

APPROVED BY THE BOARD
AT ITS MEETING HELD ON
JUL - 9 2017

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

DATE: FRIDAY, MARCH 10, 2017
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 Case
Thomas Oi
Stanley Roehrig
Sam "Ohu" Gon

James Gomes
Chris Yuen
Keone Downing

STAFF

Russell Tsuji-LAND
David Smith-DOFAW
Marvin Miyasaka-LAND
Ross Smith-DOT-AIRPORTS

Alton Miyasaka-DAR
Kevin Moore-LAND
Richard Howard-LAND
Mike Auerbach- DOT-LAND

OTHERS

Linda Chow/Deputy AG
Denise Matsubara/D2
Mike Murray/D3
Caroline Hayashi/D4
Brian Lock/D8
Pete Manaut/D9, D10
Cary Sparks/D12

Ken Masden/D2
Craig Hirai/D2
Bob Hampton/D4
Eddie Chiu/D7
David Cooper/D8
Kevin Smith/D9, D10
Mike Sakai/D12

Chair Case announced it was Board Secretary Kuulei Moses last day and she will be going to HCDA, new Board Secretary will be Darlene Ferreira. The approval of the minutes will be deferred to later in the meeting.

Item D-2 Set-Aside to Hawaii Housing Finance and Development Corporation (HHFDC) for Educational and Affordable Housing Purposes; (2) Authorize HHFDC to Create a Condominium Property Regime; (3) Authorize the Chairperson to Execute a Memorandum of Agreement with HHFDC regarding the Method of Payment for Compensation for the Leased Premises; and (4) Rescind Prior Action on August 24, 2012, Item D-15 Kakaako, Honolulu, Oahu; *Tax Map Key no.:* (1) 2-1-051:041.

Russell Tsuji, Administrator for Land Division, requesting for final approval to HHFDC to proceed with their plan for Educational & Affordable Housing. Part of the plan is for Department of Education (DOE) to build a high-rise Elementary School, there will be some compensation paid to the Department, based upon the restricted use of the plan, and some commercial space.

Ken Masden, Department of Education, testified in support.

Member Gon asked given the recommendations by the Staff to the Board have you seen those and are you okay with them?

Masden replied, he has not. He will look at them, I do know that the Assistant Superintendent and the Public Works Administrator have been in meetings and have not raised any issues.

Denise Matsubara with the Governor's Office testified in support. Thanked the Board and ask for the Board's support. Affordable housing is at a crisis levels right now and it's a top priority of the Governor to address this shortage. My understanding that all parties involved have been meeting and there has been dialogue and have been working towards resolution of any issues.

Member Gon asked given the recommendations by the Staff to the Board have you seen those and are you okay with them?

Matsubara replied, yes, she has.

Member Roehrig, how many grades will the public school have?

Masden replied, it will be an elementary school.

There was further discussion as to where the students would go after.

Masden replied, that there are schools in the area that will be able to accommodate the students. We are looking to expand Central Middle School & McKinley High School. And are currently planning to look at other sites.

Member Yuen asked, this being a rental project, the Submittal asked for a condominium authorization on the project. Is there some for sale as well?

Craig Hirai (HHFDC) was present to answer this question.

Hirai replied, at present time, we are looking at three maybe four condominiums, they will be closer to market-end residential rentals, each tower would be a condominium, one for the school, maybe one for parking, commercial could be one.

Unanimously approved as submitted. (Gon, Gomes)

Item D-9 Amend Prior Board Action of October 14, 2016, Agenda Item D-12, *Issuance of Direct Lease to Na Pua Makani Power Partners, LLC, Lessee, for Wind Power Project Purposes; Kahuku-Malaekahana, Koolauloa, Oahu, Tax Map Key no: (1) 5-6-008:006*

Tsuji-LAND said, they amended some provisions to the Lease, red-lined version of the Lease attached to show changes.

Unanimously approved as submitted. (Gomes, Gon)

Item D-10 Second Amendment of Development Agreement between the Board of Land and Natural Resources and Na Pua Makani Power Partners, LLC (NPM) Regarding Kahuku Wind Project, Kahuku-Malaekahana, Koolauloa, Oahu, Tax Map Key no.: (1) 5-6-008:006

The proposed Second Amendment to the Development Agreement, is to extend the deadline for NPM to obtain approval of a Habitat Conservation Plan and secure an Incidental Take License for its proposed Wind Energy Project on the above-referenced lands.

Tsuji-LAND said, Lessee or proposed Lessee is asking for changes in connection related to the contested case proceeding.

Member Gon asked, regarding the Amendment to the prior Board action, it was a result of the Attorney General's review.

Member Roehrig asked, if there was anything different from the Attorney General's Office added to the Lease that is different from what the contested case was requested on?

Tsuji-LAND replied "No".

Attorney, Pete Manaut from Carlsmith & Ball, Kevin Smith representing NPM, were in favor of the Amendment and were available for questions.

Member Gon asked, it seems clear, if NPM agrees with the Staff recommendations.

Attorney Pete Manaut said, "Yes".

Member Yuen asked, if the City and County determined if a Conditional Use Permit is required for this project.

Adrienne Elkin, Counsel for NPM conveyed, CUP has already been obtained.

Unanimously approved as submitted. (Gomes, Gon)

Ross Smith-DOT-AIR presented Items M-1 through M-11 and the Board asked questions as he presented.

Item M-1 Issuance of a Revocable Permit, Bradley Pacific Aviation, Inc., dba Signature Flight Support, for Space for Above-Ground Storage Tanks, Honolulu International Airport, Tax Map Key no.: (1) 1-1-003: 001 (Portion).

Unanimously approved as submitted. (Gomes, Gon)

Item M-3 Issuance of a Revocable Permit, Bradley Pacific Aviation, Inc. dba Signature Flight Support, for Space for Vehicle Maintenance, Diamond Head Concourse, Honolulu International Airport, Tax Map Key no.: (1) 1-1-003: 65 (Portion).

Unanimously approved as submitted. (Gomes, Gon)

Item M-4 Issuance of a Revocable Permit, Bradley Pacific Aviation, Inc. dba Signature Flight Support, for Aircraft Equipment Parking, Honolulu International Airport, Tax Map Key no.: (1) 1-1-72: 069 (Portion), (1) 1-1-72: 070 (Portion), and (1) 1-1-76: 008.

Unanimously approved as submitted. (Gomes, Gon)

Item M-2 Issuance of a Revocable Permit, China Airlines, Ltd., for a Ticket Counter, Service Counter, and Office Space, Ewa Domestic Extension, Honolulu International airport, Tax Map Key no.: (1) 1-1-003: 058 (Portion).

Unanimously approved as submitted.. (Gomes, Gon)

Item M-5 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Jeffrey B. Cook, Honolulu International Airport, Tax Map Key no: (1) 1-1-76: Portion of 21.

Unanimously approved as submitted. (Gomes, Gon)

Item M-6 Issuance of a Revocable Permit for Aircraft Parking, James Ealer, Kahului Airport, Tax Map Key no.: (2) 3-8-01:019 (Portion)

Unanimously approved as submitted. (Gomes, Gon)

Item M-7 Issuance of a Revocable Permit for Aircraft Parking, Windward Aviation, Inc., Space No. 405-102, Kahului Airport, Tax Map Key no.: (2) 3-8-01:019 (Portion)

Unanimously approved as submitted. (Gomes, Gon)

Item M-8 Issuance of a Revocable Permit for Aircraft Parking, Windward Aviation, Inc., Space No. 405-103, Kahului Airport, Tax Map Key no.: (2) 3-8-01:009 (Portion)

Unanimously approved as submitted. (Gomes, Gon)

Item M-9 Issuance of a Revocable Permit for Aircraft Parking, Windward Aviation, Inc., Space No. 405-104, Kahului Airport, Tax Map Key no.: (2) 3-8-01:009 (Portion)

Unanimously approved as submitted. (Gomes, Gon)

Item M-10 Issuance of a Revocable Permit for Aircraft Parking, K & S Helicopters, Inc. (Space Nos 413-103, -104, -105), Hilo International Airport, Tax Map Key no.: (3) 2-1-12:090 (Portion).

Unanimously approved as submitted. (Gomes, Gon)

Item M-11 Cancellation of Governor's Executive Order Nos. 1451, 1880, 1950, 2600, 2602, 2705, 2928, 3259 and 3500 and Reset Aside to State of Hawaii, Department of Transportation, Airports Division (DOT – Airports Division) for Lihue Airport Purposes and Issuance of an Immediate Right-of-Entry Permit to State of Hawaii, Department of Transportation – Airports Division Covering the Subject Area for Management Purposes, Portion of Kalapaki – Hanamaulu, Lihue, Kauai, Tax Map Key no.: (4) 3-5-001: 005, 008, 009, 092, 109, 111, 128, 158, 159 & 160.

Mike Auerbach, DOT-Land Acquisition, available to answer questions

Member Oi, asked if there were any Ceded lands in the area.

Ross Smith, DOT-Air said, that the lands were all private from plantation.

Unanimously approved as submitted. (Gomes, Gon)

Russell Tsuji- LAND presented the following D Items.

Item D-7 Issuance of Right-of-Entry Permit to Department of Transportation on Both Encumbered and Unencumbered Lands for Due Diligence Purposes, Kaaawa to Hauula, Koolauloa, Oahu, Tax Map Key no.: (1) 5-1, 5-2, 5-3, 5-4. See map attached as **Exhibit B** for location of the requested areas.

Unanimously approved as submitted (Gon, Gomes)

Item D-8 Withdrawal from Governor's Executive Order No. 3518 and Reset Aside to Department of Transportation for Highway Purposes, Issuance of Right-of-Entry Permit for Construction Parcels; Kahana, Koolauloa, Oahu, Tax Map Key no.: (1) 5-2-002: Portions of 001, (1) 5-2-005: Portions of 001, 021, 022, and 023, and portions of Kahana Stream.

David Copper representing the Soga Family from Kahana Valley conveyed the concerns of Carol Soga whose Lease is affected by this Right-of-Entry request.

Brian Lock, representing Wilson Okamoto Corporation, Civil Engineer, consultant for Department of Transportation (DOT). DOT will prepare a written consent for the Right-of-Entry subject to the terms Lease.

Member Roehrig made a motion to amend the motion to approve to add the following condition & recommendation, Section A, Number 4 as follows:

"The Department of Transportation shall negotiate in good faith and enter into a letter of agreement with the affected Lessee Carol Soga about her lease on Parcel 22."

Approved as amended. (Gomes, Gon)

Item D-12 Grant of Perpetual, Non-Exclusive Easement to United States of America, by the Department of the Army, for Security Chain Link Fencing Purposes, Waikele, Ewa, Oahu, Tax Map Key no: (1) 9-4-012: portions of 003 and 011.

Mike Sakai from the Federal Government present to answer questions.

Unanimously approved as submitted. (Gon, Gomes)

Item D-4. Issuance of Right-of-Entry Permit to Waikiki Community Center for Beach Activities Purposes to be held on May 6 and 7, 2017 at Duke Kahanamoku Beach, Honolulu, Oahu, Tax Map Key no.: (1) 2-3-037:021 portion.

Unanimously approved as submitted. (Gon, Oi)

Item D-3 Issuance of Right-of-Entry Permit to Waikiki Beach Activities, Ltd. for Beach Event Purposes on March 26, 2017, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037: Portion of 021

Unanimously approved as submitted. (Roehrig, Gon)

Item C-1 Adoption of Amendments to Hawaii Administrative Rules Chapter 13-209 "Rules Regulating Activities within Natural Area Reserves. A copy of the rule amendment is attached as **EXHIBIT A**.

Emma Yuen and Fred Duval-Division of Forestry and Wildlife briefed the Board.

Member Gomes asked, who and how will the parking be monitored?

Duval replied, the plan right now is to have a kiosk that is credit card operated, when it is swiped and it is a non-Hawaii zip code, they would be charged \$5.00, if it is a Hawaii zip code there would be no charge. Each vehicle would get a ticket.

Member Gomes asked, what is the estimated total cars that come annually?

Duval replied, conservatively 24,000.

Member Oi, where do the funds go? Does it strictly go into the NARS or go back to DOFAW's public funds?

Yuen replied, it goes to the Natural Area Reserve Fund, then it should be authorized by the Legislature so they can give us a ceiling, currently there is none. The Legislature would have to say, now you are generating revenue, now you can spend it. The purpose of the fund is for Nature Area Reserve, but it also has a broader conservation State -wide as well.

Unanimously approved as submitted (Gomes, Gon)

Russell Tsuji-Land, presented the D Items listed below.

Item D-1 Amend Prior Board Action of September 9, 2005, Item D-3, *Amend Prior Board Action of August 28, 1998, (Item D-20), Direct Sale of Abandoned Railroad Right-of-Way at Kapaa Homesteads, Series 1st, Kawaihau, Kauai, Tax Map Key no.: (4) 4-6-004:022.*

The purpose of the amendment is to update the current owners of the abutting private property, to whom the remnant will be sold and whose property the remnant will be consolidated with.

Unanimously approved as submitted. (Oi, Gon)

Item D-5 Amend Prior Board Action of May 27, 2016, (Item D-11), *Consent to Assign and Amend Grant of Non-Exclusive Easement No. S-5910, Richard E. Reese, Trustee of the unrecorded Richard E. Reese Revocable Living Trust dated July 14, 1993, as Assignor, to Thomas R. Hammond and Kathy S. Ohara, as Assignee; Makiki, Honolulu, Oahu, Tax Map Key no.: (1) 2-5-020:002 (Portion).*

An amendment is required due to the recent change in ownership of the adjacent private property to Janine S. Clifford, Trustee of The Janine S. Clifford Trust dated January 26, 2007, restated October 22, 2010, and amended September 25, 2012 and June 2, 2015, as Assignee.

Unanimously approved as submitted. (Gon, Gomes)

Item D-6 Grant of Perpetual, Non-Exclusive Easement to the City and County of Honolulu for Waterline Purposes, Issuance of Right-of-Entry Permit; Honolulu, Oahu, Tax Map Key no.: (1) 3-1-042:011 (Portion)

Unanimously approved as submitted. (Gon, Gomes)

Item D-11 Grant of Perpetual, Non-Exclusive Easement to the City and County of Honolulu for Waterlines Purposes, Issuance of Right-of-Entry Permit; Lualualei, Waianae, Oahu, Tax Map Key no.: (1) 8-6-002:003 (Portion).

Unanimously approved as submitted. (Gon, Gomes)

Maria Carnavale – Division of Aquatics briefed the Board on the following.

Item F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to the Monument Co-Trustee Representatives of the U.S. Department of the Interior, U.S. Fish and Wildlife Service; U.S. Department of Commerce, National Oceanic and Atmospheric Administration; and the Office of Hawaiian Affairs for Access to State Waters to Conduct Conservation and Management Activities.

Unanimously approved as submitted. (Gon, Gomes)

10:10 AM Member Gomes stepped out

10:12 AM Member Gomes returned

E. STATE PARKS

Item E-1 Forfeiture of General Lease No. SP0140, Dennis Riker and Paul Kyno, Lessees, Koke'e State Park, Waimea (Kona), Kaua'i, Tax Map Key no.: (4) 1-4-004:060.

Curt Cortell conveyed, that despite their efforts to work in good faith with the Co-Lessee's, there are a variety of Non-Compliance issues, severe degradation of the property, they remain in default for their rent, the property is occupied by an unrecorded third party and not the Lessees. The cabin is not beyond repair once everyone is out we would like to put it up for Bid to the public with other vacant lots and cabins. Recommendation is to forfeit their Lease, authorize the retention of all sums paid or pledged, we have a \$5,000.00 deposit, terminate the Lease and rights of the Lessee and all obligations as of March 10, 2017, Authorize the Attorney General's office to collect arrears amount of the rent.

Member Oi asked, how they came up with sum of \$19,786.00

Al Carpenter- State Parks, Lessees are delinquent by 3-years as of the drafting of the Notice to them. The fourth year started January of this year.

Member Oi, so they have been notified these past 3 years that they are delinquent.

Carpenter replied, the last record of notice was in 2013, Lessees made payment at the last moment. We have not efficiently dealt with it since that time.

Cortell, conveyed that due to the loss of the Property Manager during this time, they were looking at larger sources of income. Now that they have two Property Managers and a skilled workforce and the budget now allows for more dispositions which are forthcoming. There are other violations in Kokee, but this one is considered the worst.

Member Roehrig mentioned he was concerned if there was adequate due process notice. Has one of the Deputy Attorney General's reviewed this to determine if adequate due process was followed.

AG Chow asked Carpenter if he sent the notice to Co-Lessee Ryker by regular mail as well as certified mail. Which ones were returned?

Carpenter said, only the certified mail was returned. Notices have been posted on the property as well. Co-Lessee Kaino has received all notices and was invited to attend the meeting. Chair Case said, it's a straightforward default and proper notice was given as required by the Lease.

There were further discussions regarding un-paid Leases and the due process and being vigilant on following up on defaults. The Board would like to see the Leases in question in the future.

Unanimously approved. (Oi, Roehrig)

Recess: 10:22 AM

Reconvene: 11:27 AM

Member Gon did not return.

A. MINUTES

1. Approval of November 10, 2016 Minutes

Approved as amended. (Gomes, Gon)

2. Approval of December 09, 2016 Minutes

Approved as amended. (Gomes, Roehrig)

Adjourned.

There being no further business, Chairperson Suzanne Case adjourned the meeting at 11:46 am. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and available for review. Certain Items on the agenda were taken out of sequence to accommodate applicants or interest parties present.

Respectfully submitted,

Darlene S. Ferreira
Land Board Secretary

Approved for submittal:

Suzanne D. Case
Chairperson
Department of Land & Natural Resources