

MINUTES
TEMPORARY HAWAII INTER-ISLAND
FERRY OVERSIGHT TASK FORCE MEETING
HONOLULU INTERNATIONAL AIRPORT
INTER-ISLAND TERMINAL, 7TH FLOOR
CONFERENCE ROOM C

April 4, 2008

Members Present

Michael Formby (DOT designee)
Sandra Kunimoto (Chair DOA)
Laura Thielen (Chair DLNR)
John Garibaldi (President, large capacity ferry vessel company)
Randy Awo (Maui county)
Colette Machado (Maui county)
Sara Peck (Hawaii county)
Lynn McCrory (Kauai county)
William Aila, Jr. (Oahu county)

Members excused

Michael Matsukawa (Hawaii county)
Kauila Clark (Oahu county)
Michael Q. Y. Lau (AG designee)
Dennis Chun (Kauai county)

Other Attendees

Margaret Ahn (Deputy AG)

Call to Order

Member Formby, as Oversight Task Force (OTF) facilitator, called the meeting to order at 1:25 p.m. Nine members were present representing a quorum.

By request of the OTF members, Member Formby sent an email to Kauila Clark and Michael Matsukawa to inquire if their personal schedules permitted them to continue serving on the OTF. No response was received.

Adoption of Minutes for March 10, 2008

Member McCrory moved that the minutes of March 10, 2008 be adopted. Member Garibaldi seconded the motion which passed unanimously.

Department of Agriculture (DOA) Presentation by Domingo Cravalho, Jr.

Form attached.

Mr. Cravalho reported that the DOA developed a new reporting form for inspectors which will help them in gathering information. The form includes an invasive species section and a natural resources section.

Member Formby requested and received clarification of the following abbreviations:

T/R: Treating and released – Vehicle treated and released.

I/R: Inspected and released – Vehicle with proper certification and released.

R/E: Refused entry – Vehicle is too dirty and refused entry.

Member Garibaldi asked if there will be staff inspectors to help monitor the screening process. Mr. Cravalho confirmed that he was notified of Hawaii Superferry's (HSF's) start up this coming Monday (April 7th) and had arranged for an inspector to start on that day.

Member Peck inquired about the natural resources for marine alien algae and did not see a specific breakdown or column on the form. Mr. Cravalho stated that it would be reported under the propagated plants section.

Hawaii Superferry Presentation by Terry O'Halloran

Beginning March 1-26, 2008, the Superferry has been in dry-dock. On March 27, 2008, HSF was moved to Pier 19 till the end of the month. HSF will resume service on April 7, 2008 with one trip daily between Oahu and Maui. The second voyage will be scheduled to commence in not too distant future. Member Awo asked if HSF will give advance notification and discussion prior to the announcement of the second voyage. Member Garibaldi stated that it is his understanding that they must give a two week notice of schedule changes to the Public Utilities Commission (PUC) and that they will discuss the second daily service with Mayor Tavares.

DOCARE Update

Member Awo reported on the DOCARE positions. He did an educational presentation on March 19, 2008 and had the opportunity to meet with Senator Rosalyn H. Baker of the Senate Ways and Means Committee. The fifteen positions are still in the budget and Senator Baker acknowledged that they are attached to special funding. Member Awo's concern was that since it was tied to special funds, it may be hard to recruit a person to something that's not guaranteed. Senator Baker's response was not to worry as she was confident the positions would convert to general funded positions.

Member Machado arrived at 1:34 p.m.

DOA Legislative Updates by Sandra Kunimoto

1. SB 2850 Relating to Biosecurity
2. HB 2843 Relating to Invasive Species

Both bills are still alive. Member Formby inquired about HB 2843, asking if the fees are set on containers or weight. Member Kunimoto replied that last year it was \$1 per 20 foot equivalent (TEU). Carriers felt it was unfair because there was a lot of cargo and operators left out, with the fee only targeting certain operators. The proposed bill, HB2843, assesses a fee of 50 cents per thousand pounds and they think it is fair because it includes containers and/or non-containerized cargo. Member Formby asked if it includes a provision requiring the harbor users report weight directly to DOA versus through DOT. Member Kunimoto stated that the harbor users will collect the fees on behalf of DOA and turn it over to DOA.

Prosecutor's Office Update by Rich Stacey

Member Machado asked if the Prosecutor's office works closely with DLNR – DOCARE. Mr. Stacey replied that they receive 90% of their cases from HPD, 5% from the Sheriffs and he suspects the other 5 percent is from DOCARE.

Member Peck asked if he can offer a justification for a natural resources court so that prosecutors and judges will understand the specialized issues. Mr. Stacey responded that with the high volume of cases they presently have, it might be difficult to create a special court. For environmental/natural resource specific cases, the court system would need to find another judge, bailiff, court staff and also an extra public defender and all of these staffing and funding issues are factored into the decision to create a special court. Member Peck asked if legislation is able to do that. Mr. Stacey would suspect so.

Member Awo asked Mr. Stacey what would be the minimum amount of cases necessary to justify a separate "docket" in lieu of a dedicated court. Mr. Stacey replied that it would depend on the caseload and if there was justification. Member Awo asked how the OTF could see if the justification exists. Mr. Stacey replied that the best route would be to go through the administrative judge(s).

Member Thielen arrived at 1:51 p.m.

Member Formby asked if the OTF were to contact the administrative judge(s), would it be by county or is there one over-all administrative judge in the state judiciary system. Mr. Stacey replied that he believes there is one administrative judge per each county.

Environmental Impact Statement (EIS) Update

DOT completed 12 public informational meetings on the Act 2 Large Capacity Ferry Vessel EIS. The turnout was less than expected. The biggest turnout was on Kauai and the Kauai comments were basically that they did not want the Superferry to sail to Kauai. The draft EIS is estimated for publication with OEQC in October 2008 with a 45 day comment period to follow. The final EIS is estimated to be out in May/June 2009. There were a number of novel issues raised in some of the forums that had not been contemplated by the EIS contractor or by the Harbors Division. They are now being assessed and the timeline may be extended to accommodate new studies. One example was that on all islands there was an expressed interest in the potential military use of the Superferry. The public wanted to know what kind of protections the State has from invasive species when loading and offloading military vehicles in Hawaii's commercial ports. Another issue was underwater noise from the vessel's hull and engines and how it affects endangered species.

OTF Recommendations Per Act 2 Mandate

Member Peck recommended the new DOA worksheet for inspections include marine algae in a separate column. Mr. Cravalho (DOA) agreed and will make necessary changes to the DOA worksheet.

Member Awo reported that he was unable to meet with Senator Hanabusa and Speaker Say but instead met with Senator Rosalyn H. Baker regarding the 15 DLNR positions as previously reported.

Member Aila inquired about the status of the Rapid Risk Assessment. Member Formby stated that the consultants are awaiting further observations/reports after the Superferry resumes service.

Member Awo made a motion to send a letter from the OTF to the Judiciary asking that they set aside a separate docket or day to hear environmental cases on every island. Member Peck seconded the motion. Motion passed unanimously. Members Awo and Peck will work on the draft letter on behalf of the OTF.

Next meeting: Friday, May 9, 2008, 1:00 p.m. at the Honolulu International Airport, Interisland Terminal, 7th Floor, Conference Room C.

By motion of member Garibaldi, second by member Machado and passed unanimously, the OTF meeting adjourned at 2:15 p.m.

