

FEB 09 2018

MEETING MINUTES
FOR THE
BOARD OF LAND AND NATURAL RESOURCES

DATE: FRIDAY, AUGUST 25, 2017
TIME: 9:30 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAI'I 96813

Chair Case called the meeting to order at 9:31 a.m. She preceded to read the contested case advisory.

MEMBERS

Suzanne Case
Thomas Oi
Stanley Roehrig

Keone Downing
Chris Yuen
Sam Gon

STAFF

Russell Tsuji/LAND
Kevin Moore/LAND
Marvin Miyasaka/LAND
Mike Auerback-DOT-LAND

Alton Miyasaka/DAR
Richard Howard/LAND
Maria Carnavaele/DAR

OTHERS

Julie China/AG
Rory Reiley/D8
Li Cobian/D8
Richard Howard/K1, D7
Jim Saylor/J1
Astrid Anderson/J1
Troy Hanohano/D1

Ross Smith/DOT-Air
Alika Anixt/D8
Tom Pierce/D9
Stephanie Pascua/D3,4,6
Fred Styel/J1
Lillie Flynn/J1
Kamealoha Smith/D1

A. MINUTES

1. Request approval of Meeting Minutes from April 28, 2017

Approved as amended (Yuen, Roehrig) unanimous.

ITEM D-1 Issuance of Right-of-Entry Permit to Kaiaulu Papaloa onto State Lands to Conduct Studies and Surveys for an Environmental Assessment, Kapa‘a Homesteads, 1st & 3rd Series, Kawaihau, Kaua‘i, Tax Map Key: (4) 4-6-008:001 & 059, and 4-6-009:028 & 045.

Kevin Moore presented the staff submittal on behalf of the Land Division. Kamealoha Smith presented on behalf of the applicant. Noted that they do one publication a year, usually a moon calendar, or a book. It is done in both Hawaiian and English. He noted that their work with children and families has been wonderful.

Board Discussion

Gon asked if their program has been in existence for about 6-7 years. Smith said yes and gave some history of their program. He noted that they have a small community board and re-emphasized their program. Kaiaulupapaloa.com is their website. Smith gave a history of their name and noted that Papaloa is the reef that surrounds Kauai, so the name is specific to their island.

Public Testimony- None

Motion

Approve as submitted (Oi, Gon) unanimous.

ITEM D-3 Issuance of Right-of-Entry Permit to Hawai‘i Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on October 9, November 4, and December 31, 2017, Waikīkī, Honolulu, O‘ahu, Tax Map Key: (1) 2-3-037:021 Portion.

ITEM D-4 Issuance of Right-of-Entry Permit to Hawai‘i Explosives and Pyrotechnics, Inc. for Aerial Fireworks Display on December 31, 2017 at the beach fronting Kahala Hotel, Wai‘alae, Honolulu, O‘ahu, Tax Map Key: (1) 3-5-023: seaward of 041.

ITEM D-6 Issuance of Right-of-Entry Permits to Hawai‘i Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display on Encumbered State lands off Ko ‘Olina Beach on October 2, November 4, and December 31, 2017, Hono‘uli‘uli, ‘Ewa, O‘ahu, Tax Map Key: (1) 9-1-057: seaward of 006.

Kevin Moore presented the Item D-3, D-4 and D-6 staff submittals.

Board Discussion

Downing asked if the December 31st show was as big as the other shows? Pascual said it was the same size as the other shows.

Public Testimony- None

Motion

Approve as submitted (Oi, Gon) unanimous.

Ross Smith, presenting for Airports, provided a brief synopsis of each item.

ITEM M-1 Issuance of a Revocable Permit for Service Counters, Galaxy Tour Incorporated, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 195 Portion.

Board Discussion

Member Downing ask what kind of tour agency is Galaxy Tour? Smith said they handle logistics for overseas tours. Downing asked if they are the first to do this at the airport. Smith said that there are several different companies doing the same thing.

ITEM M-2 Issuance of a Revocable Permit for Aircraft Parking, North Shore Aviation L.L.C., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.

ITEM M-3 Issuance of a Revocable Permit for Aircraft Parking, Lani Lea Sky Tours LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.

ITEM M-4 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Raja Segaran and Anne P. Arulappen, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 22.

ITEM M-5 Issuance of a Revocable Permit for Aircraft Parking, Hawai'i Glider and Sailplane Academy, LLC, Kawaihapai Airfield, Waialua, Hawai'i, Tax Map Key: (1) 6-8-14:001 Portion.

Board Discussion

Member Gon asked if Kawaihapai Airport is the same as Dillingham Field? Smith said "yes" Airports had decided to use the Hawaiian name for the area. Gon expressed pleasure at the change and noted that Kawaihapai is one of the nine Ahupua'a of Waialua.

ITEM M-6 Issuance of a Revocable Permit for a Sail Plane Hangar for Storage and Maintenance of Aircraft, Hawai'i Glider and Sailplane Academy, LLC, Kawaihapai Airfield, Waialua, Hawai'i, Tax Map Key: (1) 6-8-014: 001 (Portion) and (1) 6-8-014: 018 Portion.

- ITEM M-7** Amendment No. 4 to Concession Agreement No. DOT-A-11-0005, for the Purpose of Additional Space for Storage Use, DFS Group L.P. Retail Concession, Kahului Airport, Tax Map Key: (2) 3-8-01-24.
- ITEM M-8** Issuance of a Revocable Permit for Office Spaces to Support its Aircraft Maintenance Operation, Main Terminal Building, Hawai'ian Airlines, Inc., Hilo International Airport, Tax Map Key: (3) 2-1-12:
- ITEM M-9** Issuance of a Revocable Permit for Ramp Space to Park Helicopters, Jack Harter Helicopters, Inc., Līhu'e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.

Public Testimony-None

Motion

Items M-1 through M- 9 approved as submitted (Gon/Downing) unanimous.

- ITEM D-9** Amend Prior Board of Land and Natural Resources action of May 8, 2015, under Agenda Item D-8: "Amend prior Board of Land and Natural Resources action of August 10, 1990, under agenda item F-7, as amended: *Direct Sale of a Perpetual, Non-Exclusive Easement for Repair and Maintenance of Existing Seawall Seaward of and Fronting Tax Map Key: (2) 3-9-11:7 and 8; Waiohuli- Keōkea Homesteads and Beach Lots; Waiohuli-Keōkea (Kīhei), Wailuku, Maui, Hawai'i.* The purpose of the amendment is to change the applicant requesting the easement as to Parcel 8 to the Association of Owners of 1688 Halama Street Condominium (Association), include an exemption notification under Hawai'i Revised Statutes Chapter 343, amend the term of the easement from perpetual to 65 years, include requirements that the Association obtain a concurrent resolution from the Legislature for the issuance of the easement and provide an updated survey map, and authorize the issuance of an immediate right of entry to the Association."

The purposes of this amendment are to 1) divide the approved easement area from one easement seaward of TMK (2) 3-9-011:008 into two separate easements seaward of TMK (2) 3-9-011:008 CPR 0001 and CPR 0002, respectively, 2) approve an additional term, non-exclusive easement seaward of TMK (2) 3-9-011:008 CPR 0002 for seawall and landscaping purposes, and 3) change the applicant requesting the easements for TMK (2) 3-9-011:008 CPR 0002 to Reconstruct Holdings USA, Inc.

Kevin Moore presented a synopsis of the submittal for the Land Division. Essentially, what was once private land is now State land due to rising sea levels, and this submittal is to issue three (3) easements to allow the use of State land. Staff recommendation is to do a total of (3) easements that would cover the entire area to the shoreline. Easement 3 covers the portion of landscaped land located mauka of the seawall, but makai of the certified shoreline. Moore noted that the landowner opposes Easement 3. The reason the State wants Easement 3 is because landscaping discourages the public from accessing that area, and for insurance purposes.

Board Discussion

The Board had a long discussion on this item because this is a recurrent situation as sea level rises due to climate change. Member Downing and Member Roehrig expressed concern that landowners were being charged for easements to improvements that were legal and on private land when built, but due to sea level rise they are now being charged for easements. Member Yuen noted this was originally an illegal seawall, although corrected in 1990, and that the state does not guarantee owners of beachfront property that their beachfront will not change, as beach areas change constantly. Staff and Chair Case noted the following:

- 1) The Attorney General (AG) has opined that current law requires the Land Board to charge for private easements across State land regardless of how the land came to the State.
- 2) DLNR had submitted legislation last year asking the legislature to amend the law so that DLNR would not have to charge for easements across land that reverted to the State through rising sea levels, but the proposed law did not pass. Moore noted that the bill was still alive for the 2018 legislative session. Case said the staff would again pursue passage of the bill. DLNR will provide all Board members with a copy of the legislation.

Board agreed that both easements for the seawall were appropriate. The question of whether or not there should be an easement for the yard area involved a discussion regarding improved vs. unimproved land.

Staff agreed that it was unlikely that they would require an easement on unimproved land if there were no seawall. Case noted that if there is encroaching vegetation, then OCCL normally asked for the encroachment to be removed. In the case of a yard, they might be asked to stop mowing or otherwise maintaining the yard. Yuen noted that we have done this before where the landowner did not challenge the requirement for an easement beyond the seawall.

Roehrig asked Sam Lemmo if his shore line erosion report will address some of these issues. Sam Lemmo, Office of Conservation and Coastal lands noted that the report will address lands that will be subject to sea level rise but it will not include recommendations on how to address loss of land by private land owners, or how the State deals with gaining land through rising sea levels.

Tom Pierce presented on behalf of the applicant. He had a presentation that was put on the screen. Noted that the CSF says that there is a perpetual seawall easement. However, the formal easement is missing from the documentation. It seems that the process was not finished in 1990. Pierce does not believe the seawall is illegal, but is only contesting Easement 3 for the yard area on behalf of his client. They are asking for time to let it go back to either sand or native plants. He also noted that there is lateral access across the top of the seawall, which is often used as a path by fishermen.

Gon noted that there is a requirement to obtain concurrence of the neighbors. Pierce said they are okay with that condition. Several Board members noted that this submittal is only for CPR 002, but that CPR 001 has the same issues. Moore noted that the owners if CPR 001 had been informed of this item on today's agenda.

Gon made a motion to amend Item 5, so that the applicant requirements listed in the submittal, excludes Easement 3. Easement area would end at concrete walkway.

Moore had noted earlier that the staff would have to make some amendments to the submittal to correct the language. Easement 3 is not fill land as stated in the submittal.

Yuen wanted to note that this action does not surrender any claim that the State may have to lands within the certified shoreline mauka of the wall.

Amendments:

Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of an additional term, non-exclusive easement to Reconstruct Holdings USA, Inc. covering the subject area for seawall under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:

Include a new Applicant Requirement No. 4 to read: "Obtain the written concurrence of the Association of Owners of 1688 Halama Street Condominium, to the grant of easement."

Recommendation No. 5, to exclude Easement 3 from the grant. Easement 3 covers the area between the certified shoreline and the mauka edge of the walkway.

Follow-up:

- 1) Provide copies of legislation to all Board members.***
- 2) Provide status of legislation during 2018 session.***

Approve submittal as amended (Gon, Roehrig) unanimous.

Chair notified the public of the changes in timing. Will not do J-1 before 1:00 p.m.

ITEM E-1 Establish a Volunteer Agreement with Hika'alani at Ulupō Heiau State Historical Park, Kūkanono, Kailua, Ko'olaupoko, O'ahu, TMK: (1) 4-2-103:018 and 4-2-103:038 Portion.

Curt Cottrell presented the staff report for State Parks. He noted that this is an excellent partnership. The Division benefits by having community caretakers work with them to maintain their properties. Kumu Hula Mapuana DeSilva presented the history of herself and her hālau's relationship with Ulupō heiau. When the hālau became too busy to do regular clean-ups and to handle all of the volunteer logistics, they handed the clean-up duties to the Ko'olaupoko Hawaiian civic club. In the meantime, Hika'alani, their non-profit has become very involved, and has been able to hire a Paku'I Hou (caretaker) for the area. They are honored and privileged to care for these lands. She introduced Piilani Alston is the President of Hika'alani. They have met their mission to involve the entire community of Kailua, and they have also been able to involve much of O'ahu in their projects.

Board Discussion

Gon expressed support for this project. He is always happy when the community of a place takes care of that place. Case also expressed support for this project.

Public Testimony-None

Motion

Approved as submitted (Gon, Downing) unanimous.

ITEM K-1 Conservation District Use Application (CDUA) OA-3799 Regarding the Hawaiki Submarine Cable Kapolei Landing Project by the Hawaiki Submarine Cable USA, LLC, Located in the Ewa District, Island of O’ahu, on Submerged Lands of the State, seaward (makai) if Tax Map Key: (1) 9-2-049:0011.

Sam Lemmo presented the staff report. The project calls for 9,313 miles fiber-optic cable starting in Pacific City Oregon and ending at Coogee, Australia with branches in various Pacific Islands, including a connection at Kapolei, Oahu. The conservation district area for this project is seaward of the shoreline. Noted that the land side issues are under county jurisdiction. Noted that the report discusses what will happen in the conservation district, concerns, and mitigation. Noted that the Chair, rather than the Board (as stated in the submittal) was given the authority to accept the Environmental Assessment. The Easements for this project will be discussed in a separate submittal (*Item D-7 on the agenda*).

Board Discussion

The Board expressed concern over two key issues:

- 1) What is the track record for this type of project? They specifically asked about a similar project in Makaha.
- 2) Ensuring that the state is charging fairly for the easement (see discussion, D-7).

Public Testimony

Steve Brock and Tiffany Agostini presented for the applicant. Brock discussed the differences in the Makaha project vs. this one. There were no incidences on the project that he is aware of. Other projects on the Big Island had only minor incidences (unable to daylight at the exact point they estimated). Noted that they were using ten inch bores for the directional drilling.

Gon asked if they are familiar with staff recommendations and okay with them. Noted that the recommendations have all been incorporated into the work plan

Motion

Approved as submitted (Gon, Roehrig) unanimous.

ITEM D-7 Grant of Perpetual, Non-Exclusive Easement to Hawaiki Submarine Cable USA, LLC for Submarine Communication Cable Purposes on State Submerged Lands; Issuance of Immediate Construction Right-of-Entry Permit; off Kapolei, ‘Ewa, O’ahu, Tax Map Key: (1) 9-2-049: seaward of 001.

Kevin Moore presented for the staff. This submittal is for an easement for the cable just discussed in *Item K-1*. Moore noted that an amendment needs to be made, because the area shown is just for the daylight area, so the easement needs to be adjusted to cover the entire area. Should be closer to 90,000 square feet. Area not clearly known. Applicant will pay fair market value by appraisal.

Board Discussion

Member Roehrig expressed concern that the State was not getting fair value for the easement if land division only charges once for a perpetual easement. He suggested that it be a term easement to allow Land Division to adjust the cost based on the value of the land, with the assumption that the value will increase. Staff pointed out that the cable is being treated as a utility, and that other public utilities are given perpetual easements. Staff also pointed out the Makaha cable has a perpetual easement.

Public Testimony

Richard Howarth from Hawaiki submarine cable noted that operators, such as AT&T or Hawaiian Tel can and will take an interest in the cable and they are public utilities. The cable will operate as a utility once FCC approval is received. This submarine cable will be the same as any other cable operating in Hawaii, except that it will privately owned.

Roehrig asked if PUC will set rates? No, but the people who buy the capacity are regulated. This cable will increase cable capacity on the island which will ultimately lower rates. Furthermore, since this is an international cable, it will provide international access. Staff and applicant noted that the easement is only for the submerged portion of the cable's approach to O'ahu (limits of the territorial sea to the shoreline). They also noted that this is land for which there are few other uses. Staff also noted that re-opening this type of perpetual easement often costs more than any increase in the price of the easement.

Amendment:

Correct the estimated easement area. The easement corridor will extend from the shoreline to the limits of State territorial waters, and will be much larger than the 14,968-square foot area stated in the submittal. Applicant will be required to pay fair market value for the total easement area within State submerged lands as determined by independent appraisal based on the final as-built survey of the cable easement.

Motion

Approved as amended (Oi, Gon) unanimous. Roehrig voted aye with reservations.

12:45 pm: Lunch Break and Contested case. Will not take up next item before 1:00 pm

1:45 pm: Reconvene

ITEM D-10 Grant of Term, Non-Exclusive Easement to Kahanu Family Limited Partnership for Seawall Purposes, Kū'au, Hāmākuapoko, Maui, Tax Map Key: (2) 2-6-010: Seaward of 017.

Kevin Moore presented the staff submittal

Board Discussion-None

Public Testimony-None

Motion

Approved as submitted (Yuen, Roehrig) unanimous.

ITEM J-1. Issuance of Revocable Permit, to Nāwiliwili Yacht Club, Nāwiliwili Small Boat Harbor, Nāwiliwili, Island of Kaua'i, Hawai'i. Tax Map Key: (4) 3-2-03:043 Portion.

And

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

Ed Underwood presented on behalf of DOBOR and went over the history of this revocable permit. At issue is whether a lease can be given for this property under direct negotiation and without a public auction under 171-43.1. The division is working with the Attorney General (AG) and needs additional time. The submittal asks to give Nāwiliwili Yacht Club a revocable permit until they can address the long-term lease issue.

Board Discussion

Oi noted that the characteristic of the permit is for small boat harbor purposes. Does this allow the club to be able to open a restaurant as a 501 (c) (3)? Underwood said he believes a restaurant meets the purposes of general boating. Case clarified that the board could limit the purposes of the harbor.

Case noted that she has questions of the applicant regarding their activities under their 501 (c) (3) vs. their activities under their 501 (c) (4). She also asked the term of the RP. Underwood said the RP is up to 1 year. The rental terms have increased to \$1799/month or 5% of gross receipts. The Board approved this lease going out to public auction on June 9.

Public Testimony

Fred Styer with Nawiliwili Yacht Club (NYC) and Gayle Shore, with Kauai Sailing Association(KSA), for the applicant. There are 140 members of the Yacht Club, which mainly holds Thursday night races, and supports the efforts of KSA. Yacht Club time/effort and space divides up to be about 90% KSA and 10% NYC. KSA grew out of a lease requirement that NYC have an accredited junior sailing program. NYC is a 501(c)(4), and therefore not eligible, under 171-73.1 to a lease by direct negotiation. Once people take a class with KSA then they can become members of the Yacht Club and use the Yacht Clubs boats KSA is an accredited youth sailing program within the yacht club and is a 501(c)(3). The NYC gives KSA a place to provide their services, including storing their boats. Nawiliwili Harbor is an ideal place to sail the break water protects them from waves. Gayle shore spoke about 4 KSA programs:

- STEM—Partner with US Sailing to develop the program. Has reached 238 kids. 60% are on scholarships provided by KSA.

- Malama Huleia—mangrove eradication. Working with National Geographic. This may become a 3-year program.
- Polynesian Voyaging Society (PVS)—teaching people how to sail Na Mahoe, Kaua'i's double hulled canoe, as well as working with PVS when other canoe come to Kauai.
- Leadership Program—work with Leadership Kauai to train kids in presentation skills and creating a safe environment.

The Board re-iterated that they were still concerned about the close relationship between KSA as the 501 (c) (3) and NYC as the 501 (c) (4). Other Yacht clubs do not get a lease by direct negotiation, and so NYC is also not eligible. The Board is concerned that because of the close relationship of the two organization clouds the lease relationship with DOBOR. The public benefit must be foremost for a lease under HRS 171-43.1.

Applicant asked about the DOBOR condition in the lease that KSA is not be allowed to use the property.

Case noted that the Noard understands that KSA will be using the facility. Case asked if the lease is restricted to sailing uses, then theoretically the value would be less? Old rent is \$1107.

Written Testimony submitted in Support; Nā Kālai Wa'a o Kaua'i, Nawiliwili Yacht Club & Kaua'i Sailing Association, Fred W. Styler, Mel Rapozo, Joann Yukimura, Kevin Arndt, Elisabeth Biuk-Aghai, Janice Portillo, J.T. Schoonover, Kahanu Keawe, Kathleen Ho, Risa Whetsel, Kristiina Chapman, Maria Briones, Tim Flynn, Melissa Burovac, Stephen Taylor, Shaun Lehman, Snow Carapetyan, Zac Young, Andrea Erichsen.

Amendment:

Rent at \$1107 and restricting use of facility to sailing purposes, no commercial activities.

Motion

Approved as amended (Oi/Gon) unanimous.

ITEM D-8 Annual Renewal of Revocable Permits on the Island of O'ahu. See Exhibit 2 for list of Revocable Permits.

Kevin Moore and Barry Cheung presented for the Land Division. Moore noted that there are some amendments:

- On page 2, Under "Remarks," 2nd paragraph-Change appraisal date, implement rents to January 1, 2018.
- Re: Larry Jefts (RP 7402)—the Board previously authorized withdrawal of some parcels. Barry will process a permit for a smaller area.

Oahu and Hawaii appraisals will be done first. If an appraisal are not done for specific properties, Land Division will do a 1.5% increase across the board and adjust when appraisals come in. The 1.5% increase was arrived at through a cost of living analysis.

- RP3954 to American Legion
- RP7849 to Resort Trust

Both are for recreational use.

Board Discussion

Chair Case asked how was the square foot price arrived at? Cheung noted that the annual rent for each is noted, not the monthly rent. He explained how they go to the rent. Case also noted that the 1.5% was to get to market value, but not full market value. "Recreational use" is a catch all category for the database, and includes recreation and other activities. Downing expressed concern that Resort Trust will be using a State easement for commercial purposes. Cheung will look at this issue going forward.

Roehrig asked about RP7 570. There is a lawsuit in a Federal and State courts. David Day, Deputy Attorney General, came up and gave a review of the two lawsuits. Only one is still active. Day noted that the lawsuit has nothing to do with the current RP and the current RP holder has nothing to do with the lawsuit.

Page 22-23, TMK 9-4-40-49:062. This is a building in Waipahu, acquired through a land exchange with Hawaii Baptist Academy. Traded the HBA Middle School campus for this property. Richard Howard from the Land Division said that most of the tenants are sole proprietors, although there is one corporation.

Tenants use the building for various uses (painting, storage, auto body work). Building was acquired around March 2014. Permittees were already there. Considering doing a Master Lease for this property. A long-term lease would require going out to public auction. At least two of the tenants have expressed interest in bidding on a Master Lease.

Board expressed concern that RP's make it difficult for businesses to get loans. They would like Land Division to look at longer term dispositions to help small businesses.

Public Testimony

Rory S. Reiley Hawaii Motorsports Association (RP 7570 also submitted written testimony). Kahuku Motorcycle track. Testified as to the use and benefits to the Kahuku Motorcycle Track, which is run by his organization. 1,500 Motorcycle riders use the track. Many of these are Hawaii kids, several of whom compete on the mainland. Noted that HMA opens the park to the public on the weekends so that they have access to the interior recreational areas and they have done this for 30 years.

Marigold Zoll, Oahu Branch Manager, Forestry Division, provided an overview of the RP review process. Generally, in support of HMA. Over the next year they will address some compliance issues, prepare an Environmental Review, and add fencing and wash down areas. Forestry will work with Land Division to issue a lease for 10 years. Time of lease is in response to the Army's request to run the lease on the same time as their lease. Mentioned that HMA is a 501 (c)(3) so may be eligible for a direct lease. Currently they are looking at a competitive lease.

Case noted that there is testimony in opposition to this RP and asked the applicant to address the allegations. Applicant said that they do not support drug use or violence. To ensure good behavior there are Marshalls that ride around the course and have the authority to expel people from the park. If there is a fight they call HPD who can usually arrive within ten minutes. Reiterated that they do not support the current lawsuit.

Zoll noted that they are trying to facilitate better communication between DOCARE and HMA, because DOCARE is the appropriate law enforcement authority if there is a resource violation. Zoll has talked to DOCARE officers to clarify who is the entity responsible for resource violations. If there is a civil dispute, then HPD should be called.

Alika Anixt. Independent user of the park. Believes HMA is one of the best organized rider parks. Marshalls make sure everyone is back safely. Testified in support of current management.

Amendment:

Delete Revocable Permit No. S-7402 to Larry Jeffs from the list of permits to be renewed.

Motion

Approved as amended (Roehrig, Gon) unanimous.

ITEM D-5 Grant of Term, Non-Exclusive Easement to University of Hawai'i for Pier Purposes, Kane'ohē, Ko'olaupoko, O'ahu, Tax Map Key (1) 4-6-001: seaward of 015.

Amend Prior Board Actions of July 30, 2004, Item D-28, as amended by Action of February 25, 2005, Item D-4, Set Aside to University of Hawai'i for Pier Purposes, Kane'ohē, Ko'olaupoko, O'ahu TMK (1) 4-6-001:015 seaward. The amendment is to remove all reference to either set aside or direct lease.

Kevin Moore and Barry Cheung presented the staff submittal for Land Division.

Board Discussion

Roehrig expressed concern that staff was not doing a lease cancellation notice. Cheung noted that they have worked closely with UH Administration and UH fully understands what Land Division is trying to accomplish. Roehrig wants UH Admin to cancel the lease, rather than just removing the language. He advised staff that some form of document should be signed by the University of Hawaii acknowledging the rescission of the Board's prior approval regarding the issuance of a lease for the pier.

Public Testimony

Approved as submitted (Roehrig, Gon).

ITEM D-2 Amend Prior Board Action of February 24, 2017, item D-5, *Consent to Sublease General Lease No. S-3961, Hilo Hawai'ian Associates, Inc., dba Hilo Hawaiian Hotel, as*

Sublessor; to Banyan Mini Mart LLC, Banyan Gallery, KHNL/KGMB, LLC, as Sublessees, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-1-003:005.

The purpose of this amendments is to: 1) reflect the correct the name of Sublessee “Banyan Mini Mart LLC” as “Sang Keun Yoon, dba Banyan Mini Mart LLC”; 2) reflect the correct sublease term for Sang Keun Yoon, dba Banyan Mini Mart LLC as July 1, 2015 to June 30, 2020; 3) reflect the correct sublease rent for Sublessee Sang Keun Yoon, dba Banyan Mini Mart LLC as \$1,543.50/month; 4) reflect the correct name of Sublessee “Banyan Gallery” as “Jelena K. Clay, dba Banyan Gallery”; 5) authorize the sublease to KHNL/KGMB, LLC for television broadcasting station purposes with a portion of the rooftop used for the maintenance of a transmitting tower, and 6) accept the signature of Rick Blangiardi on the sublease document as an authorized signatory for Sublessee KHNL/KGMB, LLC.

Kevin Moore presented the staff submittal for Land Division.

Board Discussion

Yuen asked if the State is getting 2% of gross sales from the mini-mart? He asked staff to follow up on the percentage rent issue to ensure that the sublease rents are reported in Hilo Hawaiian Associates, Inc.’s statements of gross receipts and that the State is paid 2% of such sublease rents as required under the lease. Moore said he will follow up.

Public Testimony-None

Motion

Approved as submitted (Roehrig, Gon) unanimous.

ITEM L-1 Appointment of Joseph A. Para III to Serve as a Director of the West Oahu Soil and Water Conservation District

Carty Chang, Administrator presented for Engineering Division.

Board Discussion- None

Public Testimony- None

Motion

Approved as submitted (Downing, Gon) unanimous.

Motion to adjourn (Gon, Yuen) unanimous.

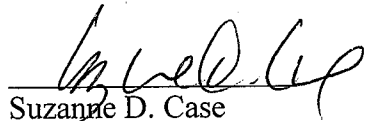
There being no further business, Chairperson Suzanne Case adjourned the meeting at 3:30 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and available for review. Certain Items on the agenda were taken out of sequence to accommodate 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