

AS HMOU
APPROVED BY THE BOARD
AT ITS MEETING HELD ON
10/13/2017

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

DATE: FRIDAY, SEPTEMBER 22, 2017
TIME: 9:30 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

MEMBERS

Suzanne Case
Thomas Oi
Stanley Roehrig
Sam "Ohu" Gon

James Gomes
Chris Yuen
Keone Downing

STAFF

Russell Tsuji-LAND
David Smith-DOFAW
Ed Underwood/DOBOR
Ross Smith-DOT-AIRPORTS
Meghan Statts/DOBOR

Alton Miyasaka-DAR
Kevin Moore-LAND
Maria Carnevale-DAR
Andrew Choy-PARKS

OTHERS

Patty Miyashiro/M11,12
Lynn McCrory/J3
Glen Takenouchi/M11
Socrates Brakatos/M12
Harold Edwards/L1

Dean Yogi/D9
Monty Downs/D2
Lori Sun/M11
Paul Bass/M12
Cal Chipchase/D11

Meeting called to order by Chair Case at 9:30 a.m.

The Chair reminded the audience of the procedure for contested cases.

No Minutes to review.

ITEM M-11 Issuance of Direct Lease to The Gas Company, LLC, dba Hawai'i Gas to Construct, Install, and Maintain Storage Facility for Liquid Propane (LPG) and Gas Pipeline Easement Purposes, Nāwilwili Harbor, Līhu'e, Kaua'i, Tax Map Key: (4) 3-2-004:008, 016, 018, 019, 034, 039, 041 (Portions), 021, 022, 023, 053 and (4) 3-2-003:001, 002, 003,004, 007 (Portions).

Patty Miyashiro presented for HDOT-Harbors. Glen Takenouchi and Lori Sun were also present from Hawaii Gas.

Board Discussion

Member Oi clarified the location of the facility.

Public Testimony - None

Motion

Approved as submitted (Oi, Gomes) unanimous.

ITEM M-12 Issuance of Right of Entry Permit to the Honolulu Fire Department, City and County of Honolulu on Lands Encumbered by Governor's Executive Order No. 4206, Mokauea, Kalihi, Honolulu, Island of O'ahu, Tax Map Key: (1) 1-2-025: Portion 017.

Patty Miyashiro-DOT-Harbors. She was joined by Assistant Chief Socrates Brakatos and Captain Paul Bass from the Honolulu Fire department. This is a short term Right of Entry for the Honolulu fire department. The Fire Department uses the facility to train with hand hoses that can enter a building. Capt. Paul Bass brought a clip from a training video, which was shown to the Board. The facility at Kapālama allows them to shoot water all over the facility. It is the only facility that allows them to get it all wet. Harbors is asking for flexibility to allow the Fire Department to train for as long as possible, in the event that the Notice to Proceed on the redevelopment of the facility for transportation purposes is not issued in November.

Board Discussion

Member Roehrig questioned why this is a temporary agreement? Miyashrio, HDOT replied, it is part of Kapālama Container Facility which is being redeveloped for Transportation purposes.

Public Testimony - None

Motion

Approved as submitted (Gon, Gomes) unanimous.

ITEM M-1 Issuance of Revocable Permit for Office Space to Airasia X Berhad, Ewa Domestic Extension, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 058 (Portion).

ITEM M-2 Issuance of a Revocable Permit, Aircraft Parking for Helicopter Tour Operation, Hawai'i Pacific Aviation Inc. dba Mauna Loa Helicopter Tours, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 001.

- ITEM M-3** Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft to Mid Pacific Aero Services LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 21.
- ITEM M-4** Issuance of a Revocable Permit for a Field Office to Nan, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 65 (Portion).
- ITEM M-5** Issuance of a Revocable Permit, Aircraft Parking for Helicopter Tour Operation, Novictor Aviation LLC dba Novictor Helicopters, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 001.
- ITEM M-6** Issuance of a Revocable Permit to The Gas Company, LLC dba Hawai'i Gas for Space to Store a Propane Fuel Tank, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).
- ITEM M-7** Issuance of a Revocable Permit for a Ramp Parking Area for Air Cargo Ground Service Equipment, Commodity Forwarders, Inc., Ellison Onizuka Kona International Airport at Keāhole, Kalaoa, North Kona Hawai'i. Tax Map Key: (3) 7-3-43: Portion of 40.
- ITEM M-8** Issuance of a Revocable Permit for Vehicle Parking, Ko'olau Aviation Services Inc., Ellison Onizuka Kona International Airport at Keāhole, Kalaoa, North Kona Hawai'i. Tax Map Key: (3) 7-3-43: Portion of 40.
- ITEM M-9** Issuance of a Revocable Permit for Aircraft Parking, Sport Horse Sales of Texas, LLC, Hilo International Airport, Waiākea, South Hilo, Hawai'i Tax Map Key: (3) 2-1-12: Portion of 90.
- ITEM M-10** Consent to an Assignment of State Lease No. DOT-A-09-0001 from Smoky Mountain Helicopters, Inc. to Alexair, Inc. by Way of a Transfer of all of the Outstanding Capital Stock through a Stock Purchase Agreement, Port Allen Airport, Tax Map Key: (4) 1-8-08: Portion of 4.

Ross Smith- DOT Airports Division. Managers for Daniel K Inouye International and Kauai Airports accompanied Mr. Smith.

M1-M6—Daniel K Inouye International Airport. Smith gave brief synopsis of each item.

M7-M8—Ellison Onizuka Kona International Airport. Smith gave a brief synopsis of each item.

M-9—Hilo International Airport. Smith gave a brief synopsis of the item.

M-10 Port Allen Airport. Smith gave a brief synopsis of the item.

Board Discussion

Member Oi noted that Planning Department of Kauai opposes Assignment of the Lease. Board moved to take M1-M9 first, as they had received additional written testimony in opposition to M-10.

Public Testimony - None

Motion

Approved as submitted Items M-1 through M-9 (Oi, Gomes) unanimous.

Item M-10 will be taken up later after Smith reviews testimony received.

ITEM D-9 Grant of Perpetual Non-Exclusive Easement to the City and County of Honolulu on behalf of the Honolulu Authority for Rapid Transportation for Elevated Guideway; Issuance of Immediate Construction Right-of-Entry; Honolulu, O‘ahu, TMK (1) 1-5-040: portions of 003.

Russell Tsuji presented the submittal. Dean Yogi, Assistant Director, HART, accompanied him.

Board Discussion

Member Oi asked what happens to the existing pumping station. Yogi said that they are just flying over and do not have plans to touch down on any of the facilities below the rail.

Public Testimony – None

Motion

Approved as submitted (Gon, Oi) unanimous.

ITEM J-3 Continuation of a Revocable Permit to Lana‘i Resorts, LLC., dba Pulama Lana‘i, Manele Small Boat Harbor, Lana‘i City, Island of Lana‘i, Hawai‘i, Tax Map Key (2) 4-9-17:06,

And

Request Approval of Declaration of Exemption to Chapter 343, Hawai‘i Revised Statutes for the Project.

Dana Yoshimura presented for the Division of Boating and Ocean Resources (DOBOR). This Item is a request for a continuation of a revocable permit (RP) until a long-term disposition can be made.

Board Discussion

Member Oi commented that he would like to ensure that the DOFAW hunting agreement with Lana‘i Resort LLC is extended.

Public Testimony

Lynn McCrory said that they are looking at long term options for the game management area, but in the meantime, there is a verbal agreement for a three-year extension on the game management area. McCrory said the game management area is important because there are too many deer and sheep on Lanai. Hunting in the game management area helps manage the resources of the island.

Chair Case noted that she spent several days on Lanai over the Memorial Day weekend. She spent some time in the game management area and also visited the harbor. She appreciates the collaborative relationship DLNR has with Lanai Resort LLC.

Motion

Approved as submitted (Gomes, Yuen) unanimous.

ITEM D-2 Issuance of Revocable Permit to the County of Kaua'i for Installation of Portable Lifeguard Tower, Po'ipū, Koloa, Kaua'i, Tax Map Key: (4) 2-8-017: seaward of 001.

Russell Tsuji presented for Land Division.

Board Discussion

Member Yuen noted a typo on the table on page 3 where it says that the "County of Hawaii." It should be County of Kauai. Russell noted that this is not a substantive change, so no formal amendment is being proposed to correct the typo.

Public Testimony

Dr. Monty Downs, President of the County Lifeguard Association noted that there are several drownings around the point that the lifeguards cannot see from their tower. So, the Lifeguard Association intends to put up a temporary lifeguard station on the point, that will help lifeguards to see the people swimming in that area. They will keep existing tower as well. Dr. Downs said they have enough people to staff the new station without hiring more lifeguards.

Motion

Approved as submitted (Oi, Gomes) unanimous.

ITEM D-11 Grant of Term, Non-Exclusive Easement to ABP 2927 East Manoa Road LLC for Encroachment Purposes; Issuance of Right-of-Entry Permit, Manoa, Honolulu, O'ahu, Tax Map Key: (1) 2-9-026: portion of 014.

Russell Tsuji presented on behalf of Land division. This item involves an easement to resolve an encroachment in Mānoa.

Board Discussion

Member Oi noted that the commercial property maps, the Owners should have received as part of their due diligence to identify several encroachments. Noticed that they can use the commercial property maps to show the encroachments rather than State having to do another survey. The Title Companies do the maps.

Public Testimony

Counsel for Owners did not want to add anything.

Motion

Approved as submitted (Gon, Gomes) unanimous.

ITEM L-1 Application for a DLNR Dam Safety Permit No .79 – Opaepala Reservoir #1 (OA-0018) Improvement, Haleiwa, O‘ahu.

Board Discussion- None

Public Testimony -None

Motion

Approved as submitted (Gon, Gomes) unanimous.

ITEM D-1 Approval of Acquisition of Perpetual Easements and Authorization for the ITEM Chairperson to Negotiate and Execute Rights-of-Entry on Private Lands for the Ko Road Rockfall Mitigation Project –Makai Section, Part Two; ‘Ele‘ele, Koloa, Kaua‘i; Tax Map Key Nos.: (4) 2-1-007:150, 151, 156, 157, 158, 159, 160 & 161 (portions)

Amend prior Board Action of March 24, 2016, Agenda Item D-3, *Preliminary Approval of Acquisition of Easements on Private Lands for Ko Road Rockfall Mitigation Project – Makai Section, Part Two, ‘Ele‘ele, Koloa, Kaua‘i, Tax Map Keys: (4) 2-1-007:150, 151, 156, 157, 158 & 160 (portions).*

The purpose of this amendment is to correct one of the names of the private landowners of TMK No. (4) 2-1-007:151 (por.) - Lot 82, from Michelle M. Lomongo to Michelle T.M. Lomongo.

Tsuji presented for Land Division. There is an error in the title which references Koloa, and the actual location is in Hanapēpē. The Tax Map Key is correct.

Board Discussion

The Deputy Attorney General (AG) said to strike “Koloa.” from the title and noted sunshine requirements had been fulfilled.

Amend to strike “Koloa” in the description of the location.

Public Testimony - None

Motion

Approved as amended (Oi, Gon) unanimous.

ITEM D-3 Denial of Request for Issuance of a Month-to-Month Revocable Permit to Herbert Moniz for the Purpose of Maintaining Existing Noni Field and Harvesting Noni Fruits from Existing Noni Trees, Kaimu, Puna, Hawai‘i, Tax Map Key: (3) 1-2-006: Portion of 019.

Russell Tsuji and Candace Martin presented for Land Division. Staff is recommending that the Board deny Mr. Moniz’s request for a Revocable Permit and fine him for unauthorized grubbing and grading of State lands. Two other entities have requested to lease this property. However, Staff recommends transferring to the Department of Agriculture per Act 90. DOFAW has not expressed an interest in this property. Mr. Moniz is not present, despite being sent notice and e-mails.

Board Discussion

Member Yuen asked if it is standard to bring a request of denial to the Board, or is this before the Board because there is also a fine included. Tsuji clarified that Land Division brings items before the Board if the Applicant asks for a request to be heard before the Board. Member Yuen noted that denials do not normally come before the Board.

Member Gomes noted that Mr. Moniz has called him regarding this property. However, upon researching the issue, he supports the Staff submittal.

Public Testimony - None

Motion

Approved as submitted (Yuen, Gon) unanimous.

ITEM D-4 Consent to Sublease of Lands under Governor’s Executive Order No. 4224 to County of Hawai‘i for Elderly Housing and/or Low-Income Housing and Related Services Purposes, Waiakea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-4-001:185.

Tsuji and Martin presented for Land Division. This is a Senior and Low-income housing project.

Board Discussion - None

Public Testimony - None

Motion

Approved as submitted (Roehrig, Gomes) unanimous.

ITEM D-5 Issuance of Right-of-Entry Permit to United States Geological Survey, Hawaiian Volcano Observatory for Survey of Kapapala 1949 Benchmark on Lands Encumbered by General Lease No. S-6103 to Ernie M. Mattos for Pasture Purposes, Kapapala, Ka`ū, Hawai`i, Tax Map Key: (3) 9-8-001:002.

Tsuji presented for Land Division. This involves the United States Geological Service Hawaiian Volcano Observatory placing a temporary GPS monitoring station on the subject parcel for a year.

Board Discussion - None

Public Testimony - None

Motion

Approved as submitted (Oi, Gomes) unanimous.

ITEM D-7 Grant of Term, Non-Exclusive Easement to Seaview 2004, Inc. for Resolution of Encroaching Seawall Purposes, Spreckelsville, Wailuku, Maui, Tax Map Key: (2) 3-8-002: seaward of 001.

Tsuji presented for Land Division. This involves granting a non-exclusive easement to Seaview 2004 to resolve a seawall encroaching on State lands.

Board Discussion

Given the possibility that the shoreline in this area is receding, there was a discussion of where the shoreline may be, and other possible encroachment. For example, during high tides, the basement garage floods, and therefore the building may be encroaching on State land.

There was a discussion of the Diamond case and the Gold Coast decision, both of which affect the way the Department of Land and Natural Resources addresses seawalls and receding shorelines. The question came up as to whether or not the AG has to sign off if the State is accepting formerly

private land, including receding shorelines. Wynhoff, the Deputy Attorney General, noted that such a request had been submitted, but that the AG had not yet provided a response.

Tsuji noted that under Sotomura the charges are appropriate.

Deputy Attorney General opined that the charges are appropriate, in part because this is an issue of encroachment and not one of the State gaining land because of sea level rise. Tsuji clarified that Land Division is assisting the Department (OCCL) in the shoreline survey program. One of the rules is that encroachments have to be resolved before the permit can be issued. OCCL opines whether the structures stays or goes. If it can stay, then an easement is the way to address it. Landowners want the process to move forward, so they apply for the easement. Tsuji also noted that there are liability issues if these structures are ignored.

Public Testimony - None

Motion

Approved as submitted (Gomes, Gon) unanimous.

ITEM M-10 Consent to an Assignment of State Lease No. DOT-A-09-0001 from Smoky Mountain Helicopters, Inc. to Alexair, Inc. by Way of a Transfer of all of the Outstanding Capital Stock through a Stock Purchase Agreement, Port Allen Airport, Tax Map Key: (4) 1-8-08: Portion of 4.

Smith withdrew this Item from today's Agenda and will bring it back later.

The Board asked that the following be included when the next submittal comes in:

- Photos and maps of the area
- Results of discussions with the Salt Pan Users (Airports was asked to reach out to Salt Pan Users).
- Diagrams of flight plans that stay away from the salt-pans.

ITEM D-8 Issuance of a Right-of-Entry Permit to TEAM Unlimited, LLC for the 2017 Xterra Off-Road Triathlon World Championship, Kapalua, Lāhainā, Maui, Tax Map Key (2) 4-2-004: Seaward of 014, 015 and 016.

Tsuji presented on behalf of Land Division. He had nothing to add to the submittal.

Board Discussion - None

Public Testimony - None

Motion

Approved as submitted (Gon, Gomes) unanimous.

ITEM D-10 Rescind Prior Board Actions of February 27, 1970, Item F-8, *Grant of Perpetual Non-exclusive Easement for Pole and Electric Transmission Lines at Makiki, Honolulu, O'ahu.*

Tsuji, presenting for Land Division, had nothing to add to the submittal.

Board Discussion - None

Public Testimony - None

Motion

Approved as submitted (Oi, Gomes) unanimous.

ITEM D-12 Amend Prior Board Action of January 11, 2013, (Item D-12), *Consent to Assign Grant of Non-Exclusive Easement No. S-5338, Brian Grazer, Trustee of the Brian Grazer Trust of 1995, Assignor, to Thomas McCormick, Trustee of the McCormick US Properties Trust 2012, Assignee, Amend the Easement Conditions by Allowing the Easement to Run with the Abutting Property and Updating the Insurance Provision; Pūpūkea, Ko'olauloa, O'ahu, Tax Map Key; (1) 5-9-001:038 portion.*

Tsuji, presenting for Land Division, had nothing to add to the submittal.

Board Discussion - None

Public Testimony - None

Motion

Approved as submitted (Yuen, Gon) unanimous.

ITEM D-14 Amend Prior Board Action on September 25, 2015, Agenda Item D-16: *Issuance of Immediate Management Right-of-Entry Permit to City and County of Honolulu, for the Use by the Board of Water Supply for Due Diligence Purposes, Hono'uli'uli, 'Ewa, O'ahu, Tax Map Key: (1) 9-1-018: portion of 008.*

Tsuji, presenting for Land Division, had nothing to add to the submittal.

Board Discussion -None

Public Testimony – None

Motion

Approved as submitted (Gon, Gomes) unanimous.

ITEM D-15 Amend Prior Board Action of January 12, 2007, Agenda Item D-10; *Set Aside to the State Department of Transportation, Highways Division for Highway Right-of-Way and Highway Boundary Purposes, Cancellation of Revocable Permit Nos. S-7152, S-7329, and S-7402 and Re-issuance of new Revocable Permits Covering the Remaining Areas and Issuance of a Right-of-Entry for Construction and Construction Staging Area Purposes, Honouliuli, 'Ewa, East Kapolei, O'ahu, Tax Map Keys: (1)9-1-18: Portions of 3 and 5, and (1) 9-1-17: Portions of 86 and 88.*

Tsuji, presenting for Land Division noted that the Amendment is to remove all references to the cancellation of Revocable Permit No. 7402 and re-issuance of a new Revocable Permit with more updated information provided in the new request.

Board Discussion - None

Public Testimony – None

Motion

Approved as submitted (Yuen, Gon) unanimous.

ITEM J-1 Continuation of Revocable Permits to Anela Kai Catamarans, Inc., Island Beach Activities, Inc., Keпоikai, Ltd., King Parsons Enterprises, Ltd., Welakahao Catamaran, Inc., and Woodbridge Inc. to Embark and Disembark Passengers on Waikiki Beach, For the Purpose of Placing Permanent Anchors in the Beach in order to Secure the Vessel (See Exhibit A attached).

Ed Underwood, presenting for DOBOR, noted that this is an RP for Catamaran operators.

Board Discussion

Underwood noted that there are 6th Operators, rather than 7. Lost one. Member Downing thanked Meghan Statts for allowing one of the catamarans to use the 7th mooring during the king tides.

Public Testimony – None

Motion

Approved as submitted (Gomes, Downing) unanimous.

ITEM J-2 Amend Prior Board Action of May 26, 2017, Agenda Item J-2 for the Annual Renewal of Revocable Permit No. 8, to Hawai'i Petroleum, for various locations on the Island of Hawai'i. Tax Map Key: (3) 7-8-012:055, (3) 7-5-006:039 and (3) 6-1-003:023.

Dana Yoshimura presented for DOBOR.

Board Discussion

Boating is reviewing their RPs to decide which should be long-term dispositions rather than RPs. Their plan is to do one long term disposition on every island to develop a rapport with each County, and then work on priorities for each Island. They are working with the AG on a letter to the Counties stating the DLNR's position on long-term dispositions. Thus, even though this might be better suited as a long-term disposition, it is still an RP until DOBOR goes through its process. Yoshimura was not sure how long this has been under an RP.

There was a question as to whether the "\$.005" per gallon of fuel is a typo or the actual alternative rent sum (p, 2, Monthly Rental). Yoshimura was not sure but would check.

Public Testimony – None.

Motion

Yuen/Gomes. Unanimous

ITEM F-1 Request for Approval to Enter into a FY18 Special Funded Project Agreement (\$245,500) between the Board of Land and Natural Resources (BLNR) and The Research Corporation of the University of Hawai'i (RCUH) for a Division of Aquatic Resources Research Project Titled "Development of Fast-Growing Native Hawaiian Corals".

Brian Kanenaka presented for Division of Aquatic Resources.

Board Discussion

Member Gon noted that this is in response to coral beaching events. Kanenaka noted that the funding comes from DOBOR and the study is to respond to coral bleaching and breakage, rather than to study the effects of chemicals in run-off on corals. The goal is to figure out how to grow coral fast, so it can quickly replace dying coral. DAR has been doing this for about two (2) years.

DAR and Darlene will set up a board visit to the coral hatchery.

Public Testimony – None.

Motion

Approved as submitted (Gon/Oi) unanimous.

Motion to Adjourn

Oi/Gon. Unanimous.

There being no further business, Chair Case adjourned the meeting at 11:03 am. 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,



Darlene Ferreira
Land Board Secretary

Approved for submittal:



Suzanne D. Case
Chairperson
Department of Land and Natural Resources