

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

DATE: FRIDAY, JANUARY 23, 2015
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

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

MEMBERS

Carty S. Chang
Stanley Roehrig
Vernon Char
Ulalia Woodside

James Gomes
Thomas Oi
Christopher Yuen

STAFF

Sam Lemmo-OCCL
Lisa Hadway-DOFAW
Dan Quinn-PARKS

Russell Tsuji-LAND
Sheri Mann-DOFAW
Pua Aiu-CO

OTHER

Amanda Weston/Deputy AG
Lisa Munger/ K-1
David Nakashima/ D-4
"Garry"/ D-6

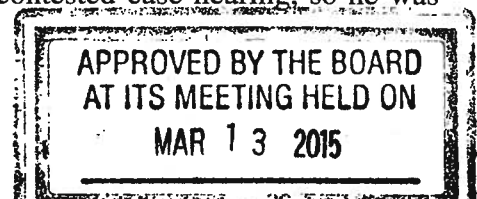
Calvert Chun/DOT-HAR
Dan Purcell/ K-1
Coila Eade/ D-6
Kees Kea/ D-4

Item A-1 Approval of September 25, 2014 Minutes

Unanimously approved as submitted (Gomes, Oi)

Item K-1 Request that the Board of Land and Natural Resources authorize the appointment of a Hearing Officer for Contested Case OA-15-03, and let the Hearing Officer conduct all the hearings relevant to the subject petition for a Contested Case Hearing regarding alleged unauthorized land uses at the Paikō Lagoon Wildlife Sanctuary, Kuli'ou'ou 1st, Honolulu, O'ahu, Tax Map Key (1) 3-8-001:001, and neighboring submerged lands.

Sam Lemmo Administrator for the Office of Conservation and Coastal Lands-OCCL reminded the Board that this was an enforcement case that was brought up during the last meeting. The Board voted to defer the matter pending the outcome of the contested case hearing, so he was



present to request the Board's authorization to allow the Chairperson to appoint a hearings officer to run the contested case hearing.

Lisa Munger testified that she was present to support the staff report and ask that the contested case be granted.

Dan Purcell said that he has raised issues about the contested case process. He said the process is crazy, this is an important issue and people want to know what's going on. Purcell requested that some sort of public notice be given.

Member Roehrig commented that he has not been highly impressed with the hearing officer process so far. He would like to recommend that the name of the proposed hearing officer be circulated to the Board members. Member Roehrig would like the Board to have input into the selection of hearings officers.

Lemmo said he would talk with the attorneys about the Board becoming involved in the selection of hearings officers.

Unanimously approved as submitted (Char, Roehrig)

Item D-3 Consent to Sublease General Lease No. S-6054, Mauna Kea Moo, LLC, Lessee, to The Dutch Hawai'ian Cheesery, LLC, Sublessee, Hāmākua, Hawai'i, Tax Map Keys: (3) 4-1-004:033 (the sublease affects five acres of this parcel), and 4-2-007:002.

Russell Tsuji Administrator for Land Division-LAND explained that this was the first case under the new law that was passed last year which allowed for mediation before arbitration. Tsuji was happy to report that they have come to an agreement.

Member Yuen thought this might become a precedent for other leases, and asked if there were more permits that were outstanding for aquaculture. Tsuji wasn't for sure, because the lease goes through OCCL before it goes to LAND.

Member Yuen questioned the gross, Tsuji felt the lessee would be better equipped to answer that. Member Yuen then asked if any of the agricultural-ag leases operate on a percentage basis. Tsuji said most ag leases were transferred to the Department of Agriculture under Act 90.

Member Yuen was surprised that the lessee had 90 acres, but only occupy a small area. He asked what their rights were. Tsuji said the lease doesn't prohibit traversing on the surface of the ocean. Member Yuen called the applicant up.

David Nakashima the attorney representing Keāhole Point Fish LLC, gave further information by explaining that this was a mediated process where the department hired an appraiser who determined lease rent, they hired an appraiser who also determined lease rent, then both parties went into mediation. Their appraiser, Jim Hallstrom calculated a much lower lease rent of \$27,000 a year, or a total of 1% of the gross, whichever is greater. In the final mediation they

agreed to a \$40,000 rent per year. In response to Member Yuen's question, most of the 90 acres is non-exclusive use, Other than the kempachi area, which is fenced, the public is free to use the rest of the acreage. The revenue was low at first because it was just starting up; Nakashima's clients also had some problems with their feed, but they fixed the problem and are now averaging between 4 and 6 million dollars in sales a year. In the last 3 years, they have raised and sold 2.5 million pounds of kempachi and over the last 5 years, the owners have invested about 13 million dollars back into the business. If this lease is approved, they are going to put in 7-10 cages to increase production. Nakashima asked that the lease rent stay the same and this be approved.

Member Gomes asked how big the cages were. Nakashima said they were about 30ft x 30ft, the kempachi were picked because they are hardy. They didn't want to pick a type of fish that are harvested by local fishermen.

Member Yuen asked why the operation did not begin until 2012. Nakashima explained that this was purchased in 2010, but needed time to start up.

Member Yuen made a motion to approve, he initially thought 1% was low, however, after hearing more about the operation, he's not so concerned about that being a precedent. Member Oi seconded.

Unanimously approved as submitted (Yuen, Oi)

Item D-6 Mutual Cancellation of General Lease No. S-3857, Ms. Coila Eade, Lessee; Issuance of Direct Lease to Holani Hana, Inc. for General Agriculture, Education and Allied Purposes; and Consent to Sublease between Holani Hana, Inc., Lessee/Sublessor, and Ms. Coila Eade, Sublessee, for Residential Purposes, Papa'auhau, Hāna, Maui, Tax Map Key: (2) 1-4-003:001.

Tsuji explained that on the leasee purchased this lease at auction. LAND realized that over the years the lessee has an operation that is a 501(c)(3), so they are entitled to request nonprofit rent. LAND is asking that the general lease be canceled and be re-issued as a direct lease. They would have to pay minimal rent, but pay fair market on the residential lease.

Coila Eade and "Garry" went up to the stand. Eade said "Garry" was her spokesperson. "Garry" gave some history of Holani Hana, explaining that this 501(c)(3) operation was created because they have been using the property as a place for teaching and training about Hawaiian Cultural things. Holani Hana is the only accessible location near the water that is not privately owned. Eade has opened this property for the community. In the future they are hoping that Eade's home can be used for offices, etc. They are okay with the staff recommendation; the only thing Eade had apprehension about was that they don't know what her rent will be, because that has to be determined by an appraiser.

Member Gomes asked what the farming entities would be used for. Garry explained that those are primarily used to be sold to maintain the facility; also the things grown on the land are used to feed the students.

Member Gomes asked how Holani Hana would help Eade. Garry said they do fundraising, and accept donations; those are all used to help Eade defer her expenses.

Member Oi asked if they could get a reduction in rent. Tsuji said the 501(c)(3) status is given to entities for this particular purpose, and doesn't think it would be granted for residential purposes. Tsuji was thinking if they feel the rent is too high, they can hire their own appraiser.

Member Woodside asked what area would be appraised. Garry said it would just be the area Eade would use.

Member Roehrig suggested getting a 501(c)(3) lawyer involved and look at the lease law on how this can be best structured.

Member Char suggested changing the terms of lease to 10 years or the life of Eade but not to exceed 30 years. Tsuji commented that the structure would be critical.

Member Char made a motion to accept the staff recommendation, amending the consent to sublease to allow for 10 years or life of the tenant, not to exceed the original 30 years of the lease term. Member Gomes seconded.

The Board the consented to the sublease to Ms. Colia Eade for the ten (10) year term of the sublease or the life of Ms. Colia Eade, whichever is longer, but not to exceed the thirty (30) year term of the Lease issued to Holani Hana, Inc. The Board also asked staff to endeavor to keep the residential sublease rents at a reasonable amount, to the extent permitted by law.

Unanimously approved as amended (Char, Gomes)

Item D-4 Approve Mediated Settlement of Rent Reopening Dispute in General Lease No. S-5721, Keāhole Point Fish LLC, Lessee, Kalaoa 1st through 4th, North Kona, Hawaii, Tax Map Key: 3rd/7-3-43: seaward of Kalaoa.

Tsuji presented item D-4, he had nothing to add.

Member Yuen asked what formalities the department required in a sublease. Tsuji said they didn't, he wasn't sure if the County did or not. Member Yuen said it gets complicated because the Counties consider that a subdivision. Tsuji said it was up to them, the department doesn't require them to subdivide.

Kees Kea representing Mauna Kea Moo testified in support.

Unanimously approved as submitted (Roehrig, Gomes)

Item D-2 Approval in Principle of a proposed acquisition of government (Crown) lands at Waiākea, South Hilo, Island of Hawai‘i, Tax Map Key: (3) 2-4-56:16.

Written testimony was submitted by: Cory Harden.

Tsuji conveyed item D-2 and told the Board that Harry Yada was present. There are still some items of due diligence that Yada and UH Hilo are working on; Tsuji was confident that items will be addressed.

Member Roehrig asked what this would be used for. Yada explained that they have been using the property under a short term agreement with the Army until this transaction happens. Right now the back end of the property is being used by all the maintenance operations. In the long term they plan to renovate the many offices and training rooms are being used by all the research activities. The renovations are required because the buildings in the back are not suited for their needs.

Unanimously approved as submitted (Roehrig, Gomes)

Item C-1 Delegation of Authority to the Chairperson of the Board of Land and Natural Resources to Approve Documents Pertaining to the Grant-in-Aid to the 501(C)(3) Nonprofit Organization, Mālama O Puna, in the Keau‘ohana Forest Reserve Tax Map Key: (3) 1-2-009:004 in the Puna District of Hawai‘i Island.

Written testimony was submitted by: Janet Britt

Lisa Hadway Administrator for the Division of Forestry and Wildlife-DOFAW reviewed item C-1. She explained that grant-in-aid goes to the legislature, and DOFAW will be administering this.

Chair Chang asked for the amount of the grant. Sheri Mann with DOFAW said \$97,000, she disclosed that the original request was \$195,000, the legislature reduced that to \$175,000 but the governor’s request was to take 10% off making it \$97,000.

Member Woodside asked about the proposed uses for the grant money. Hadway explained that the money would be used for forest restoration. Mann further explained that there is an area that has a high amount of native species and they are trying to save it by removing invasive species over time. There is also a lot of albezia damage, so there will be albezia removal as well.

Unanimously approved as submitted (Yuen, Char)

Item D-1 After the Fact Consent to Assignment of General Lease No. 3169, Hugh H. Willocks, Trustee of the Hugh H. Willocks Revocable Living Trust and Mary M. Willocks, Trustee of the Mary M. Willocks Revocable Living Trust, Assignors, to Mary M. Willocks, Trustee of the Mary M. Willocks Revocable

Living Trust, Assignee, Ocean View Lease Lots, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-1-007:035 and;

After the Fact Consent to Assignment of General Lease No. 3169, Mary M. Willocks, Trustee of the Mary M. Willocks Revocable Living Trust, Assignor, to Mary M. Willocks, Assignee, Ocean View Lease Lots, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-1-007:035 and;

Consent to Assignment of General Lease No. 3169, Mary M. Willocks, Assignor, to Mary M. Willocks, John K. Willocks, Paul M. Willocks and Michael J. Willocks, Assignees, Ocean View Lease Lots, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-1-007:035 and;

Authorize a One-Year Holdover of General Lease No. 3169, Mary M. Willocks, John K. Willocks, Paul M. Willocks and Michael J. Willocks, Lessees, to be Immediately Followed by the Issuance of a Month-to-Month Revocable Permit and Issuance of a Bill of Sale Transferring All Improvements on the Property to the Lessees, Ocean View Lease Lots, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-1-007:035.

Item D-5 Forfeiture of General Lease No. S-5189, Fishing Island, Inc., Lessee, Non-Exclusive Mooring Rights in Offshore Waters of Kailua-Kona, Island of Hawai‘i, Hawai‘i.

Item D-7 After-the-Fact Issuance of Right-of-Entry Permit to Hawai‘i Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on January 20, 2015, Waikīkī, Honolulu, O‘ahu, TMK: (1) 2-3-037:021 (Portion).

Item D-8 Issuance of Right-of-Entry Permit to Hawai‘i Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on February 12, 2015, Waikīkī, Honolulu, O‘ahu, Tax Map Key: (1) 2-3-037:021 (Por).

Item D-9 After-the-Fact Issuance of Right-of-Entry Permit to Hawai‘i Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Fort DeRussy Beach, Kalia, Waikīkī, Honolulu, O‘ahu, TMK (1) 2-6-005:Seaward of 001 on January 18, 2015.

Tsuji had no changes to items D-1, D-5, D-7, D-8 or D-9. The Board had no questions.

Unanimously approved as submitted (Woodside, Gomes)

Item E-1 Consent to Assign General Lease No. SP-0163 Nichols Beck, Assignor, to Nichols Beck and Elizabeth Ann Kibble, Joint Tenants, as Assignees, Lot 9,

Halemanu Valley, Kōke'e State Park, Waimea (Kona), Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-003:006.

Dan Quinn Administrator for the State Parks-PARKS presented item E-1. All the conditions of the lease will remain the same.

Member Roehrig disclosed that Mr. Beck was his high school classmate.

Unanimously approved as submitted (Oi, Gomes)

Item M-2 Amendment No. 1 to State Lease No. DOT-A-11-0014, RFP Fueling Facilities Lease to Install New 20,000 Gallon Above-Ground Jet-A Fuel Tank to the Premises, Barbers Point Flight School, LLC, Kalaeloa Airport, Island of O'ahu, State of Hawai'i, Tax Map Key: (1) 9-1-13: Portion of 32.

Item M-3 Issuance of a Revocable Permit for a T-Hangar for Aircraft Storage Purposes, Howard W. Word, Kahului Airport, Tax Map Key: (2) 3-8-01 Portion of 19.

Item M-4 Amendment No. 1 to State Lease No. DOT-A-13-0015, Additional Space, Able Freight Services, Inc., Kona International Airport at Keāhole, Tax Map Key: (3) 2-1-12: Portion of 90.

There was no representative present from the Department of Transportation Airports Division-DOT-AIR. The Board had no questions.

Unanimously approved as submitted (Oi, Gomes)

10:13AM RECESS

10:26AM RECONVENE

Item M-1 Request for Delegation of Authority to the Chairperson of the Board of Land and Natural Resources, to Track Legislative Measures to Prepare and Present Legislative Testimony on Behalf of the Department of Land and Natural Resources and to Allow the Chairperson to Further Delegate such Authority to Staff.

Pua Aiu DLNR Chair's Office had no changes to item M-1.


Member Yuen said he would appreciate the department putting together a master list so the Board members understand what has been delegated in the past.

There was a discussion about board input into legislation. Board members clarified that they were mainly interested in the department's bills. Chair Chang committed to providing Board members with the department's five bills.

Unanimously approved as submitted (Roehrig/Gomes)

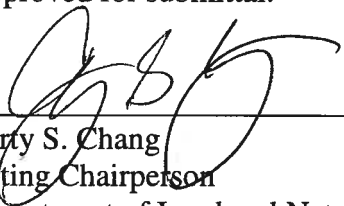
There being no further business, Acting Chairman Carty Chang adjourned the meeting at 10:37 a.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ku'ulei Moses', with a wavy tail.

Ku'ulei Moses
Land Board Secretary

Approved for submittal:

A handwritten signature in black ink, appearing to read 'Carty S. Chang', written over a horizontal line.

Carty S. Chang
Acting Chairperson
Department of Land and Natural Resources