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

DATE: FRIDAY MARCH 11, 2016
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson Suzanne D. Case called the meeting of the Board of Land and Natural Resources to order at 9:01 a.m. The following were in attendance:

MEMBERS
Suzanne D. Case
Thomas Oi
Ulalia Woodside
Chris Yuen

James Gomes
Stanley Roehrig
Keone Downing

STAFF
Russel Tsuji/LAND
Dave Smith/DOFAW
Curt Cottrell/SP
Ed Underwood/DOBOR
Sam Lemmo/OCCL
Brad Romaine/OCCL

Jason Misaki/DOFAW
Emma Yuen/DOFAW
Nicki Ann Thompson/BOC
Eric Yuasa/DOBOR
Malia Nanbara/DOFAW

OTHERS
Amanda Weston/Deputy AG
Ken Van Burgen/County of Hawaii
Fred White/C-5
Sharleen Pascua/D-7
Scott Polly/D-7

Ross Smith/DOT-AIR
Daryl Davidson/D-5
Stephanie Pascua/D-7
Don Pascua/D-7
Caroline Hayashi/D-6

ITEM C-3 Request for Approval to Enter into a New Long-Term Cooperative Lease with the Zoological Society of San Diego D/B/A San Diego Zoo Global for Operation of the Olinda Endangered Species Facility Located at Olinda, Maui

And

Request for Authorization for the Chairperson to Negotiate and Sign the Lease after Approval to Form by the Department of Attorney General's Office.
ITEM M-1  Consent to Sublease In-Bond (Duty Free) Concession Agreement No. DOT-A-07-0001, DFS Group L.P. to TRS Hawai‘i, LLC DBA Prada, Honolulu International Airport, Tax Map Key: (1) 1-1-03: Portion of 001.

ITEM M-2  Issuance of a Revocable Permit for Parking and Storage of Rental Car Vehicles, The Hertz Corporation, Honolulu International Airport, Tax Map Key: (1) 1-1-70: 001, 002 & 012.

ITEM M-3  Issuance of a Revocable Permit for Parking and Storage of Rental Car Vehicles, Advantage OPCO, LLC dba Advantage Rent A Car, Honolulu International Airport, Tax Map Key: (1) 1-1-70: 103.

ITEM M-4  Issuance of a Revocable Permit for Spaces in the Main Terminal for Airline Operations, United Airlines, Inc., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.

ITEM M-5  Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Evelyn Greene, Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 90.

ITEM M-6  Issuance of a Revocable Permit for Equipment Parking, K & S Helicopters, Inc., Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 90.

ITEM M-7  Issuance of a Revocable Permit for Spaces in the Main Terminal for Airline Operations, United Airlines, Inc., Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.

ITEM M-8  Amendment No. 1 to State Lease No. DOT-A-14-0017, Hawai‘i Fueling Facilities Corporation, Līhu‘e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.


ITEM M-10  Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Ronald Heller, Līhu‘e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.

ITEM M-12  Issuance of a Revocable Permit for Spaces in the Main Terminal for Airline Operations, United Airlines, Inc., Līhu‘e Airport, Tax Map Key: (4) 3-5-01:Portion of 8.

Ross Smith Property Manager for the Department of Transportation-Airports Division- DOT AIR, introduced himself and items M-1 through M-12. Smith provided language for concession agreement.

Member Oi asked why does DOT need to come to BLNR for a sublease. Smith felt that if DOT were encumbering property that they believed that they should come to the BLNR for approval.

Member Yuen asked for clarification that Prada's gross is included in DFS's gross. Smith acknowledged that it was and explained that Prada has a store and is expanding.

Member Roehrig expressed concern that if there was an existing concession and they move to another place that an EIS or EA was not needed, that it would be good to document an explanation for reasoning that an EIS or EA is not necessary or necessary. Member Roehrig expressed that there has to be some public accountability for what we all do.

Member Downing asked if when DFS creates subleases they charge the same rate to equal their sublease cost or create whatever rate that they desire. Smith disclosed that DOT does not go over the detail of sublease and that for concessions they require 20% of their gross receipts.

Member Oi asked if the difference in rent for items M-5 and M-10 is due to one being in Kauai and Hilo. Smith explained that an appraiser takes the primary airport in counties and establishes a rate, DOT does a calculation to get a percentage of cost of secondary airports.

Member Yuen added that it would be helpful if the submittal stated that it was based on the standard charge of 33 cents. Smith agreed.

Unanimously approved as submitted (Gomes, Yuen)

ITEM D-2  Set Aside to the County of Hawaii, for Elderly, Affordable Rental Housing and Issuance of a Right-of-Entry Permit to the County of Hawai‘i, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-4-001:168.

Russel Tsuji Administrator for Land Division-LAND introduced himself, Ken Van Burgen from the county and Item D-2.

Member Yuen and Member Roehrig commended staff said they would be happy to facilitate the County going forward with this.

Unanimously approved as submitted (Roehrig, Gomes)
ITEM D-5  Issuance of Right-of-Entry Permit to AUVSI Foundation for Maritime RobotX Challenge Hawaii 2016 from December 4, 2016 to December 18, 2016 at Sand Island, Honolulu, O‘ahu, Tax Map Key: (1) 1-5-041:portions of 006,334 and seaward.

Member Downing asked where the canoes go during that time.

Darrel Davidson representing the AUVSI Foundation thanked the Board for entertaining their motion. Davidson explained that they have been in contact with the canoe clubs and look to move them off the beach in area around. They would use areas where the canoes would not be stored.

Unanimously approved as submitted (Gomes, Oi)

ITEM C-1  Issuance of Management Right-of-Entry; City and County of Honolulu, Hāmākua and Kawainui Marsh Wildlife Sanctuaries, Kailua, Ko‘olaupoko, O‘ahu, Tax Map Key: (1) 4-2-3:30, (1) 4-2-16:02, and (1) 4-2-16:15, respectively.


Jason Misaki with the Division of Forestry and Wildlife- DOFAW introduced himself and ITEM C-1.

Member Gomes asked how long this project was going to take to remove the entire mangrove. Misaki explained that it is a multi-pronged approach with 2 follow ups, 3-6 months for the initial 2 clearings and a followings determined on the contracts.

Member Gomes followed up asking if there was any dredging going to be done. Misaki explained that it was specifically vegetation control.

Fred White introduced himself and testified that the area was unpleasant with the overgrowth in the area, people less fortunate making encampments in the area, and feral cats.

Member Gomes asked if the residents would maintain after removal on the mangrove. White explained that he had spoken with people that live along the canal as well as appreciated the county assisting in removal of debris.

Unanimously approved as submitted (Woodside, Gomes)

ITEM D-7  Issuance of Right-of-Entry Permit to Hawaii Explosives and Pyrotechnics, Inc. for Aerial Fireworks Display on March 28, 2016 at the beach fronting...
Written testimony was submitted by Stephanie Pascual and Hawaii Explosives & Pyrotechnics, Inc.

Tsuji-LAND indicated that LAND was trying to set a policy for all firework entities. Rather have the staff go out and check, LAND would ask the provider to provide evidence/photos that the site is clean. Tsuji added that currently clean ups are required and the $2,500 deposit does not cover much; professional divers are needed to clean up the ocean. Tsuji requested that in lieu to the cash deposit is a performance bond, guaranteeing that any terms of the right-of-entry is not complied with to cover cleaning.

Member Oi asked how long LAND would hold them accountable for clean-up. Tsuji responded that they have a provision to provide photos and certification within 5 business days.

Member Gomes expressed concern as to what good is this performance bond if the ocean is littered and followed up asking what assurances are there that the debris is removed with the lack of staff. Tsuji said if they find out there is a violation, the department then moves out on it.

Member Yuen proposed a different concept meaning in order to figure out how much rubbish is generated, clean up as much as they can, an offset clean up on whatever is missing.

Member Roehrig re-iterated Member Downing’s concerns on ocean pollution and continued mentioning that the federal clean water act was passed for that very purpose. Member Roehrig expressed that there will be a time where fireworks will not be able to be shot over the ocean.

Stephanie Pascual and Sharleen Pascual with Hawaii explosives introduced themselves and appreciated the board for entertaining their motion, understanding the concerns of the debris is shared across the board. S. Pascual expressed that they do our due diligence to clean the beach and have deployed more dives during the week for clean-up efforts.

Chair Case asked how far off-shore the explosion happens, how high do they go and if there anything other than cardboard in the projectile.

S. Pascual explained that it was within the jetty walk, within the inside of the reef and about 200-300 ft. high. The materials are mostly cardboard and a small plastic piece which they make great attempts to clean.

Member Yuen thought the idea is a good concept.
S. Pascual continued explaining that their clean up on a Friday night is an immediate beach clean-up and then the deployment of net in the ocean to clean-up any debris. The following two morning they have staff go into the shoreline to clean excess debris.

Member Downing brought up that that their father had mentioned that cheaper fireworks are made more of plastics and asked if it is possible for them to make one with plastics that float more, that way it can make clean up easier. Pascual responded that it is a good idea but the only concern is that the explosion could break up the matter and make the debris really small, making it difficult to collect.

Pascua added that research had been done and made an attempt to get a performance bond and explained that the bonding company needs guidelines, standards, and criteria.

Chair Case added that she would work at the staff level to take a look at the bond and keep this an on-going discussion for progress and expressed that she would be ok with setting aside the bond process for now since you will return before the board.

Don Pascual, testified that he is the founder of this company, going on 30 years and that they are good stewards of the land and are looking to improve on taking care of the land following fireworks display.

S. Pascual proposed that they have the monetary deposit remain at $2500 or less.

Member Downing asked if the land owner puts the deposit, does the land owner need to be on the permit.
Member Roehrig added that it would be simpler if we keep it between just 2 parties.

Chair Case proposed to delete the reference to the bond and to deposit a check that will be on hold for 30 days and if DLNR has notice of debris they will give notice and the pyrotechnics company will have 48 hours for clearance. If there are no problems after 30 days, initial deposit will be returned.

Member Downing requested for a written plan on outline of how the clean-up is done.

Scott Polly, introduced himself as hotel manager for Kahala hotel and resort.
Member Downing asked if their New Year's Eve fireworks display permit was issued by the state.
Chair Case added that a permit was required to be issued from BLNR for any fireworks display and that there may be violations.
Polly acknowledged and expressed that if they have done anything wrong, they will make sure we get all proper permits.

Member Downing expressed that they have to have protocol with all fireworks display on state lands.
Member Yuen entertained to remove bond, have $2500 cashier check to be held for 30 days and that if there is a report of trash remaining after the show the applicant will be given 48 hours to clean up. If staff was satisfied with cleanup the cashier check will be released. Staff will look into clean water act and the applicant will present to staff in future as to how much weight of the trash should be collected.

Unanimously approved as amended (Yuen, Roehrig)

10:46AM RECESS
10:58AM RECONVENE

ITEM D-6 Issuance of Right-of-Entry Permit to Waikīkī Community Center for Beach Activities Purposes to be held on April 23 and 24, 2016 at Duke Kahanamoku Beach, Honolulu, O'ahu, Tax Map Key: (1) 2-3-37: portion of 21.

Caroline Hayashi, introduced herself and informed the board that this is the 31st year doing this event and 6th year at this location.

Unanimously approved as submitted (Downing, Gomes)

ITEM C-2 Request Approval for the Āhualoa Homesteads Forest Stewardship Management Plan and Forest Stewardship Agreement with Alan R. Everson, Tax Map Key (3) 4-6-009:102, Hāmākua District, Island of Hawai‘i

And

Request Approval of Declaration of Exemption from Chapter 343, HRS, Environmental Compliance Requirements for the Project.

Dave Smith and Malia Nanbara with the Division of Forestry and Wildlife, FG introduced themselves and Item C-2.

Member Oi asked how the fencing workout out is to keep out the feral pigs. Smith responded that it is working effectively.

Unanimously approved as submitted (Gomes, Oi)

The rule amendment can be reviewed online at: http://ltgov.hawaii.gov/the-office/administrative-rules/ or can be reviewed in person at any Division of Forestry and Wildlife district office from 8:00am to 3:30pm, Monday through Friday, except State holidays.

Emma Yuen added that there was a typo in the submittal on pg. 4 of the attachment, 3-13-209-4 HAR, 13-209-5.5 should be referred to the statute that we are amending.

Unanimously approved as amended (Gomes, Woodside)

ITEM D-1 Approve a 1-Year Holdover of General Lease No. S-3660, Hilo Bay Printing Company, Ltd., Lessee, Kanoelehua Industrial Lots, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-2-050:077

ITEM D-3 Cancellation of Revocable Permit No. S-7730 to Terrence and Moira Sullivan, and Request for Waiver of Level One (I) Hazardous Waste Evaluation Requirement, Hāna, Maui, Tax Map Key: (2) 1-5-005:007.

ITEM D-4 Consent to New Lease Term, and Change of Annual Rent for Lands under Governor’s Executive Order Nos. 4087 and 4342 to the County of Maui, Department of Parks and Recreation at Waiohuli-Keōkea Beach Homesteads, Maui, Hawai‘i, Tax Map Key: (2) 3-9-007:003 and Portion of 005.

ITEM D-8 Grant of Term, Non-Exclusive Easement to Brigitte J. Coley, Trustee under the Brigitte J. Coley Trust dated August 6, 2013 for Pier Purposes; Assess Administrative Cost of $500; Termination of Revocable Permit No. S-7592; Issue a new Interim Revocable Permit to Brigitte J. Coley, Trustee under the Brigitte J. Coley Trust dated August 6, 2013, Waikīkī, Honolulu, O‘ahu, Tax Map Key: (1) 3-6-001:Seaward of 036

Member Yuen asked if item D-1 did not qualify for the extensions or were not interested. Tsuji responded that they were not interested and they were not disqualified.

There were no changes, no other questions and no testimony for items D-1 through D-8.

Unanimously approved as submitted (Roehrig, Gomes)

ITEM E-1 Selection of Projects for Federal Grant Awards through the Land and Water Conservation Fund Program with Fiscal Year 2014 and 2015 Funds.

Curt Cottrell, administrator for State parks-PARKS introduced himself and item E-1.
Member downing asked how many people use the ball fields at Sand Island. Cottrell responded that there are a lot and currently there is a large demand for baseball fields in the island. Cottrell projects that all those fields to be in play within a year.

Unanimously approved as submitted (Gomes, Oi)

ITEM G-1 Request For Approval to Hold A Public Hearing on Proposed Amendments to Hawaii Administrative Rules Chapter 13-16 (Rules Relating to Conveyances) to Provide for Electronic Recording, to Update The Current Fee Schedule, and to Make Technical Changes to Reduce Restatement of The Underlying Statutes.

The Rules can be Reviewed on-line at HTTP://LTGOV.HAWAII.GOV/THE-OFFICE/ADMINISTRATIVE-RULES/ or Can be Reviewed or Obtained in Person at The Bureau Of Conveyances Offices On Oahu At 1151 Punchbowl Street, Room 120, Honolulu, Hawaii, 96813 From 8:00 AM to 3:30 PM, Monday Through Friday Except Holidays.

Nicki Ann Thompson, Registrar for Bureau of Conveyances-BOC, introduced herself and Item G-1.

Member Yuen mentioned that the board should go to public hearing with the set of rules proposed and that the AG’s could take a look if the board has power to require the recordation of assignments of mortgages if it is not in the statute.

Unanimously approved as submitted (Roehrig, Gomes)

ITEM J-1 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii‘i Administrative Rules, Wai‘anae Small Boat Harbor Improvements Wai‘anae, O‘ahu, Hawaii‘i.

ITEM J-2 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii‘i Administrative Rules; Job No. B75CO71E-Wai‘anae Small Boat Harbor Pier Improvements, Phase V, Wai‘anae, O‘ahu, Hawaii‘i.

ITEM J-3 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii‘i Administrative Rules; Job No. OA16-03, Ala Wai Small Boat Harbor Repairs to Row 600; Honolulu, O‘ahu, Hawaii‘i.

ITEM J-4 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii‘i Administrative Rules; Job No. OA15-10, Keehi Small Boat Harbor Repairs to Pier 200; Honolulu, O‘ahu, Hawaii‘i.
ITEM J-5 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai‘i Administrative Rules; He‘eia Kea Small Boat Harbor Improvements Kane‘ohe, O‘ahu, Hawai‘i.

ITEM J-6 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai‘i Administrative Rules; He‘eia-Kea Small Boat Harbor Wastewater Treatment System Replacement; Kane‘ohe, O‘ahu, Hawai‘i.

ITEM J-7 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai‘i Administrative Rules; Job No. B08DH71B – Honokōhau Small Boat Harbor Improvements, Phase 2; Kailua-Kona, Island of Hawai‘i, Hawai‘i.

Written testimony was submitted by Tammy Ann Duchesne.

ITEM J-8 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai‘i Administrative Rules; Job No. HA14-03; Honokōhau Small Boat Harbor Mauka Boat Ramp Loading Dock Replacement; Kailua-Kona, Island of Hawai‘i, Hawai‘i.

ITEM J-9 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai‘i Administrative Rules; Ma‘alaea Small Boat Harbor Improvements, Maui, Hawai‘i.

ITEM J-10 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai‘i Administrative Rules; Lāhainā Small Boat Harbor Improvements, Maui, Hawai‘i.

ITEM J-11 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai‘i Administrative Rules; Nāwiliwili Small Boat Harbor Improvements; Lihu‘e, Kaua‘i, Hawai‘i.

ITEM J-12 Declare Project Exempt From Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai‘i Administrative Rules; Job No. MA15-06- Manele Small Boat Harbor Wooden Finger Pier Repairs; Manele, Lāna‘i, Hawai‘i.

Ed Underwood, administrator for Boating and Ocean Recreation- DOBOR, introduced and Eric Yuasa.

Yuasa expanded on Item J-7, referencing letters from a meeting and what was discussed with national park services. The boat wash-down in Honokohau, the water presently goes down and puddles in a low line area; we want to have a new wash-down station where the water will drain into a rain garden/trench drain with vegetation (Akulikuli).
Chair Case thanked Yuasa for working with the national park service.

Member Gomes asked why Akulikuli was chosen. Yuasa explained that they got the idea from the University of Hawaii that had done a study on the Ala Wai.

Member Yuen asked if this was something they would normally do when the BLNR approves the award of the contract, thus being tied up in the process. Underwood responded that they were looking at that now, looking at what could be delegated to the chairperson.

Yuasa added that engineering division manages all the CIP projects in DLNR, comes to the BLNR annually to get authorization to solicit contracts.

Chair Case clarified that in the annual request for approval for CIP projects, it would include be a request for the board to delegate to the chair to sign for the exemptions.

Member Gomes asked in regards to J-10, if there was another way of vacuuming the sand and pushing it out to sea somewhere rather than putting on shore and going through extra steps. Yuasa responded that dredging is a highly regulated activity, presently there is only a handful of ocean disposal sites. The permit process is difficult to put material into the ocean, it requires a lot of studying to make sure that the material does not impact organisms on the ocean bottom.

Members Gomes asked if there are any alternative, Underwood responded that it is under control when the Carthaginian was moored there and acted like a sand block, when it was removed and skunked off shore as a dive site, the currents of the ocean pushed everything into the channel. We are looking at different ideas. Yuasa added that 2012 was when the last dredging was completed.

Member Downing expressed his concern of how sand being removed for analysis, it will be taken from another site.

Unanimously approved as submitted (Gomes, Woodside)

ITEM K-1 Proposed Memorandum of Agreement Between the State of Hawai‘i, Department of Land and Natural Resources and the University of Hawai‘i Sea Grant College Program to Help Fund the National Oceanic Atmospheric Administration Regional Coastal Resilience Grant.

Sam Lemmo, Administrator for the Office of Conservation and Coastal Lands-OCCL, introduced Brad Romaine who also worked with OCCL. Lemmo explained that this grant would improve the web-based, hazard exposure and vulnerability mapping tool that is being developed by the University of Hawaii.

Lemmo believed it is worth the investment and will make the end product more resilient.
Member Downing added that it's stated that either party can pull out, and asked what would happen in the event that they do get the money. Lemmo responded that they have agreements with UH for projects that we do and we have not have that issue happen, if they do, they have to return funds that have not been spent.

Member Downing asked if the public will be able to view this since it is web based. Romaine responded that everything will be publically available, that is the requirement of the NOAA grant.

Chair Case added that the sea-level rise info produced so far outreaching and helpful for all of us to understand what the sea-level rise issues are.

Lemmo elaborated that the sea-level rise conference emphasizing that it was a powerful event with many individuals from consulting and government participating recognizing the problem of sea-level rise and concluding with a workshop in the afternoon, discussing and collecting information on shoreline hazards on sea-level rise.

Member Oi asked when they were going to submit a report to the legislature. Lemmo said by December 2017.

Member Downing asked what needed to be done following the conclusion of this project. Chair case added that, there are setbacks, beach hardening policies, and emergency planning. Romaine responded that the ultimate outcome is that a paradigm shift is needed in the way that we are developing our coastlines.

Member Downing asked what the next technical study is. Romaine said that the answers will be found in the planning process and that the recommendations need to be inserted.

Member Oi mentioned that Kauai County would have to look at the shoreline setback. Lemmo re-iterated the paradigm shift and the recommendations that need to be implemented.

Unanimously approved as amended (Gomes, Woodside)
There being no further business, Chairperson Suzanne D. Case adjourned the meeting at 12:06 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson’s Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,

[Signature]
Ku’ulei Moses
Land Board Secretary

Approved for submittal:

[Signature]
Suzanne D. Case
Chairperson
Department of Land and Natural Resources