawaiian Studies, for Access to State Waters to Conduct Archaeological Cultural Research Activities.**

**Item F-5 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Kelley Elliott, National Oceanic and Atmospheric Administration, Office of Ocean Exploration and Research, for Access to State Waters to Conduct Bathymetric Mapping Activities.**

Carnevale-PMNM reviewed items F-1, F-2, F-4 and F-5.

Member Downing asked if this information would become available to the public and how does the public get access to this information. Carnevale explained that they work with teachers, the information is put on the website and they do press releases so the public is aware of what is going on.

Member Downing asked if it ever gets crowded at PMNM, it seems like there are a lot of people that go at the same time. Carnevale explained that the area is quite large and it is noted were they overlap.

Member Gomes asked if it was coincidence that professor Kanahale and Kikiloi are going at the same time, if so why.

Dr. Kikiloi explained that it was just coincidence; he and Kanahale are both going there for two different reasons.

Member Gomes made a motion to approve F-1, F-2, F-4 and F-5.

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

**Item C-1 Request to Extend the Closure of Kahauale‘a Natural Area Reserve, Island of Hawai‘i, to the Public Pursuant to Hawai‘i Administrative Rule § 13-209-4.5 for Public Safety Purposes.**

Lisa Hadway administrator for the Division of Forestry and Wildlife-DOFAW presented item C-1.

Member Woodside asked how many special use permits were usually issued a year. Nick Agorastos with the Natural Area Reserves believed there were about 3 or 4 permits issued.

Member Woodside asked how the trespassing issue was. Agorastos said it was still there, it has decreased some.

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

**Item E-1 Amend Prior Board Action of November 17, 2006, Item E-1, Request Approval to Enter into a 20 Year Lease Through Direct Negotiations with Hui O Laka, a Hawai'i Eleemosynary Corporation for the Civilian Conservation Corps Camp and Kōke'e Museum Site in Kōke'e State Park, Waimea, Kaua'i**

Steve Soares property manager for State Parks-PARKS gave background on item E-1. To make the terms of the lease more consistent with other DLNR leases PARKS suggest some modifications to the lease.

Frank Hay with Hui O Laka added they have been a proud tenant and look forward to another 60 years.

The Board commended Hay.

**The purpose of the amendment is to amend certain terms and conditions of the lease and to clarify that this action is exempt from the preparation of an environmental assessment. Kōke'e and Waimea Canyon State Parks Tax Map Key: (4) 1-4-001:013 (por.) and (4) 1-4-002:045.**

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

**Item D-3 Grant of Perpetual, Non-Exclusive Easement to A. Laurel Bennett, Trustee of the A. Laurel Bennett Trust for Access and Utilities Purposes, Wai'oli, Hanalei, Kaua'i, Tax Map Keys: (4) 5-5-008:002 and (4) 5-6-002:001.**

**Item D-4 Grant of Term, Non-Exclusive Easement to Uluwehi, Inc. for Access and Utilities Purposes, Wai'oli, Hanalei, Kaua'i, Tax Map Keys: (4) 5-5-008:002 and (4) 5-6-002:001.**

**Item D-5 Grant of Term, Non-Exclusive Easement to Ursula Lamberson, Trustee for Ursula Lamberson Revocable Trust for Access and Utilities Purposes, Wai'oli, Hanalei, Kaua'i, Tax Map Keys: (4) 5-5-008:002 and (4) 5-6-002:001.**

Tsuji-LAND had no changes to items D-3, D-4 or D-5. A representative was present.

Member Oi commented that he was glad to see this moving forward.

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

**Item D-6 Consent to Mortgage with Estoppel Certificate/Forbearance Agreement; and Request to Approve Lessee's Proposed Extended Time Line for Completing Renovations at Naniloa Hotel; General Lease No. S-5844, WHR LLC, Lessee; 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.**

*Written testimony was submitted by Ed Bushor.*

Tsuji detailed that this is being brought back because back in March the Board deferred the request to consent to mortgage and approved the rest of the plans. So far the Board has approved all of the plans being proposed by the lessee with estimated construction costs of about 10.5 million dollars. The request for the mortgage up until Monday was a request for 16 million dollars. On Monday Naniloa came in with a letter asking that the Board approve their mortgage of 18.5 million plus a contingency of 1.5 million for a total of 20 million dollars.

Staff is favorable to the request if the Board was to condition this request on a report by the lessee.

Michael Lam counsel for Ed Bushor handed out the final approved versions that have been approved by Hilton. Lam explained that the County has been in discussion with Bushor. Hilton has signed and committed, and many of the life safety issues have been energized. The County has full support of this matter. They request that the matter be approved so construction can proceed.

Ed Bushor president of Tower Development introduced himself and asked the Board to focus on a few of the 12 points that were presented at the last meeting and that have been distributed to the Board prior to this meeting. 1) There have been questions about Bushor's ability, resume and finances the vetting that goes through to approve a developer in the State of Hawaii is the toughest in the industry. The main focus they care about is that when you redevelop an old building, they want someone that will get it done. He has done that with the past two hotels that he's done. He has created many jobs for the people of Hawaii. He is still trying to create jobs for the local community. Bushor explained that none of this could happen without the loan amount. Initially 16 million dollar loan had approximately a 2.5 million dollar loan for Kilauea tower which was supposed to be given later. The lender was afraid that they would have to come back for approval and gave it to them all at once. Instead of two phases, there is now one phase. They are asking for 18.5 million that's all. The lender however would like to see that they have a contingency, if something happens they don't have to come back to the Board. The key issue is how much of that lender's appraisal is at risk. The lender's appraisal is at 60 million 800 dollars. On this property Naniloa will be at 30% with the contingency they will be at 33%.

Bushor commented that Member Roehrig was concerned if this would be risky. Bushor said with confidence that they are lower than 50% and would side with the conservative amount. He asked for the Board's support.

Lam clarified that under the ground lease that authorizes the Board to allow this lease property to be mortgaged, there is no capacity rate; the 20 million is because of the fair costs that are being involved. This is not a lump sum loan, it is approved budget. The funds will only be used for the project.

Member Gomes asked Bushor if they would have everything done in 6 months. Bushor said they have allowed 6 months for permitting and approval, then they have to come back to the Board for approval for the 3<sup>rd</sup> tower. Their outside timeframe is the end of 2016; 8 months for the first

two towers. They are going to shoot for faster than that because he loses money every day it's not open.

Member Roehrig asked the County of Hawai'i to come up. William Brillhante with the County of Hawai'i stated at the last hearing in March there were significant concerns about this project. The basis of the problem was that there was a lack of communication between the applicant and the County. The first item was related to the mitigation and timeline in relation to the code violations. The second area of concern was the liability of the county. The County letter of May 11 outlined dates of the code violations that should be met; January 31, 2016, September 31, 2016 and December 31, 2016. The second concern is that the funds that were being pulled out would be used for this project. The County had two meetings and left both meetings confident in the loan and the applicant. They are hopeful and look forward to seeing action.

Member Roehrig said he appreciated the County work on this. He said he had a great concern that the lender was from the mainland, if something goes wrong, the Board is going to have to go to Federal Court. Member Roehrig expressed his concern about the defaults and asked Bushor what assurances he can give the Board.

Bushor said it was important for everyone to know if he uses that money for anything other than the Hilo Naniloa, the guarantee stands for ever and goes against Bushor forever; so the Board is protected.

Chair Case asked if there was any connection between Bushor and this lender. Bushor said no, they went through a bidding process to get a loan. Hawaiian Banks can only loan up to 5 million dollars so they couldn't get a loan from a Hawaiian Bank. The lender did hire an independent third party entity here in Hawaii, and they review that the money went into the project before the lender cuts the check back to the construction company. When the report is sent to the lender, he has instructed that the same report be sent to Tsuji. If someone uses the money for private purposes Bushor is going to be in trouble. Bushor said 18.5 million would be the loan amount and 1.5 million as the contingency max would be more than enough.

Member Roehrig asked how future defaults were going to be handled so that there is not a situation where there are uncured defaults with the County. Lam understood that the letter from the County covered current violations as well as future violations. Brillhante confirmed that there was language specific to violations. Bushor added that he has never defaulted on a loan and never had a foreclosure.

Lam began addressing Member Roehrig's concerns; if there is a bankruptcy it would be held here in the district of Hawaii. The lender is qualified to do work here in Hawaii; they are going to be interpreting Hawaii law. Member Roehrig didn't agree.

Chair Case asked what the collateral for the mortgage was. Bushor said the collateral for the mortgage is not DLNR's land; it's only the lease hold interest including the building. In the event of a default, the lender would foreclose and the lender would only get the lessee's lease hold interest. The State never loses its interest.

Chair Case asked Tsuji if the request needed to be amended to increase to a 20 million dollar loan.

Member Gomes commented he was in favor of this.

Bushor gave his representation and commitment to Banyan Drive.

Dan Purcell expressed the importance of the hearing of this item today. There are so many people here for this; he didn't understand why video conferencing can't be used.

Ben Kudo representing the Pacific Resource Partnership recognized that this project has significance to the people of Hawaii and Hilo. They are concerned about the well-being of the town; they noticed an absence of an Environmental Statement (EIS). Their position would be whether chapter 343 needs to be compiled with before an action is taken. They believe an EIS should be taken.

Member Yuen asked about the letter sent to the Department of Labor. Kudo said there has been no response.

Lam responded to Kudo's testimony and noted that there has been no change in use to the project that would require a new EIS.

Chair Case noted that Dan Case is her uncle with Case Lambardi but he is retired and Paul Alston is a trustee of her former employee; she has no interest in this matter.

Member Roehrig made a motion to approve with amendments. Member Gomes seconded.

The Board amended the recommendation section of the staff submittal in the following manner: (a) approving the consent to mortgage in an amount up to \$20,000,000; (b) approving the Estoppel Certificate/Forbearance Agreement in the form attached as Exhibit C to the staff submittal; (c) requiring the lessee to provide to the Land Division a copy of the lessee's monthly or periodic loan draw requests (with supporting documentation of costs incurred for work performed at the Naniloa Hotel and golf course sites) to show the loan proceeds being used for the construction of improvements or operations at the Naniloa Hotel and golf course sites; and (d) amending recommendation number 2 by requiring the completion of the Mauna Kea and Mauna Loa Towers by March 31, 2016, and the Kilauea Tower by December 31, 2016.

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

1:27PM      LUNCH BREAK  
2:06PM      RECONVENE

**Item D-1      Amend Prior Board Action of October 24, 2014, Item D-3, Mutual Cancellation of General Lease No. S-3941, Smith's Motor Boat Service, Inc., Lessee; Issuance of a New Direct Lease to the Office of Hawaiian Affairs;**

**and Consent In Concept to Sublease Between the Office of Hawaiian Affairs, as Sublessor, and Ho’omana, as Sublessee, Wailua, Kawaihau (Puna), Kauai, Tax Map Key: (4) 4-1-004:021. And**

**The Purpose of the Amendment is to Extend the Deadline for the Office of Hawaiian Affairs (“OHA”) to Submit the Sublease between OHA and Ho’omana to Land Division, and to Expand an Easement reserved to the Division of State Parks over the Lease Premises to Include an Electrical Transmission Line.**

Russell Tsuji-LAND explained that this is to extend the deadline for OHA to submit the sublease.

Chair Case thanked Tsuji for the great pictures.

Member Woodside mentioned that there were some challenges and delays with OHA and Land Division. Tsuji said there was some issue but didn’t think it was anything.

Member Downing asked if the zoning would be consistent to applicable law. Tsuji said it would be whatever the County zoning would be.

Brutus La Benz Land Management Specialist with OHA said the zoning for the site was open zoning, leaving it open for any new leases for the County. They are not proposing any kind of new use. The delay in the sublease is because they don’t have their general lease with DLNR. They just got a final draft with the language, so things should be moving along.

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

**Item D-15 Request to Close the State Lands for Protection of the Area located in Waimanalo, Koolaupoko, Oahu; TMK (1) 4-1-008:005 and 080, and (1) 4-1-026:004.**

Russell Tsuji-LAND explained that this is the old Meadow Gold site; it will ultimately be set aside to DHHL and UH but right now they are unencumbered lands. In this matter, there was an attempt by Mr. Lorenzo to occupy recently. He has filed wild deeds with the Bureau of Conveyances. This is to assist with the enforcement side; the primary step is to close off the area to the public.

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

AG Bill Wynhoff left.

AG Amanda Weston arrived.

**Item D-9 Rescind prior Board Action of August 22, 2014, D-17, Grant of Perpetual, Non-Exclusive Easement to the Water Board of the County of Hawaii**



**(WBCOH) for Water Pipeline Purposes, Makaula-Kalaoa 1<sup>st</sup>-4<sup>th</sup>, North Kona, Hawaii, Tax Map Key: (3) 7-3-010: 042 & 044. And**

**Amend Prior Board Action of August 22, 2008, D-4, Set Aside to County of Hawaii, Department of Water Supply for Waterline and Reservoir Purposes and the Department of Public Works for Roadway Purposes; Issuance of Construction and Management Right-of-Entry, Makaula-Ooma 1<sup>st</sup>, North Kona, Hawaii, Tax Map Key: (3) 7-3-010: Portions of 033, 042, 044 & 045. And**

**The purpose of the amendment is to change the title of the Board action of August 22, 2008, D-4, to read: Set Aside to the Water Board of the County of Hawaii for Reservoir Purposes; Set Aside to the County of Hawaii, Department of Public Works, for Roadway Purposes; Grant of Perpetual, Non-Exclusive Easement to the Water Board of the County of Hawaii for Water Pipeline Purposes; Issuance of a Construction and Management Right-of-Entry, North Kona, Hawaii, Tax Map Keys: (3) 7-3-10: portions of 033, 042, 044 & 045. The amendment will further authorize the issuance of an easement for the water pipeline, instead of including it in the set aside for the reservoir site.**

Russell Tsuji-LAND reviewed item D-9 and had nothing to add.

Bart Howk with Palamanui said this was just a housekeeping issue; there was a mistake in the tax map key. They need official approval so the grant to the Water Board can be done properly.

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

**Item I-1 Request to Approve to Enter into a G-I-A Capital Improvement Project Contract for Hawaiian Mission Children's Society DBA Hawaiian Mission Houses Historic Site and Archives (HMH), and Authorize the Chairperson to Negotiate and Execute the Contract.**

Randolph Lee with the State Historic Preservation Division-SHPD presented item I-1.

Member Yuen wondered if this needed a declaratory of exemption for chapter 343 and thought this needed to be done. He thought it was exempt.

Member Woodside said this was a grant and aide and wondered if this needed to come for approval.

Lee said this was the approval of the contract.

Chair Case deferred until later so that Lee could check with Carty Chang former Acting Chairperson.

**Temporarily deferred.**

**Item E-2      Extension of Lease Term, General Lease No. S-5504, Friends of 'Iolani Palace, Lessee, and Amendment of Terms and Conditions Regarding Admission Fee Revenues and Reporting Requirements, 'Iolani Palace State Monument, Honolulu, O'ahu, Tax Map Key: (1) 2-1-025:002 (por.).**

Dan Quinn Administrator of State Parks-PARKS gave some history of the Friends of Iolani Palace. The Friends have requested an extension of the lease of 25-30 years. PARKS has recommended 25 years. A percentage has to be put in repair and capital type improvements. The friends would like the ceiling raised, PARKS recommendation is to keep it there. PARKS would like to make sure a certain amount of the money is guaranteed to go back into the sustained maintenance and repair of the structure. The rest pays for operations, utilities, etc. PARKS would like to have the Friends give an annual report to the Board.

Member Gomes commented that the Friends have been doing a great job.

Member Yuen asked who paid for the vandalism. Quinn said the most recent one was covered by a grant.

Kippen de Alba Chu representing Iolani Palace said the palace and the glass were completed in 1882.

Her Majesty Mahealani Kahau testified that they have been operating as a Hawaiian Government as of April 30, 2008. She thanked Quinn for calling her this morning. She didn't believe the Friends of Iolani Palace should continue because it is a sin to the Government of the Hawaiian Kingdom. The land is the peoples land, she is opposed to this.

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

**Item C-2      Approval to issue Request for Information for Federal Grant with the U.S. Forest Service Urban and Community Forestry Program and Authorize the Chairperson to Execute a Contract with Successful Providers.**

Lisa Hadway-DOFAW had no changes, the Board had no questions.

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

**Item I-1      Request to Approve to Enter into a G-I-A Capital Improvement Project Contract for Hawaiian Mission Children's Society DBA Hawaiian Mission Houses Historic Site and Archives (HMH), and Authorize the Chairperson to Negotiate and Execute the Contract.**

Randolph Lee-SHPD returned and told the Board that he will need an exemption, so he will bring ring this item back and submit an exemption.

**Deferred until next meeting.**

**Item D-12 Issuance of a Right-of-Entry Permit to the Association of Apartment Owners (AOAO) of Hale Ka'anapali for the Removal of Vegetation (Naupaka) from within the Beach Transit Corridor / Shoreline at North Ka'anapali Beach, Hanakaō'ō, Ka'anapali, Lāhainā, Maui; Tax Map Key: (2) 4-4-006: Seaward of 011.**

Russell Tsuji-LAND wanted to amend item D-12. He was informed by DOFAW that the Right of Entry should go from December 1, 2015 to April 15, 2016.

Due to concerns raised about the nesting shearwater birds in the area, the amendment was to only allow the right-of-entry for the vegetation removal during the months from December 1, 2015 to April 15, 2016.

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

**Item D-7 Approval in Concept of the Set-Aside to the Department of Land and Natural Resources, Division of Forestry and Wildlife, of 337.741 Acres for Addition to the Mauna Kea Forest Reserve, Parcel 5, Government Lands of Kaohe III, Hamakua, Hawaii, Tax Map Key: (3)4-4-015:002 (por.)**

**Item D-8 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Set Up, Firing, and all other Pre-display and Post-display activities for the Fourth of July Aerial Fireworks Display on July 4, 2015 on unencumbered State lands, Ouli, South Kohala, Hawaii, Tax Map Key: (3) 6-2-002: seaward of parcel 004.**

**Item D-11 Approve Mediated Settlement of Rent Reopening Dispute in Grant of Easement No. S-4112, Association of Apartment Owners of Mana Kai-Maui, a Hawai'i nonprofit corporation, Grantee, located at Kama'ole, Wailuku (Kula), Maui, Hawai'i, TMK No. (2) 3-9-004:portion of 001, for the Period of September 25, 2012 Through September 24, 2022, and Additionally Approve the Rent Reopening for the Period of September 25, 2022 Through September 24, 2032; and Consent to the Assignment of Grant of Easement No. S-4112 After-The-Fact.**

**Item D-13 After-the-Fact Issuance of Right-of-Entry Permit to Hilton Hawaiian Village LLC for Beach Activities Purposes on May 4 to 8, 2015, Waikiki, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:Portions of 021.**

Russell Tsuji-LAND no changes to items D-7, D-8, D-11 and D-13.

Member Yuen told Tsuji that he was told a drone was seen flying near the fireworks in Waikiki. Member Yuen suggested someone look into it because that could be dangerous.

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

**Item L-1      Declare Project Exempt from Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai'i Administrative Rules, Job No. F75C646D, Hapuna Beach State Recreation Area Park Improvements and Repairs, South Kohala, Hawai'i.**

**Item L-2      Certification of Election of Roy Oyama to Serve as Director of the West Kauai Soil and Water Conservation District.**

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

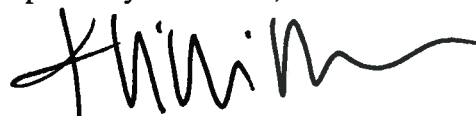
Chair Case asked if there were any of these matters that come up regularly that wouldn't need to come to the Board. Chang explained that they do an analysis and if the action is declared exempt from a preparation of an EA, by law the Board needs to declare that exempt. This is routine, there was only one time one person testified in opposition of someone being appointed.

Member Yuen commented that at some point this should be looked at in the future. Some things shouldn't need to come to the Board.

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

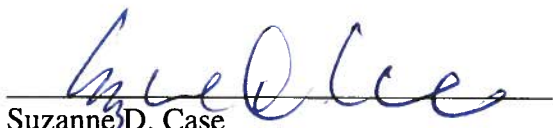
There being no further business, Chairperson Suzanne Case adjourned the meeting at 3:07p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Ku'ulei Moses  
Land Board Secretary

Approved for submittal:



Suzanne D. Case  
Chairperson  
Department of Land and Natural Resources