

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

DATE: FRIDAY, JUNE 24, 2016  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAI'I 96813

Chair Suzanne Case called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

MEMBERS

Suzanne D. Case  
Thomas Oi  
Keone Downing

James Gomes  
Stanley Roehrig  
Chris Yuen

STAFF

Curt Cottrell/SP  
Russel Tsuji/LD  
Jason Redulla/DOCARE

Ed Underwood/DOBOR  
David Smith/DOFAW  
Carty Chang/ENG

OTHERS

Bill Wynhoff/AG  
David Heifner/M10  
James Coon/J-3  
Winifred Vasquez/J-3  
Jole Deal/D-4  
Scott Glenn/D/7  
Marti Townsend/D-7  
Ross Smith/ DOT-AIR

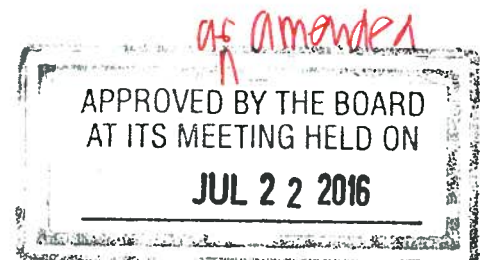
Vern Miyagi/M10  
Gail Fujita/M10  
Gil Agaran/J-3  
Lynn Mccrory/J-2  
Kerry Cole/D-6  
Wayne Tanaka/D-7  
Yevonne Izu/D-7

**ITEM A-1 Approval of February 26, 2016 Minutes**

Member Roehrig mentioned a correction on page 8, first paragraph, that "this legislature" should be "the legislature and on page 10 2/3 of the way down had a spelling error.

Member Yuen pointed out a spelling error on the middle of page 8 and on the bottom of page 10, clarified that boards were not to be referred to just the BLNR but could go to an airport board.

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



**ITEM M-10 Request Approval to Execute a Covenant of Purpose, Use and Ownership with the United States Department of Commerce, Economic Development Administration (EDA) for the Construction of a Business Recovery Management Agency (HI-EMA) Building B303, located at the Diamond Head State Monument, Tax Map Key (1) 3-1-042-006.**

Vern Miyagi and David Heifner, Hawaii emergency management agency, introduced themselves and item M-10. Miyagi explained their purpose to go over the use and ownership within bldg. 303 in Diamond Head crater. Grant received from US DOC, providing funds to build a modular office, a business recovery center.

Curt Cottrell, administrator for State Parks added that they have no objections and added that they did not want to be partied to the disposition but establish DLNR as the joint EO.

Gail Fujita, United States Department of Commerce, Economic Development Administration supported the amendments.

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

**ITEM J-3 Issuance of a Revocable Permit (RP) to Coon Brothers Inc., a Hawai'i Corporation, dba Trilogy Corporation for a loading dock, Mānele Small Boat Harbor (MSBH), Mānele, County of Maui, Island of Lana'i, Tax Map Key (2) 4-9-17:06.**

*Written testimony was submitted by Dawn Anderson, Eva Ruth Ayonayon, Anthony Bardeniso, Jacob Baltero, Jonathan Baltero, Dolores Barcena, Rapel Barlen, Winifred Basques, Raymond Bitte Jr., Edna Cabanting, Henry Caberto, Desiderio Doctolero, Lea Eskaran, Mydrad Espiritu, Richard Govani, Alberta de Jetley, Chelsea Kahanau, Cheryl Kaiao Kamalie, Kainoa Kanno, Elenor L. Kekiwi, Joe Konlhel, Rochdle Lanoza, Citris Lee, Sterling Lopes, Michael R. Lopez Sr., Brenda Lopez, Pulama Lana'i, Kelly Matsumura, Donna Auranda, Evelina Pascua, Ray Pascua, V. Piltgeria, Georgiann Pedersen, Annette Quilinquin, Tom, Roelens, Fred Sandi, Tyler Speer, C. Tamasklio, Daniel Tuzon-Dayoon, Jocelyn Q. Vilorio, and Sandy R. Vilorio.*

Ed Underwood, administrator of DOBOR, introduced himself and Item J-3.

Member Gomes asked how long the work would take. Underwood responded that it would move on within the next few months.

Gil Agaran, attorney for Coon Brothers Inc., appreciated the efforts that the division has taken to move this process forward. Agaran mentioned that a more appropriate entity designation should be Coon Brothers Inc. rather than Trilogy Corporation and that exhibit c shows a smaller configuration and expressed that Coon Brothers Inc. expectations would be that they would be in the discussions of the 65x65 ft. land areas in the lease.

Winifred Vasquez read her testimony in strong support.

Member Gomes made a motion to approve as amended by issuing the revocable permit to Coon Brothers Inc., not the Trilogy Corporation. The Board also requested that the department was sure to include the submerged lands as well as the loading dock area as part of the area being leased.

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

**ITEM J-2 Issuance of a Revocable Permit (RP) to Lana'i Resorts, LLC, dba Pūlama Lana'i at the Manele Small Boat Harbor, Lana'i City, Island of Lana'i, Tax Map Key (2) 4-9-17:06.**

*Written testimony was submitted by Pulama Lana'i*

Member Gomes asked if there were floating docks in the harbor that the public can use. Underwood responded that there were fixed piers which the public uses.

Member Downing asked what was the size of the dock was awarded to Trilogy. Underwood responded that the dock was much bigger in submerged lands, Trilogy has a smaller footprint with a fixed pier that ties into their pavilion.

Lynn McCrory with Pulama Lana'i introduced herself and testified in support of item J-2. McCrory added that since they started this process in 2013 there were maintenance issues that were part of the lease, and they have been doing/keeping up with them.

Winifred Vasquez, testified in strong support on Item J-2. Vasquez was appreciative that Jim Coon gives back to the community.

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

**ITEM D-4 Consent to Mortgage of Sublease K-4 with Estoppel Certificate, General Lease No. S-5619, Natural Energy Laboratory of Hawai'i Authority, Lessee, Cyanotech Corporation, Sublessee/Mortgagor, First Foundation Bank, Mortgagee, Kalaoa 1st-4th, North Kona, Hawai'i, Tax Map Key: (3) 7-3-043: 063.**

Russell Tsuji, administrator for Land Division-LAND introduced himself and Item D-4; he had nothing to add.

Jole Deal representing Cyanotech was present to answer questions.

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

**ITEM D-6 Issuance of Revocable Permit to United Laundry Services, Inc. for Employee Parking and Storage Purposes; Cancellation of Revocable Permit No. 7831; Sand Island, Honolulu, O'ahu, Tax Map Key: (1) 1-2-021: portion of 045.**

Tsuji-LAND conveyed item D-6. The justification for this was that most of this large parcel is not usable.

Member Downing asked how many cars park there per day.

Kerry Cole from United Laundry Services estimated around 200-250 per day parked there.

Member Yuen asked if the Board were to apply the RP task force principles to this RP, how this would be characterized. Tsuji responded that due to the characteristics of this parcel, the cost to improve the property may outweigh the rental return.

Member Roehrig wanted clarification on what it meant if the lot was under tidal matters. Tsuji explained that this area was near the lagoon area and the soil in the area is not usable in the area.

Member Yuen added that the department should look at this as a long term lease. Cole said that he would discuss this with Mrs. Cayetano.

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

**ITEM C-1 Approve the Final Environmental Assessment for Makiki Baseyard Improvements Project (Tax Map Key: (1) 2 5-019: Portion of 008) and Issuance of a Finding of No Significant Impact.**

David Smith Administrator for the Division of Forestry of Wildlife-DOFAW, introduced himself and item C-1.

Member Gomes asked how old the rock walls were. Smith responded that they were built similar to ccc rock walls; a type of blue/basalt rock.

Member Roehrig asked what the annual rainfall was. Smith estimated about 60 inches; the plants that have been planted have been doing well.

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

**ITEM D-7 Report and Recommendations from the Department of Land and Natural Resources Revocable Permits Task Force.**

*Written testimony was submitted by OHA and the Sierra Club of Hawai'i.*

Tsuji-LAND introduced Scott Glenn, Executive director of OEQC.

Chair Case thanked the taskforce and Glenn for working hard the past few months.

Glenn summarized the process and what they went through to get this report together. Glenn explained that initially they looked at what type of RP's (Revocable Permits) were and the

number of them, the report being based on land based RPs. Glenn then added that the task force asked the administrators to send a list of reasons why the RPs are issued and the context.

Member Roehrig asked if a timetable had been made on when we would look at the RP's at various counties. Tsuji said that they would before the end of the year.

Chair Case noted that the task force recommended that the RP list be posted online. They have already listed the land division recommendation, they include the water permits; but don't include the East Maui water RPs.

Glenn also noted that some of the administrators have already been applying these recommendations to their RP's.

Member Oi asked if they were going to look into parcels that are deemed unusable and put them up for sale to the adjoining land owners.

Tsuji explained that within Land Division that is always in progress.

Glenn added that one of the recommendations they had was to request from the legislature additional senior staff to take on higher level of analysis, due to lack of capacity in Land Division.

There was discussion of the Hashimoto RP in which the 999-year lease was being converted to fee, and as part of the process the lease was canceled, but the family member that had the lease died and the conversion never took place. This was a situation where the Board accepted the unique circumstances called for a long-term lease

Member Roehrig felt this should be examined on a case to case basis and not generalized on trying to get into residential due to shoreline being near.

Chair Case mentioned that the properties suitable for agriculture leases are in discussion with Department of Agriculture to transfer them and as Tsuji has pointed out, Land division does not have the capacity to have long term residential managers.

Member Oi and Member Gomes commented that they were happy that this task force was formed.

Wayne Tanaka testified on the behalf of OHA. OHA felt that the task force recommendations would be useful, but OHA asked for clarification that the checklist apply to all RP requests rather than have all the RPs presented before the board with little description.

Chair Case confirmed that what they were asking was that this applies to the renewal of revocable permits. Also, OHA wants to make sure that the principles cover existing RPs as well. Tanaka confirmed.

Member Roehrig asked if OHA was concerned on DOT's RPs. Tanaka responded that the lands are significant and OHA has voiced their concerns on the DOT's RPs due to lack of transparency.

Member Yuen commented on how the renewals should have justifications; it was the intent that the important parts of the recommendations apply to the renewals and suggested some amendments which included when the RP was first issued.

Member Roehrig was concerned that DOT has the same problems.

Glenn added that the task force did meet with the DOT deputy director and mentioned their RPs are restrained by the FAA for airports, which affects their dispositions.

Marti Townsend, Director of Sierra Club Hawaii, was appreciative and impressed by the work of the task force. Townsend was surprised that they did not consider draft rules to proposals and emphasized that the guidelines and checklists are very important meaningful steps forward but should not step in front of regulations and constitutional requirements implemented. (Townsend submitted written testimony the night before.)

Member Yuen commented that it is not necessary to have administrative rules that bind the board and department in its own actions as in this case. Rather, rules are necessary to bind members of the general public. Member Yuen didn't agree with the Sierra Club's recommendation "g".

Townsend agreed that the policy would be binding and did see value in going through the chapter 91 process in getting public comment.

10:42AM RECESS

10:55AM RECONVENE

Yvonne Izu introduced herself and testified on item D-7. Izu commended the task force in doing a good job and was not there speaking on behalf of any organization. Izu requested that the board instruct the staff to give priority to applicants that are attempting to convert their RPs to long term leases.

Member Gomes made a motion to approve.

Member Yuen recommended a slight amendment being that any noncompliance by a permittee should be discussed and any ongoing legal challenges should be discussed in a submittal or renewal.

Member Downing asked if this was final or work in progress.

Chair Case responded that this is a work in progress as we constantly get good recommendations.

Member Roehrig commented that this template will make this process more transparent to the public.

The Board amended the recommendation section by adding the following:

12. All divisions should notate any noncompliance issues with any existing revocable permit being renewed (in the renewal spreadsheet form template provided to the task force meetings) or in the submittal for new revocable permits.

13. All divisions should notate any pending litigation involving any existing revocable permit being renewed (in the renewal spreadsheet template form discussed in the task force meetings) or in the submittal for new revocable permits.

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

**ITEM M-1 Direct Issuance of a Parking Concession, Honolulu International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).**

Ross Smith Property Manager for the Department of Transportation- Airports Division-DOT-AIR, introduced himself and Items M-1 and M-3 through M-9.

Member Yuen asked how was a good deal to the state. Smith responded that it was a step up from guaranteed amount, the last 5 years DOT-Air was in the percentage area, setting a minimum guarantee and thus getting a certain percentage when the minimum is meet.

Member Yuen asked what the gross receipts from last year were. Smith estimated at roughly 17 or 18 million.

Smith commented that they had observed other airport operators across the country using the same formula, it works more fairly to both parties. Smith noted that they do charge less parking at airports compared to other airports in the mainland due to cost of living.

Member Yuen was not believe that charging less due to cost of living increases the demand for parking at the airport. Smith commented that mainland operations split typically 85% between operators and added that the airport would be losing stalls due to construction of rail and renovations of the Mauka concourse.

Member Downing added that the split should be at 85%. Smith responded that the scale is done on a yearly basis and has raised parking rates in the parking rates.

Member Roehrig commented that he would vote no or defer this item due to the lack of additional details and mentioned that this concession should be taken from the governor to the legislature.

Member Gomes asked if the 1.7 million improvements were over the course of the year and what it would be. Smith responded it was over a period of time and the improvements were primarily upgrades to offices, exit plazas, and equipment in which the operation functions.

Member Roehrig expressed concerns on what the contract of this concession is going to look like. Smith responded that the incumbent concessioner and all existing, DOT has monthly meetings with them consistently. DOT's concerns are when some of the impacts occur and parking stalls are loss and the contractors do not anticipate the changes.

Chair Case felt uneasy on a direct concession, as it shows a case of favoritism as to if it were to be sent to a bid. Smith responded that the concessioner knows the operation well and knows what to expect as in interruptions to operations to the general public.

Member Yuen asked when DOT do the bids on Maui and Kona, where they bidding on guarantee or the percentage. Smith said that they were bidding on the guarantee.

Member Roehrig made a motion to go into Executive Session pursuant to Section 92-5(a) (4), Hawai'i Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities. Member Yuen seconded.

11:49AM EXECUTIVE SESSION  
01:05PM RECONVENE

Member Yuen asked when the current agreement run out. Smith responded end of July into August.

Member Yuen asked if the board can approve a short term concession agreement, pro-rating everything and deleting the improvement, if the sense of the board is to defer this item. Smith responded that the answer should be referred to the Departments AG.

Member Roehrig moved that the board defer on making a decision on the docket for 2 reasons. First, the board requested the supervising AG to provide a board with a formal written opinion regarding the question that the board has in decision making to ensure that DOT air properly complies with the FAA grants rules in fairness. Second, for a purpose of giving DOT time to refresh the docket before the board explaining it without public bid.

Member Yuen made a motion due to the situation the Board was in on having no legal basis for having an airport parking concession at Honolulu Airport after June 30; his motion was to award a parking concession for a period of 3 months to sort out issues; the gross receipts would be amended so that the percentage rent is ¼ of the annual figures, the minimum annual guarantee would be 25% of 15.6 million (3.9 million), the successive years clause would be deleted as non-applicable, the 1.7 million in improvements would be deleted. Member Roehrig accepted the motion as a friendly amendment.

Smith asked if DOT structured a bid with the information presented today, would it be acceptable to the board. Member Yuen said that the board is not ordering them to bring this back as a bid but wanting more information in order to feel comfortable approving it.

Chair Case referred in the statute that says you can do this by direct concession.



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

- ITEM M-3 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, George’s Aviation Services, Inc., Honolulu International Airport, Tax Map Key: (1) 1-1-76: Portion of 20.**
- ITEM M-4 Issuance of a Revocable Permit for Aircraft Parking, Hawai’i Aircraft Leasing LLC, Honolulu International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.**
- ITEM M-5 Amendment No. 23 to Airport-Airline Lease No. DOT-A-62-0017 for the Purpose of Deleting Space and Adding space for the Operation of an Airline Lounge, Qantas Airways, Ltd., Honolulu International Airport, Tax Map Key: (1) 1-1-003: 050 (Portion).**
- ITEM M-6 Issuance of a Revocable Permit for a Parking Area to Support Cargo Operations, United Parcel Service Co., Honolulu International Airport, Tax Map Key: (1) 1-1-72: 50.**
- ITEM M-7 Issuance of a Revocable Permit for Aircraft Parking, The Right Flight Services LLC, Kalaeloa Airport, Tax Map Key: (1) 9-1-13: Portion of 32.**
- ITEM M-8 Issuance of a Revocable Permit for Space in the Main Terminal for Airline Operations, Delta Air Lines, Inc., Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.**
- ITEM M-9 Issuance of a Revocable Permit for Storage of Rental Car Vehicles, Avis Budget Car Rental, LLC dba Avis Rent A Car System, LLC, Līhu‘e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.**

No changes, no public testimony.

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

- ITEM B-1 Request Board Approval to Enter into Contract for Vehicle Purchase Between the Department of Land and Natural Resources, Division of Conservation and Resources Enforcement (DOCARE), and SERVCO Pacific Inc.**

Jason Redulla, Deputy Chief of the Division of Conservation and Resources Enforcement-DOCARE reviewed item B-1.

Member Yuen indicated that when DOCARE brings these request approval of contracts before the board that the amount is left out in the submittal and requested to have the amounts inputted to assist in the board in making a decision.

Member Oi mentioned that they received 3 new vehicles in Kauai and asked how many of these will be given to Kauai, if they were going to be used daily or only used for towing, and how many vacancies there were in Kauai. Redulla responded that 2 will likely to go to Kauai, to tow vessels; they would be used on a daily basis; and currently there are no vacancies.

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

**ITEM J-1 Issuance of a Revocable Permit (RP) to Atlantis Adventures, LLC, DBA(s) Atlantis Submarines, Hawaiian Ocean Tours, Inc., and Bill Busters Charters, Inc., to Operate Boat Tours and Other Maritime Related Activities at the Honokohau Small Boat Harbor, Island of Hawai'i, Hawai'i Tax Map Key: (3) 7-4-008-003.**

Underwood-DOBOR presented item J-1.

Member Yuen asked if they had an approximate time table in concluding a lease with them. Underwood responded that they hope to do it in a year.

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

**ITEM L-1 Approval of Award of Construction Contract and Declare Project Exempt From Preparation of Environmental Assessment Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawai'i Administrative Rules for Job No. 500BK54J, Stream Mouth Maintenance at Various Locations, Kauai, Hawai'i.**

Carty Chang, Administrator for ENG, introduced himself and Item L-1

Member Oi commented on the stream mouth running out. Chang responded that it was an ongoing thing and that they had an agreement with the county to maintain the 3 stream mouths as needed and the contractor will come out and clear when the water level reaches a certain point.

Member Downing asked where the debris goes. Chang said they are placed above the high water mark in the adjacent area, it is a temporary fix.

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

**ITEM L-2 Appointment of Taylor Kellerman to Serve as a Director of the West O'ahu Soil and Water Conservation District.**

No changes, no public testimony.

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

**ITEM D-1 Partial Withdrawal of Lands Under Governor’s Executive Order No. 510; Reset Aside to Margaret A. Medeiros, Debra K. Titcomb, Randal K. Medeiros and William Daryl Medeiros for Grant of Perpetual, Non-Exclusive Easement for Access and Utility Purposes; and Immediate Management and Construction Right-of-Entry Permit at por. of Kalaheo Homesteads, 2nd Series, Kalāheo, Koloa, Kaua’i, Tax Map Key: (4) 2-3-002:005.**

Tsuji-LAND requested to amend it recommended by deleting the recommendation as is and replace it with a declaration with the potential effects of the proposed disposition of CH 343 that this project will have minimal or no significant impact.

The Board amended the submittal to delete the withdrawal requirement, and replaced recommendation number 1 with a the following:

*Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.*

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

**ITEM D-2 Rescind Prior Board Actions of June 27, 2014, Item D-2, Consent to Assignment of General Lease No. S-5435, Lei Mamo Kaapana Aken, Assignor, to Beverly Keonaona Amaral, Assignee, Kīkala-Kēōkea, Puna, Hawai’i, Tax Map Key: (3) 1-2-043:035. And Consent to Assign General Lease No. S-5435, Lei Mamo Kaapana Aken, Assignor, to Shirley Kaiwalani Nash, Assignee, Lot 35, Kalapana Section, Kīkala-Kēōkea, Puna, Hawai’i, Tax Map Key: (3) 1-2-043:035.**

Member Downing asked if they are going to live there. Tsuji responded that is there intent but currently not everyone is living there.

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

**ITEM D-3 Consent to Assignment of General Lease No. S-5542, Nicholas E. Muragin and Lisa K. Muragin, as Assignor, to Kelonukai Ranch, LLC, as Assignee, Ola’a, Puna, Hawai’i, Tax Map Key: (3) 1-8-010:038, 043, 044 & 046.**

Gomes asked how much of this land is graze-able and if there is run-off were there any gullies that the water can come through into the ocean. Tsuji did not know.

Member Gomes wanted to know what the conservation plan was going to be.

Chair Case suggested that the board defer this and make sure DOFAW looked at this.

**Unanimously moved to defer (Gomes, Yuen)**

**ITEM D-5 Issuance of a Right-of-Entry Permit to the Association of Apartment Owners (AOAO) of Lāhainā Shores for the Removal of Vegetation (Naupaka) from within the Beach Transit Corridor / Shoreline at Lāhainā, Maui; Tax Map Key: (2) 4-6-002: Seaward of 007.**

No changes, no public testimony.

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

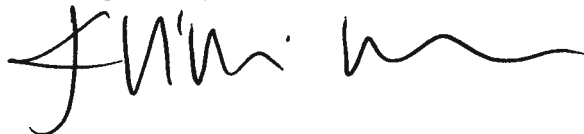
**ITEM H-1 Approval to Proceed with the Financial Audit of the Department's Programs.**

**Item Deferred**

It was later noted that item H-1 was withdrawn.

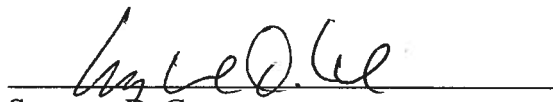
There being no further business, Chair Suzanne D. Case adjourned the meeting at 1:44 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Ku'ulei Moses  
Land Board Secretary

Approved for submittal:



Suzanne D. Case  
Chairperson  
Department of Land and Natural Resources