

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

DATE: FRIDAY, MAY 22, 2009
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HI 96813

Chairperson Laura Thielen called the meeting of the Board of Land and Natural Resources to order at 9:03 a.m. The following were in attendance:

MEMBERS

Laura Thielen
David Goode
Ron Agor

Taryn Schuman
Jerry Edlao
Dr. Sam Gon

STAFF

Paul Conry/DOFAW
Dan Polhemus/DAR
Kevin Kong/DOCARE
Curt Cottrell/PARKS

Dan Quinn/PARKS
Morris Atta/ LAND
Danny Carter/DAR
Aaron Lowe/DOFAW

OTHERS

Randy Ishikawa, Deputy AG
Gene Naipo, Item E-1
Joan Malama, Item E-1
Rose Lum, Item E-1
Carol McLean, Item E-1
Linda Goldstein, Item E-1
Rocky Kaluhiwa, Item E-1
Diana Burg, Item E-1
Marti Townsend, Item F-2
Summer Nemeth, Item C-2

Pam Matsukawa, Deputy AG
Dr. Jim Anthony, Item E-1
Robert Puakea, Item E-1
Reverend Ricky Bermudez, Item E-1
Ray Sanborn, Item E-1
Kimberly Low, Item E-1
Jerry Kaluhiwa, Item E-1
Dr. Charles Littman, Item F-1
Richard Klobuchar, Item F-2
Dawn Chang, Item D-7

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

Item A-1 May 8, 2009 Minutes

Member Schuman recused herself.

Approved as submitted (Edlao, Gon)

Item C-5 Approval of Legacy Land Conservation Program Grant to the Agribusiness Development Corporation

Administrator for the Division of Forestry and Wildlife (DOFAW), Paul Conry reminded the Board that this carries out the Board's actions of the December 2007 Legacy Land grant which is to proceed with the purchase

Unanimously approved as submitted (Schuman, Gon)

**Item E-1 Request that the Board Authorize the Chairperson to Award, Post the Award of, and Issue a General Lease to the Highest Scoring Applicant of the Request for Proposals (RFP-001-08-DSP) to Manage and Operate an Interpretive/Education Center, Grounds and Facilities at He'eia State Park, Oahu
Possible Executive Session Pursuant to Section 92-5(A)(4) & (8), HRS**

Dan Quinn from Division of State Parks related following the Chapter 103 process in putting this RFP out to bid which was discussed at the August 2008 BLNR meeting and several proposals were received, but noted it's odd that staff cannot discuss the substance or number of applicants until it is posted unlike other processes they follow. After consultation with the Attorney General's Office (AG), staff prepared the RFP advertising it in November 2008 with a January 2009 deadline for applicants where several responses were received, the evaluation criteria is listed in the submittal, a committee was selected, evaluated proposals, determined for the highest ranking proposal, and Mr. Quinn read staff's recommendation.

Chair Thielen noted that a couple Board members and some of the public may not be familiar with the history and acronyms used explaining that the Department puts out a request for proposals for people to bid on a contract to operate a facility which the Department is bound to honor the State Procurement Code and must follow it. Under that State Procurement Code there has been changes in recent years to make sure people are following processes that they are protecting public funds, that they are neutral and objective when making determinations. There are a lot of regulations about how to discuss information on an award and under the section of the procurement code that this request for proposal was put out staff is not authorized to discuss the award until the Board authorizes posting of the award and staff recognized that a lot of people worked long and hard and maybe wondered why they weren't contacted by staff prior to this Board meeting or decision making and that's because staff is bound by the procurement code which doesn't provide flexibility. The Board may make a motion for an executive

session to obtain advice from the Deputy Attorney General or question her which may be helpful for the people affected to hear that legal discussion.

Member Gon asked what he should be listening for in the public testimony that would guide the Board's decision. Chair Thielen said the Board is being asked to post the award by a committee that ranked, evaluated, and scored submittals based upon the published evaluation criteria and all the Board members are asked today is that they post that award and under the State Procurement Code provided that people follow that process. It is not a discretionary decision; it is not one the Board could overturn because it is governed by the procurement code.

Member Gon asked is the Board posting the award at this meeting or is the Board authorizing the Chair to post the award. Chair Thielen replied saying authorizing the Chair to post the award because there are so many people here interested in the award that they will have staff be available to step outside to do the posting. There is a process under the State Procurement Code where people can ask for a post award briefing whether they were or were not the awardees the Department would advise applicants on the post award briefing and information which staff could have available to them, as a group or individually whichever is their preference. The Department would be guided by the Attorney General's Office on what that process is for a post award under the State Procurement Code. If staff followed the process for the published ranking there is no flexibility to change that and any questions would go through the State Procurement Office and not this Board.

Member Gon then asked whether any public testimony would not bear on this Board's decision. Chair Thielen acknowledged that and that it has been difficult for the applicants because they could not have this conversation until we had a Board meeting reiterating the procurement code which is for the Land Board to vote to post the award that was made by the selection committee under the published evaluation criteria.

Gene Naipo, a Board member for the Friend's of He'eia, asked to extend their lease relating his background and the education and culture programs at He'eia having done this for the past 23 years.

Dr. Jim Anthony, Executive Director of the non-profit Hawaii Laiekwai Association, said he has the same issue that Member Gon has with participation in this decision. Mr. Anthony asked:

1. How many responses? He felt entitled to know the number of qualified responses.
2. Wanted to get confirmation of the process that the Chairperson referred to a post award briefing where a number of people could raise questions about the award disclosed after public testimony and Mr. Anthony presumed that the Board will go into Executive Session and review the recommendation.
3. When was the State Procurement Code established by law and when was it the last time, over an issue comparable to this one, was the procurement code used?

Dr. Anthony referred to the Windward Retreat Center where the State Procurement Code process wasn't used. And, six years ago an award was made under an RFP to Malaekahana Partners where no lease has been issued. He feels entitled to this information to help the Board make their decision because he has no access to the Board once they go to Executive Session.

Chair Thielen said she is no procurement code expert and would have to defer to the Attorney General's Office and the State Procurement Office in answering when the procurement code was established. As for the Board going into Executive Session, it would go to a majority vote of the Board, but they have the option to do that or discuss publicly here or do both which the Chair didn't know what the Board feels the need for. The State has a number of ways by which they can lease out lands that are governed by State law. The Chair wasn't here when it was first discussed on how to put out the He'eia State Park lease, but it is her understanding that there was much discussion before this Land Board years ago by a request and the Board voted to put this lease out through the procurement and bid process. There were other options, but based on public testimony received at that time the Land Board opted to put this lease out through the procurement process. After the award is posted there is a post briefing that is governed by the procurement code on who can access what information. Those who submitted bids will be advised on what their options are under the procurement code for a post award briefing so they can have information on what their options are as follow up steps. Because there is a lot of public interest in this area they can discuss more general things with the public, but again they are governed by the procurement code as far as what details they can release to people who were not bidders which is structured by State law and the Department does not have the flexibility to do anything different. They recognize this is a difficult situation for some people who invested many years, but this is a competitive bid. It is not something the Department would like to be discussing in a public meeting and their preference would be to have meetings with all of the bidders prior to the public meeting to answer all the questions, but they are bound by the procurement code law.

Dr. Anthony said it sounds like the decision to handle this matter through the procurement code process was based on selectivity that it was staff's recommendation to handle this that it ought to be by the procurement code rather than how they've handled similar issues before. Chair Thielen asked Mr. Quinn about that prior Board meeting where they decided to put this out to a procurement code process and the public participation and recommendations the Board heard at that time. Mr. Quinn said he doesn't believe the Board specified which HRS section staff was to follow however it was clear that this was to go through the RFP/RFQ process. This process was followed after consultation between staff and the Office of the Attorney General. Also, staff cannot discuss the number of applications. Chair Thielen asked what led the Board to decide back then to put this lease out to bid through the RFP/RFQ process what was the Board's discussion. Mr. Quinn related at that time staff's recommendation was to extend or issue another long term lease to the Friend's of He'eia, but staff had to point out that others had come forward and requested that they be given an opportunity to make a proposal and it was decided at that meeting to go through an RFP/RFQ process to give

everyone interested an opportunity for the same services. Staff proceeded with that where at last year's meeting it had not been executed causing some concerns and staff went through as expeditiously as possible. Chair Thielen summarized whether people agreed with that decision to put the lease up through a proposal, it was a decision made by this Land Board at a public meeting based on public input, the original recommendation was to extend the lease for the Friend's of He'eia, but because other people contacted the Department asking to compete in a bid process for that lease the Land Board at that time voted to put this lease through a competitive bid process.

Dr. Anthony spoke wanting to come back after all the public testimony, but Chair Thielen said because there are a number of items on the agenda and other people were here to testify for them that she will not give him a second opportunity to speak and now is the time to bring anything else before the Land Board.

Dr. Anthony cautioned the Board from giving their decision making power to the Chairperson that the Board should take into account all irrelevant material and that the Board should examine carefully all relevant material by the applicants. Dr. Anthony doesn't believe the scripture that Mr. Quinn cannot give out information, fair disclosure is covered in the procurement code. Dr. Anthony feels the Board should look beyond the staff submittal and ask to see all the original applications for imputations will be made because when Mr. Quinn says there is a number of applicants which Dr. Anthony doesn't believe is the whole truth feeling certain State Parks staff invited and encouraged an applicant to submit an application where that applicant submitted an incomplete application. For the Board to investigate any improper contact between staff and staff's principle executive officer (the Board) and whether any of this is related to the success of the chosen applicant.

Dr. Anthony related his concern with the Chairperson reviewing, discussing with staff and signing off on these submittals then sit in judgment on the Board where Dr. Anthony believes the Chairperson is conflicted in these circumstances and it is an obligation on the Chairperson to recuse herself where Dr. Anthony can only make that as a representation and it's for the Board to look at this issue believing the Chairperson is both acting as framer of the submittal and then come in judgment on it that is fundamentally flawed. Dr. Anthony opposes the recommendation.

Member Agor asked Dr. Anthony whether he believes the Board will authorize the Chairperson to select the person. Dr. Anthony said he believes that. Chair Thielen read the recommendation and said the ranking has already been done by a selection committee based upon the evaluation criteria and the Director of the Department does not have the flexibility to change that ranking so the submittal authorizes the Chairperson to award the highest ranked applicant and award the lease. Dr. Anthony said he had no problem with that and that his problem is the controversy reiterating that the Board should look at documents beyond the submittal suggesting the Board appoint a subcommittee of the Board to look at all the documents to satisfy the ranking is agreeable with them whether the staff's ranking is reasonable and defensible and in order to do that is not to make the decision now, but to be better informed. Member Edlao said that because of the

procurement laws even the Land Board does not have access to those documents and none of the Board members have seen it. Until it is awarded and posted then the Board members may be able to see it, but at that point the award is already made. Dr. Anthony said that he is asking the Board to ask for those documents during an Executive Session.

Deputy Attorney General, Pam Matsukawa explained that confidential information may be disclosed to the Board during Executive Session, but the Board cannot override the ranking of the applicant as explained by the Chairperson. Chair Thielen asked if people wanted to file an appeal of that ranking, whether that ranking was fair and objective and followed the procurement code process, is that an appeal under the procurement code. Ms. Matsukawa said after the award is posted applicants will have an opportunity to protest the award and there is a set process under the procurement code. After posting the award they may ask to review the file and the file will pertain to the various proposals. The only things that will not be available to the public are the sections that contain confidential information.

Member Goode asked Ms. Matsukawa whether the significant changes to the procurement code over the years are the selection committees under the Department have the final say rather than the Director or executive body. Ms. Matsukawa said that it is the procurement officer who awards the contract. In this situation it's the Board and the Chairperson awards and signs the contract. Member Goode asked whether the procurement code says the selection committee's ranking is final where Ms. Matsukawa replied that is quite clear in the procurement code. Member Goode asked lets say there is a protest of an award that went through the process who is final arbiter of the protest decision. Ms. Matsukawa said that the response to the protest will be made by the Chair and if there is a denial of the protest the protestor may ask for a hearing before a hearings officer at the Department of Commerce and Consumer Affairs. If the protestor loses there and wants to appeal it, it goes to a circuit court.

Chair Thielen noted that this process is unusual for the DLNR to do a contract for an organization to run a park which is common for construction contracts or things where there are competitive bids and that process follows a set appeal, what documents may be released afterward and the matter before the Board today is a non-discretionary one that they will post the award and if people are not happy with the information they receive they may follow that appeal process.

Dr. Anthony asked for clarification whether that the posting of the award by the Chairperson is merely ceremonial where Chair Thielen corrected ministerial. Dr. Anthony said that the appellate procedure is one that leads a dissatisfied customer to appeal to a single hearings officer and the procedures are similar to a contested case hearing where witnesses are summoned to give testimony under oath where Chair Thielen said she didn't know because it is a process done under the Department of Commerce and Consumer Affairs where they have the hearings officers to deal with all bid protests and staff will get information for people, but cautioned that this isn't something where an outside party can intervene to say I disagree. A bid protest is done by the people who bid on the contract and were not selected. Dr. Anthony agreed and

said they would be grateful to get information about the appellate procedures that the Chair just outlined. Chair Thielen said that if the Board comes to a decision today staff will be available outside to get information to the parties. Our counsel may not be familiar with Department of Commerce and Consumer Affairs, but we can point people in the right direction and help get that information.

Dr. Anthony said in regards to proceeding with caution and even possibly deferring if in doubt to take the precautionary procedure and don't do it referring to judges that do this all the time in judicial proceedings that there is a lot of material behind the submittal recommending deferring this item.

Member Goode asked Dr. Anthony whether his organization was one of the proposers where Dr. Anthony replied that they were not explaining that they are here supporting colleagues naming and describing the executive director of Friends of He'eia and the situation they faced. The apportionment of points is subject to a second opinion where Chair Thielen noted that the evaluation criteria have very specific points to each item that is published and provided to every bidder where she wanted to make clear because Dr. Anthony is implying that this three panel group was operating under some subjective hidden evaluation. This is part of the posting. Dr. Anthony clarified that the very nature of the assignment was flexible it's a soft criteria saying that he used to teach this. Chair Thielen said she understands he doesn't agree with it, but the panel followed the procurement code on how they posted the information, on how they posted the evaluation criteria, and how they posted the point and ranking for the evaluation criteria where Dr. Anthony said he wouldn't know that unless he cross examined them.

President of the Friends of He'eia State Park Board, Joan Malama, distributed written testimony which she read relating that she serves the public and that the Friends educate the children and the community explaining how they do that. Ms. Malama reminded the Board on what happened at the October 2008 BLNR meeting where staff was negligent in giving them a long term lease which limits the opportunity to receive grants. The Board recognized that and ordered staff to issue an RFP/RFQ to complete the lease process, set specific interim conditions and timetables, allowing the Friends to remain for one year after a new lease was negotiated if they are not the chosen Lessee, and instructed staff to grant the Friends a month to month lease under the same conditions. Ms. Malama reported that staff neglected the Board's instructions to send them a month-to-month lease which was not an extension of their lease conditions previously, but contained new onerous conditions that required them to assume substantial costs. The Friends contacted the State Parks Division that this was not an extension of their lease conditions, but contained modifications. After many calls, the Friend's never got the lease as mandated by this Board. Ms. Malama said that they felt that staff sabotaged one of their grant awards resulting in a half grant award. Now staff is trying to slide a long term lease agreement past any open public scrutiny and Board disclosure. The Friends made requests, administrative requests concerning the lease bid and the Department has not responded to their requests. Given this, neither you nor the public can be confident that a fair analysis of the grant proposals has been performed. It was reiterated how barren the submittal is with the lack of data. Staff asks you to trust them, but it is the

Board who is responsible for what is done. Stop the process and examine the proposals of all the lease applicants.

Robert Puakea, a Big Island canoe builder and member of the Board of Directors described his background, his history with He'eia and as a teacher with the park taking the public around saying that he supports the Friends of He'eia.

Rose Lum expressed herself speaking on behalf of the Friend's of He'eia describing her own background teaching children, her history with Ulumau Village, canoe building with Uncle Bobby (Robert Puakea) reiterating his testimony that all these Hawaiian people are carrying on the culture teaching at risk children, suggested that all groups work together in using He'eia, and for the Board to look over the documents to support the Friend's.

Reverend Ricky Bermudez spoke saying he helps educate at the Friends of He'eia supporting them noting that the ko'olaupoko area is urbanized lacking cultural education centers where He'eia is an appropriate place with all the practitioners and that the work is happening. Mr. Bermudez reminded the Board about the 2050 Sustainable Report for the Future and part of that is to perpetuate the culture and the need for places like that.

Executive Director of Friends of He'eia, Carol McLean presented her written testimony and distributed written testimony from Gretchen Gould and Kumu Hula Frank Hewett. Ms. McLean gave some background history on the lease reiterating Ms. Malama's testimony in obtaining a long term lease citing awards the Friends had received. Ms. McLean reported on her staff's qualifications or expertise and their volunteers. The problems with the State providing park maintenance which was a hardship for them. That the Friends is the perfect partner for the State as a non-profit to create a model park as noted in the Renaissance Park Program. Ms. McLean noted the Friend's participation in the Kaneohe Bay Master Plan having worked closely with planners. That there was no dialogue with parks for the past seven years reiterating Ms. Malama's testimony regarding sabotage to their grants by parks staff, and asked that the Board go into Executive Session to be sure this process is fair and unbiased.

Ray Sanborn representing Kama'aina Kids spoke saying they were one of the bidders and he was here to learn the results of the posting.

Linda Goldstein testified saying she is a resident of Kahaluu living two miles from He'eia State Park whose grand daughter grew up there learning from the practitioners noting that her grand daughter is an example of the future that they are in support of the Friends of He'eia because of what they have done with the children, are inclusive of the entire community, and would like to see the Friends continue this work.

Kimberly Lowe spoke on behalf of Friends of He'eia distributing her written testimony which she read acknowledging "The Friends" hard work reiterating previous testimony regarding community-based, environmental and education programs at He'eia State Park. Ms. Lowe asked the BLNR members to maintain an open process in considering the

extension of the lease. Related her background and as an instructor at the park describing the benefits to the community and the behind the scenes work.

A resident of He'eia Kea, Leialoha Rocky Kaluhiwa described her family's background and gave some history about He'eia State Park where she was one of the original Friends of He'eia State Park, but is here to speak on behalf of the Ko'olaupoko Hawaiian Civic Club because they are an applicant where she gave some background describing the cultural and tour activities that they do in the community. Their civic club is partnered with Kako'o Oiwi, a non-profit organization working on the lo'i across from the park, also affiliated with the Paepae 'o He'eia fishponds, other state and city agencies, and businesses in the area. Ms. Kaluhiwa said they were here as an applicant and didn't know that they could give testimony.

Jerry Kaluhiwa, a resident of He'eia Kea, president of Kako'o Oiwi and member of the Ko'olaupoko Hawaiian Civic Club, testified giving some background history on the formation of the Friends of He'eia describing his limu restoration project at Keoli Point and at the fishpond. Also, his organization is planting taro up mauka with schools participating to share with everyone the knowledge to carry on.

Diana Burg introduced herself as a CPA, a nearby resident and a member of the Board of Directors of Friends of He'eia distributing her written testimony which she read. Ms. Burg reiterated previous testimony regarding no public information on the lease process and for the Board to act without knowing. That the term of the longest serving Land Board member has ended along with the knowledge noting that Member Johns had gotten the commitment from the Department to issue the lease bid that had been pending for many years. Ms. Burg explained the history of the situation in regards to the educational lease to run concurrently with the month-to-month commercial lease which was allowable after Member Johns prodded the Board into requesting that the Department research this option. The Department did not follow up with the Board's directive to provide the Friends with a short term educational lease and instead modified it issuing a bid where the Department never notified them that staff had been advising the Friends incorrectly on what type of lease was obtainable. Ms. Burg reiterated previous testimony regarding the month-to-month commercial lease extension with numerous new conditions that staff ignored Board directives and cannot be trusted to keep the Board informed. Ms. Burg reiterated questions by previous testifiers which were answered earlier. Gave the example of the Koke'e concession lease and relayed the Friends' attorney's message that there are concerns with the behind the scenes of the selection of a party. In order to favor that party, a prejudicial criteria scheme was devised which gives no credit for experience in operating He'eia State Park and does count the value of volunteers. Without consideration of these factors it appears that the selection was prejudicial and asked that the Board stay its vote to provide time to address these matters. Ms. Burg asked that the Board need not to act on the staff's submittal and you don't have to grant the right to post the award.

Chair Thielen asked whether anyone else wanted to testify. When no one came up she said that they will close public testimony informing those who never been to a Board

meeting that the Board has to operate under the Sunshine Law where they are not allowed to discuss these matters except in an open and publicly noticed meeting. The Board will now go into deliberations where they will have a discussion in front of the public, but it does not open up public testimony. The Board may have questions for people who testified or of staff for clarification. In addition, if the Board feels they need to go into Executive Session they may make a motion. Their counsel advised that the Board cannot open the bid proposals in the public meeting, but they are available to Board members in Executive Session as suggested by some testifiers for the Board to look over those proposals and the selection process by the staff.

A lady from the public asked who actually selects the evaluation committee.

Mr. Quinn said they are selected by the Chairperson where the Chair explained normally in a bid process staff will put together a recommended selection committee and send that down to the Chair for authorization. The Department does a number of bids through the procurement code through our capital improvement projects via Engineering Division and others where they follow that same process across all divisions.

Member Edlao asked what happens next if this Board decides to defer. Chair Thielen said that some testimony raised a long standing Board member who is not here, but pointed out that the Board has the authority under state law to decide in what way to issue a lease and there was a prior meeting where that long standing Board member was here where there was a staff submittal recommending extending the lease to the Friends of He'eia several years ago. The Board based on public testimony that other people were interested in competing for the lease made an executive decision at that time to put the lease out through the bid process. The Chair thought it would be good for Board members to keep this situation in mind in the future because some Board members may not be here in the near future and will need to carry some institutional knowledge forward. Sometimes it may be better to make the hard call at the meeting where you may have some flexibility, but once that executive decision was made to go through the bid process in the procurement code that process will be determined by the procurement code. The Department issued a public notice published in the newspaper inviting any interested party to submit a bid. We have had a number of bids that came in and at this point if the Board were not to move forward there may be protests for that decision not to move forward. The Chair is not familiar with the situation, but the Board had opted several years ago to move down the path to issue the lease through a bid process and that we should move forward.

Mr. Quinn said elaborating that at the first meeting where the proposal was discussed for a long term lease to the Friends the Board had deferred at that time to have subsequent discussions with the community where it came back to the Board to issue a shorter term lease and following that with continued public interest by other groups it was decided to go to a RFP/RFQ so it wasn't in a single meeting, but its been a long process.

Chair Thielen said that one of the concerns by a number of public testimonies is whether the selection committee did use an objective process and ranked appropriately that the

Board cannot open those materials in a public meeting, but if the Board members want to take a look at that in Executive Session we can do so.

Member Gon asked whether the evaluation criteria are consistent across the RFP process. Are these standard questions or were they designed and if they were who designed them? Mr. Quinn responded by saying that these were previously similar ranking systems for other RFPs of the Department of Land and Natural Resources. Member Gon then asked to determine specifically for this particular park situation is that what it is. Mr. Quinn said there are no site specific questions or qualifications in here. It's more for the programs and experience of the organizations. Chair Thielen noted that there was a question earlier on why a site specific question wasn't included in the evaluation and an argument could be made that may be favoring one applicant and excluding another applicant. RFP evaluation criteria are designed to be neutral so that it can provide a level playing field for all interested applicants. Member Goode asked whether Parks Division had issued an RFP before along these lines to other parks where Mr. Quinn answered saying not according to this particular process. Member Gon said this is precedent setting then, where Mr. Quinn confirmed saying the 103 process is. Chair Thielen asked whether the Department had issued other RFPs through this process which Mr. Quinn acknowledged. Member Schuman asked whether this is the first proposal process for parks where Mr. Quinn described in the past parks would end up with a single interested party at which point there was more flexibility in discussions with that group.

Member Edlao asked what happens if the Board doesn't move forward. Does everything go away or do they go back out for another day? Chair Thielen said that we would have to get advice from counsel about what the protest process would be if the State were to put out a bid and then refuse to issue when they received qualified bids. Member Agor said he was willing to ask counsel right now.

Chair Thielen asked counsel that if you are familiar in general under the procurement code if the State were to issue or put out an RFP/RFQ and not issue a bid what would the consequences be. Ms. Matsukawa explained that a cancellation of due process would require following what is under the provisions of the procurement code and we would have to look under that code to see whether we have a basis. Member Agor said he would like to move on and see this play out because he is interested in who was selected and it is up to the parties once it is posted where Member Edlao agreed saying because this has been going on for a long time, good luck to everyone. Member Gon agreed that there are other avenues for the applicants where Chair Thielen said other avenues would include obtaining more information about the process, the evaluation, the competing bids and a process to protest the award if they so desire. Member Gon asked he is exploring the protest of the evaluation criteria since he isn't familiar with this process. Chair Thielen said she isn't familiar with what you can protest, but when you have published criteria and points you can't change the rules of the game on how you evaluate bids afterwards because everybody has been given notice and had prepared their bids based on the evaluation criteria. How to protest and what to protest is subject under the State Procurement Code so we can get that information to people. Member Edlao reiterated at least there is a process staff has done this based on procurement law and the Board's job

here is to post this and that is what we should be doing and there are avenues for those who are not satisfied and he supports moving forward.

Member Schuman moved to accept staff's recommendation which Member Edlao seconded.

Member Gon said he agreed with the discussion on taking this forward and is satisfied that there are avenues for the applicants afterwards following the posting procedure. He took to heart the Chair's discussion that this is a precedent and that the Board would want to try to avoid going down this particular route saying he personally finds this process unsatisfying and would have much rather have heard an open discussion of the qualifications of the applicants in a public setting, then a discussion and decision. Member Goode agreed with Member Gon that the RFP/RFQ is not a perfect process explaining that he has been involved with about a hundred of these over the past 15 years. There are always un-happy parties and one happy party. The criterion is not perfect and this Board has the responsibility to monitor this process to watch it go through and to assist the Department perhaps in future RFPs in getting feedback so that we can have a better process. The Legislature has changed the procurement code since he was last involved with it because there were problems then and there will continue to be issues with everyone especially those in the public. Member Goode feels the Board has a responsibility to monitor this process and help guide future RFPs, but right now we're hemmed in by a particular decision and he supports the motion. All voted to approve the motion.

Chair Thielen spoke saying that people who came today on this item, we are going to have the parks staff go outside to be able to give this information to you, answer any questions if they can, they may have to go back and maybe find more information if you have more detailed questions. As Mr. Quinn had mentioned in many cases when we are dealing with a park or area we'll have one interested group which is an emotionally challenging situation when you have multiple groups that are interested. Two people had mentioned during public testimony that if there is a possibility in working together or coordinating on having multiple activities on a site even though there is only one awardee. She would like to strongly encourage people to get past this hurdle right now which is disappointing to some parties, but to open communication because we have limited areas for these activities to take place which are very important to the communities and to a degree the community can work together for the park's future.

Unanimously approved as submitted (Schuman, Edlao)

**Item F-1 Request for Authorization and Approval to Issue a
Papahānaumokuākea Marine National Monument Research Permit
to Dr. Charles Littnan, National Marine Fisheries Service, Pacific
Islands Fisheries Science Center, for Access to State Waters to
Conduct Juvenile Hawaiian Monk Seal Survival-Enhancement
Activities**

Dan Polhemus, Administrator for Division of Aquatic Resources, reported that this is a renewal of activities granted in the past noting the captive feeding program, translocations to Necker and Nihoa, and some worming trials. The scientific and cultural received acceptance, there was no public comment, and staff believes the activity be allowed.

Dr. Charles Littnan spoke explaining that the de-worming is similar to de-worming a dog per Member Edlao's question. Member Gon asked whether the pup was being brought in based on its health and the side-effects of the de-worming where Dr. Littnan elaborated on the program details and that there may be some cramping.

Mr. Polhemus noted one amendment which is the compliance sheets that he distributed to the Board referring to who is going to be on the ship.

Unanimously approved as amended (Edlao, Agor)

**Item F-2 Request for Authorization and Approval to Issue a
Papahānaumokuākea Marine National Monument Education Permit
to Dr. Andrew Rossiter, Waikiki Aquarium, for Access to State
Waters to Conduct Coral Collection Activities**

Mr. Polhemus noted that the even number pages did not copy in the submittal and that the Board received complete submittals via the Board secretary. Mr. Polhemus explained the submittal background where the permittee will take 10 specimens of each coral type and this supports the idea of bringing the place to the people rather than vice versa. Scientific and cultural reviews support acceptance, there was no public comment, but referred to one scientific question regarding gathering in the main Hawaiian Islands rather than the Northwest Hawaiian Islands (NWHI) where these coral may be gathered at shallower depths as opposed to difficult and very deep waters of the main Hawaiian Islands.

Marti Townsend for KAHEA distributed her written testimony with concern and asked to remove the Hawaiian Rice Coral and Table Coral from the specimen list because the Waikiki Aquarium has these in their collection and to gather from the main Hawaiian Islands, but if the population is too fragile then they advocate not collecting these at all and the exhibits to do without them. KAHEA is concerned with the precedent this sets with future aquariums coming to ask the Board to set up their own Northwest Hawaiian Island exhibit and whether the Board will allow it. Also, suggested allowing one aquarium to propagate from collected species for these other aquariums then there are serious issues of ownership and addressing other public issues. There were concerns with water discharge and to analyze the permit which they are advocating on the Federal level, too suggesting that the Board take action by limiting the specimen collection and direct the Attorney General's office and staff to address the ownership issue and clarify that referring to condition number two on what rights we are giving up.

Member Gon acknowledged KAHEA's concerns and wondered what the disposition is in regards to returning the coral noting in staff's opinion that condition two implies the property of co-trustees and transfer cannot occur without permission, but does not explore the ownership issues.

Mr. Polhemus commented that staff is cognizant of that problem as it pertains to living specimens from the monument. There is a working group chartered by the Monument Management Board to deal with material transfer agreements and ended up splitting these questions by living and non-living resources. Non-living resources are dead specimens which you might want to loan to a museum outside of the state and how that would best be done. That document is finalized and a draft will be at the Attorney General's office in July. Up to now staff has not allowed the transfer of specimens beyond the control of the state or federal government. The Waikiki Aquarium is an extension of the University of Hawaii who is part of the co-trustees jurisdiction of influence. At this time the Monument Management Board would not authorize further transfers of living specimens or progeny beyond the control of the co-trustees until we had some sort of document in place and all material transfer agreement that they thought would be reasonable. They are looking at language from the association of zoos and aquariums to see if they have language suitable for this which would be adapted to the monument's circumstances that would be a tri-laterally endorsed document and would have to be imbedded with NOAA and the Attorney General's office. Staff does not recommend any transfer of living specimens beyond the immediate control of the co-trustees until they have such documents in hand. Underlying title to the resources in the relative jurisdictions was asserted verbally between the White House and the upper levels of Interior, Commerce and the State. It was never codified in writing, but the co-trustees retain underlying title. There are a number of legal questions in terms of wildlife refuge, Fish & Wildlife manages, but the State owns the wildlife and can't make a blanket statement quickly without getting entangled. Chair Thielen said that you would be able to make a blanket statement knowing that the permittee is the receiving type where Mr. Polhemus agreed saying that in no way does this convey title. Chair Thielen said since you have a document that denies what is the permissible transfer of non-live organisms what do you say to KAHEA's proposal that you don't permit harvesting of coral or live organisms until you complete the document with the protocols that would guide the transfer. Mr. Polhemus said the worry is transferring it beyond the jurisdiction of the co-trustees and that is not the case with the permit at hand staff will keep it under the control of the co-trustees and noted what they are doing here is going forward with the part of the Monument Management Plan as what it says to do, that the Board endorsed the plan and staff does not see anything prejudicial about going forward with this permit for these two facilities given its part of the plan we all agreed on in terms of public outreach for the monument. Chair Thielen asked whether Mr. Polhemus was referring to the second condition which Mr. Polhemus confirmed reiterating that without their permission they will not give that permission and that staff could come back to the Board. Chair Thielen noted that how this is worded staff would have to come back to the Board where Mr. Polhemus agreed saying that is staff's intention.

Member Gon asked about gamits from organisms coming from the Northwest Hawaiian Islands via the aquarium system into the waters here, indirectly. How to deal with the concern regarding clarification on adequate safeguards of non-native diseases or other problems and whether those same safeguards would prevent genetic... Mr. Polhemus said that there are an entire set of BMPs (Best Management Practices) and this permit raised a lot of interesting issues for staff that they worked on it for some time.

Chair Thielen asked about the concern regarding the flow through water as opposed to having the sanitation device because there was discussion that you may traverse an area where the coral is genetically different from the view of the monument manager – is it appropriate to have a flow through device or should they have the sanitation because of the concerns raised by KAHEA. Mr. Polhemus noted that the coral has some planktonic larvae and will disperse. Monument Permits Coordinator, Danny Carter explained there will be no flow through while the permittees are in the monument which is in the original permit where the permittee will hand change the bottles daily and place in the sanitizer which is in the permit and specified on the activity.

Member Agor asked about the public comment that the Waikiki Aquarium already has coral samples. Richard Klobuchar, lead coral biologist at the Waikiki Aquarium, confirmed that they have samples of the Fuzzy Table Coral and the *Montipora capitata* (Hawaiian Rice Coral) explaining that the Fuzzy Table Coral was from the only known colony off of Kauai where in the French Frigate Shoals there are hundreds of thousands of colonies and taking a few fragments there would be less an impact to what we have here (off Kauai). The reason why the Waikiki Aquarium wants to get more is because what they have are only a couple inches, four one inch fragments a couple years ago and now have 11 two to three inch fragments so they are doing well and are growing. That they can use the coral from the NWHI to check the genetic diversity to make sure they are the same corals or to check if they are different and to create a genetic bank in case these corals do disappear in the wild and maybe in the future reintroduce the respective coral back to where it came from and they don't want to spread things that aren't in nature already. As for the *Montipora capitata*, it was collected in the Kaneohe Bay area back in 2002 from three known colonies that were left at the time. Again, these colonies are propagating are continuing to grow for possible reintroduction, for public display and for education. There has been some debate between biologists on whether the NWHI *Montipora capitata* is the same coral as the one from Kaneohe Bay and that is why they want to collect that coral to do the test, do the studies and share with the public if it might be something different. Looking at it visually it does look different than what they have now and it would make sense to collect that coral as well.

Board member Edlao asked about genetic diversity studies where Mr. Klobuchar explained that Robert Toonen from HIMB is doing genetic diversity studies and it would benefit the University and science to have available these coral to study. Chair Thielen noted the beauty and diversity of the coral display.

Member Gon asked whether the priority is to collect and the size is 8-15cm each, if there is a maximum limit where Mr. Klobuchar answered saying that they will collect what is

the easiest to transport where small pieces would work well, but what they are finding through shipping corals, which they do constantly, is ship non-native corals to other institutions confirming that they do not ship Hawaiian corals. Shipping smaller pieces tend to not do very well, but pieces bigger than 8-15 cm tend to not do very well either. The reason for 15 specimens is because it is expected to get some loss through shipping which could be 30-40%, but they expect to maybe lose 1 or 2 pieces. They want to have enough to take back and propagate where some coral are fast growing, but expects all of them to grow

There was discussion about condition number two where Mr. Polhemus noted that those special conditions have been imbedded by legal counsel for all co-trustees.

Unanimously approved as submitted (Goode, Gon)

Item F-3 Request for Approval of Special Activity Permit 2009-60 for Dr. Michael Blum of Tulane University, and Designated Assistants

Mr. Polhemus noted that this is not a NWHI permit, but a permit for work in fresh water here which is a special activity permit involving legal take wanting to use unlawful small mesh nets to take gobies, macro invertebrates in stream ecosystems noting the applicant originally wanted to use electro shocking gear which staff did not support where staff is working with the applicant to take only enough specimens to get a result, but not an excessive take reminding the Board that this is complimentary to an earlier permit that the Board approved on April 24, 2009.

Unanimously approved as submitted (Gon, Schuman)

Item M-5 Grant of Perpetual, Non-Exclusive Easement to Department of Transportation for Sidewalk Purposes; Rescind Prior Action of March 27, 1997, Item D-12, Waikiki, Honolulu, Oahu, TMK: (1) 2-3-037:portion 002.

Someone from the public was here to hear this item.

Unanimously approved as submitted (Gon, Schuman)

Item C-2 Denial of Request for Contested Case Hearing by Summer K. Nemeth, Sandra M.L. Park, Denis Park, and Michael Nawaiki O'Connell

Paul Conry for DOFAW reported that staff's recommendation is consultation with the Attorney General's office whenever there is a contested case reminding the Board of the Memorandum of Understanding implementation from the April 24, 2009 BLNR meeting to develop a predator proof fence at Kaena Point which the Board approved. Staff has consulted with the AG's office and provided their analysis of the situation. The issues brought by the petitioners were concerns over the implementation of the fence line which was associated with the construction of the project. The AG's office reviewed the

statutes advising staff where Mr. Conry read from the submittal page 3, 6th paragraph to the following page 7. A special use permit would still have to come to the Board. The BLNR agreement involves a matter of internal DLNR management which is not subject to a due process property interest by the public and the recommendation is a contested case hearing not required by law for BLNR's approval of the cooperative agreement and staff recommended to proceed with this process to pursue additional permits which is the proper venue for challenging in the future and asked the Board to go ahead and deny and contested case requests.

The Chair noted and Mr. Conry confirmed that the other permits are needed in order to do the project is the proper venue for challenging which is also the proper process because a lot of these permits involve public hearings which is the proper process for people to bring forward concerns raised in the petition for a contested case hearing and to adapt portions of the project to address those concerns. Member Gon agreed and reiterated the Chair's comment stressing that statements made in the contested case application for the need to gather more information on those key points and issues and to assess the cultural and biological considerations in the on-going consultation noting the commitments by the parties involved.

There was some discussion that a couple of the petitioners were nominated to represent at the Kaena Point Advisory group and that consultation is on-going.

Summer Nemeth introduced herself saying she is one of the contested case petitioners against the cooperative agreement testifying on item C-2 expressing emotionally that she was notified by an Associated Press writer that her name was on today's agenda and she was never noticed or called on this issue which bothers her because she feels strongly about this case that no one had the courtesy to contact her where Mr. Conry apologized that Ms. Nemeth was not notified and that it was only noticed on the DLNR website. Ms. Nemeth said that she has been building their case, seeking witnesses and legal support on the issue and there has been no communication with the Department on what direction they were heading to and that no information was given to Ms. Nemeth at all.

Chair Thielen clarified what staff's submittal says that Ms. Nemeth is interested in contesting the location and the predator fence. What the Board voted on is to work with these other entities together to help manage this area. Anything specific that comes out of that cooperative agreement whether it's the predator fence or some structure being built here would have to go through a series of review processes, public hearings and permit processes which Ms. Nemeth understood saying she appreciated the explanation, but she had a concern with the actual cooperative agreement that there are no groups focusing on management with a cultural perspective asking why. Chair Thielen said that this cooperative agreement is not exclusive that there can't be also other agreements and other activities there. Since then the advisory committee has been set up and will be working with DLNR and the general public to come up with suggestions for the area. There could be multiple groups working on that area where Ms. Nemeth asked whether this language could be added to the cooperative agreement. The Chair clarified that this cooperative agreement is saying Fish and Wildlife and other agencies are saying, yes, we

are willing to help with DLNR in these areas, but there is nothing in the agreement that says nobody else is allowed to also come on in to help other aspects of managing these areas. It doesn't exclude anyone else and this advisory group is coming in now, as well, and in the future there will be other groups coming in to do volunteer projects and all can continue on parallel tracks. Not saying one is more important than the other, its just saying Fish and Wildlife is willing to help which Mr. Conry confirmed reiterating the EA and permit processes which will address the cultural issues where the Chair said that it will come before the Board and will be decided based on a project by project basis. It doesn't exclude anyone, but it is an agreement with the various parties and this doesn't give rise to a contested case hearing because it doesn't deny those other activities and cooperative arrangements from going forward.

Ms. Nemeth asked in the recommendation to deny the petition is the argument that there is no financial interest in cultural practice which she finds offensive and inaccurate and believes it's not the place for BLNR to make that determination and because of that she requested the Board strike that part of the staff's determination pointing out that it's the end of page 3 to the top of page 4 where Chair Thielen noted that it is citing case law which is not saying you don't have interest in that area, it is not saying anything about cultural practice. All it is looking at is a Memorandum of Agreement where a federal agency is to work cooperatively with DLNR if they so desire on certain things. Do you have an interest in that agreement? It has nothing to do with the point so really all this is citing is case law and the only recommendation the Board is voting on is stated at the bottom of page 4 which limits the Board action.

Ms. Nemeth asked whether Kaena Point falls under the conservation district which Mr. Conry confirmed. There is a \$100 filing fee for future contested cases related to conservation districts asked by Ms. Nemeth that was ruled around last November where Mr. Conry said it doesn't have anything to do with DOFAW. There was more discussion about what ruling, whether it was civil penalties which staff will have to look into.

A motion was made to approve by Member Schuman and seconded by Member Agor.

Member Gon said he hopes that Ms. Nemeth could be entered into that advisory group to make her contributions there where Ms. Nemeth said she has been working with William Aila. Mr. Conry encouraged Ms. Nemeth to bring these issues before the EA, the SMA permit, and the NARS commission because that is where Ms. Nemeth's issues will have the most attraction.

Unanimously approved as submitted (Schuman, Agor)

Item D-7 Grant of Perpetual, Non-Exclusive Easement, to Sandwich Isles Communications, Inc. for Underground Communications Facilities Purposes; Waimanalo, Koolaupoko, Oahu: TMK: (1) 4-1-23:067 portion.

Morris Atta, Administrator for Land Division, reported on the background, that an EA was done, and that Dawn Chang accepted staff's recommendation.

Unanimously approved as submitted (Agor, Gon)

- Item D-1** Amend Prior Board Action of March 14, 2003 (D-9), After-the-Fact Grant of Perpetual, Non-Exclusive Easement to Kauai Island Utility Cooperative and Verizon Hawaii Inc. for Utility Purposes, Wailua, Kauai, TMK: (4) 3-9-2:portion 34.
- Item D-2** Grant of Term, Non-exclusive Easement to Shawna Carol and Thomas Cobb for Access and Fence Line Purposes; Rescind Prior Board Action of May 26, 2006 (Item D-1), Sale of Remnant to Shawna Carol and Thomas Cobb, Kapaa, Kawaihau, Kauai, TMK: (4) 4-6-08: Portion 30.
- Item D-3** Sale of Remnant to Kuiaha Pauwela Condominium Association, Makawao, Maui, TMK: (2) 2-7-8:portion of Remnant 4.
- Item D-4** Amendment of Grant of Term, Non-Exclusive Easement to the County of Hawaii for Access and utility Purposes, General Lease No. S-5386, Keahuolu, North Kona, Island of Hawaii, TMK: (3) 7-5-05:07 por.
- Item D-5** Grant of Perpetual, Non-Exclusive Easement to Department of Transportation for Sidewalk Purposes; Rescind Prior Action of March 27, 1997, Item D-12, Waikiki, Honolulu, Oahu, TMK: (1) 2-3-037:portion 002.
- Item D-6** Cancellation of Revocable Permit No. S-5424 to Thomas Noa, Sr., and Issuance of Revocable Permit to Ralph Fukushima, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-013:011.
- Item D-8** Grant of Perpetual, Non-Exclusive Easement to the Department of Education for Sewer Line Purposes and Issuance of Management Right-of-Entry, Nanakuli, Waianae, Oahu, TMK: (1) 8-9-001:003 portion.

Mr. Atta spoke saying he had no changes and there was no public testimony.

Unanimously approved as submitted (Edlao, Goode)

- Item B-1** Request to Extend Existing Contract for Furnishing Helicopter Transportation Services for the State of Hawaii between the Department of Land and Natural Resources, Division of Conservation

and Resources Enforcement, and Smoky Mountain Helicopters, K&S Helicopters, Windward Aviation Inc. and Manuiwa Airways Inc.

Kevin Kong representing DOCARE said he had nothing to add to the submittal.

Unanimously approved as submitted (Agor, Edlao)

Item B-2 Permission to Extend Contract No. 57948 One Additional Year for DOCARE'S Enforcement Management System (EMIS), Statewide Funded by DOCARE Operating Funds

Mr. Kong explained that this is for DOCARE to computerize their information keeping purposes describing the system which has no cost to the Department where Chair Thielen summarized with some discussions.

Unanimously approved as submitted (Gon, Edlao)

Item C-1 Renewal of Special Use Permit to Mid Pacific Communications, Inc. for Use of a Telecommunications Site on Lands within Lihue-Koloa Forest Reserve, Kawaihao District, Kaua'i Tax Map Key: (4) 4-2-001:011.

Member Agor asked whether there was a schedule for inspection where Mr. Conry said they did not noting that this came before the Board a number of times and what happened was while researching the TMK there were some hazardous materials up there that staff wants one final extension, weather permitting, but staff wants to proceed next month.

Unanimously approved as submitted (Gon, Agor)

Item C-3 Request to Designate the Kamananui Valley Road and the Kulanaahane Trail as Na Ala Hele "Program Trails" within the Oahu Na Ala Hele Trail and Access Program Inventory, Honolulu, Oahu

Mr. Conry informed the Board that this is establishing a new Na Ala Hele Trail in Moanalua Valley and that Aaron Lowe who is the Oahu Trails Manager was here to answer any questions thanking Aaron for his hard work.

Aaron Lowe announced that he will be making the official grand opening of those two trails for the valley on Saturday, June 6th which is National Trails Day.

Item C-4 Request for Authorization to Negotiate and Sign Contracts for Heavy Equipment Rental for the Division of Forestry and Wildlife, O'ahu District

Unanimously approved as submitted (Gon, Agor)

Item E-2 Requesting Approval to Continue the Current Month-to-Month Revocable Permits (RP) Pursuant to HRS Section 171-55, Issued to the Two Commercial Companies: Adventures in Paradise and Hawaii Pack and Paddle, and to Allow Two Additional Commercial Companies Authorization for Landing and Launching Kayaks at Kaawaloa, Kealakekua Bay State Historical Park, as Part of a Guided Kayak Tour, on Terms and Conditions to be Negotiated by the Chairperson

Some written testimony was provided to the Board.

Mr. Quinn of State Parks introduced Curt Cottrell, Assistant Administrator who will make this presentation noting that there is no reference to the agenda title [, and to Allow Two Additional Commercial Companies Authorization] requesting the agenda title be amended to be consistent with the submittal title. Curt Cottrell reported that he had checked with staff support and it is ok because the submittal had the correct title. Also, for Item E-1 the award for He'eia State Park is posted outside on the bulletin board where after some prodding by the Board it was reported that Kama'aina Kids was the awardee.

Mr. Cottrell informed the Board on the background where two companies successfully applied receiving revocable permits that expire in June 2009, but in light of the Integrated Stewardship Management Plan and undergoing a new Kealakekua Bay Master Plan staff decided to extend the existing permits for kayak use on a month-to-month basis until staff determines what the final outcome will be regarding regulating commercial kayaking in the bay asking the Board to approve staff's recommendation.

Member Schuman asked whether the written testimony addressed companies operating without permits and what to do about it where Mr. Quinn said there have been a number of allegations of people operating without permits which he could not speak for what the enforcement action might be or whether those individuals are doing it. But, he can say the Department is not happy with the activities at Napo'opo'o Pier because there are people hawking rental of kayaks which is very difficult for DOCARE to tell who, but it is being looked at by the stewardship group because it is a hotspot and they are all working together to try and fix. Chair Thielen reported that DOCARE had a couple tools used in some sweeps in this or other areas that are not available now. One through a Supreme Court case and another because the rule used in the other area was place specific so DOBOR is going through some rule changes this summer and this is one of those things they want to address.

Mr. Cottrell noted that DOBOR is in concurrence with State Parks too because they have to issue concurrent permits and DOBOR is fine with that because they regulate the traversing of the water and the State Park's permit is only for landing at the fast land at Ka'awaloa Flats. Mr. Quinn described that the Napo'opo'o Pier is managed by the DOBOR division and Ka'awaloa Flats is managed by State Parks which staff is processing as a single permit, but its under a multiple division jurisdiction. Chair Thielen also said the marine life conservation district in the water is Aquatic Resources,

trails is under Na Ala Hele/Forestry and there are some unencumbered public lands which is an example of an administrative rule nightmare, but some things may be able to change with more place based rules rather than division rules.

Member Agor asked whether there were extensive requirements for this where Mr. Quinn said that there were a lot of things that the applicant(s) needed to fulfill and staff was surprised that only two companies were willing to do that and it didn't look like it would be worth it commercially from the number of clients.

Unanimously approved as submitted (Schuman, Agor)

Item J-1 Approval for Award of Contract -IFB No. 009-002-05, Credit Card Services for the Division of Boating and Ocean Recreation

Chair Thielen reported that she received a note from Division of Boating and Ocean Recreation that they needed to address a discrepancy asking to withdraw this item.

Withdrawn (Gon, Edlao)

Item L-1 Appointment of West Oahu Soil and Water Conservation District Director

Item L-2 Request to Hire a Consultant for National Flood Insurance Program (NFIP) Development of a Mobile Device Application for Site Inspections

Item L-3 Approval for Additional Funds to Construction Contract - Job No. F46B657B, Kokee State Park, Kalalau Lookout Parking Lot Reconstruction & Related Improvements, and Job No. F46B657C, Kokee State Park, Kalalau Lookout, Lookout & Pathway Improvements, Waimea, Kauai, Hawaii

Item L-4 Approval for Award of Construction Contract for: Job No. J00C201A Hilo Baseyard Office ADA Barrier Removal Project Hilo, Hawaii; Job No. J00C203A Tree Nursery and Wildlife Offices ADA Barrier Removal Project Waimea, Hawaii; Job No. J00CF77A Mackenzie State Recreation Area ADA Barrier Removal Project Hilo, Hawaii

Item L-5 Approval for Time Extension to Consultant Contract No. 51542: Job No. F00CS99A, State Parks/Small Boat Harbor Facility Wastewater/Sewer System Improvements Statewide, Hawaii

There were no questions and no public testimony.

Unanimously approved as submitted (Agor, Gon)

- Item M-1** **Amendment No. 2 to State Lease No. DOT-A-98-0017 Application for Additional Space United Air Lines, Inc. Honolulu International Airport**

- Item M-2** **Consent to Sublease, Lease No. DOT-A-09-0002 DFS Group L.P. to Tiare Enterprises, Inc. Retail Concession, Honolulu International Airport**

- Item M-3** **Consent to Sublease Retail Concession DFS Group L.P. to Maui Divers of Hawaii, LTD. Honolulu International Airport**

- Item M-4** **Consent to Sublease, Lease No. DOT-A-09-0002 DFS Group L.P. to Island Shoppers, Inc. Retail Concession, Honolulu International Airport**

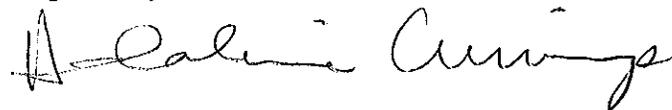
No DOT staff was present or anyone from the public to testify.

Unanimously approved as submitted (Schuman, Gon)

Adjourned (Gon, Edlao)

There being no further business, Chairperson Thielen adjourned the meeting at 12:23 p.m. Recordings of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Adaline Cummings
Land Board Secretary

Approved for submittal:



Laura Thielen
Chairperson
Department of Land and Natural Resources