

**APPROVED BY THE BOARD**  
**AT ITS MEETING HELD ON**  
**AUGUST 10, 2018** *dm*

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

DATE: FRIDAY, MAY 11, 2018  
TIME: 9:30 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAI'I 96813

**MEMBERS**

Suzanne Case  
Jimmy Gomes  
Stanley Roehrig

Sam Gon  
Keone Downing  
Christopher Yuen

**STAFF**

Russell Tsuji/Land  
Ed Underwood/DOBOR  
Irene Sprecher/DOFAW

Dave Smith/DOFAW  
Curt Cottrell/PARKS  
Alyson Yim/ENG

**OTHERS**

Julie China/AG  
Ethen Tomokiyo/DOTA  
Stephanie Pascual/D7  
Kaala Buenconsejo/D4  
Avery Matro/C1  
Christina Ohira/C1

Abby Lareau/DOTA  
Duane Kurisu/D5  
David Giff/J2

Chair Case called the meeting to order at 9:33 am.

Member Gon read the contested case standard advisory statement.

**Chair Case announced that ITEMS D-8 and D-9 are being withdrawn from today's agenda.**

**ITEM J-2** Request for Reduced Rent for Revocable Permit No. 29 to Island of Hawaii YMCA; South Kawaihae Small Boat Harbor, Island of Hawai'i, Hawai'i; Tax Map Key: (3) 6-1-003:022 (por.).

Ed Underwood, Division of Boating and Ocean Recreation, presented the submittal for a reduction of rent, per the criteria established.

Board Discussion- None

Public Testimony

*David Giff*, volunteer for the aquatics program for the YMCA. We are a growing program and our goal is to work with the children of the Big Island through sailing and development of their responsibilities and wellbeing.

Motion

**Approved as submitted (Roehrig, Gomes) unanimous.**

**ITEM D-4** Set Aside to County of Maui for Public Park and Ancillary Purposes, Waikapū, Wailuku, Maui, Tax Map Key: (2) 3-8-007:104.

Russell Tsuji, Land Division, gave the history of the project to approve the set aside.

Board Discussion

Gomes commented that he thought this was a good project and has visited the site with Land Division and Engineering and believes the County will do a good job managing it.

Public Testimony

*Kaala Buenconsejo*, Director of Maui Parks & Recreation. Thanked the Board for their consideration. It is a very welcomed gift from the State. This similar to the Patsy Mink Regional Park on a smaller scale.

Member Gomes said he would like to see down the road some way to work with the State and A&B to have another entrance to park from Kualani. Maybe with A&B developing in that area we can somehow tie that in.

MOTION

**Approved as submitted (Gomes, Roehrig) unanimous.**

**ITEM D-5** Issuance of Term, Non-Exclusive Easement to Blow Up, LLC for AM Radio Transmission Tower Purposes and Construction Right-of-Entry Permit; Moanalua, Honolulu, O'ahu, Tax Map Key: (1) 1-1-003: Portions of 003, 207, 211 and 212.

Russell Tsuji, Land Division, this is a request to relocate a radio transmission tower on the eastern portion of Kahauiki Village due to the Honolulu Rail Transit Project in the vicinity.

Board Discussion

Downing asked the land that was given to the non-profit include the easement? Tsuji said yes, the Executive Order up till the time they no longer need it and they return it to the State.

Public Testimony

*Duane Kurisu*, stated this radio tower is in the way of HART, so the radio tower is forced to move. The radio tower came before the homeless village. When we looked at the property we came up with the idea of building it homeless village outside the radius of the tower is going to be.

Yuen congratulated and thanked Kurisu for getting an affordable project done on State land in record time. Kurisu provided information on how the program works and what services were provided.

**MOTION**

**Approved as submitted (Yuen, Gomes) unanimous.**

**ITEM D-7** Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach Every Friday From June 15, 2018 to June 14, 2019, Waikiki, Honolulu, O'ahu, Tax Map Key: (1) 2-3-037:021 (Por).

Russell Tsuji, Land Division, this is an annual renewal for Friday night fireworks. Stephanie Pascual represented the applicant.

Board Discussion

Yuen noted that he disagreed with this, he wanted a lower rent and still does but does not want to debate it.

Public Testimony-None

**MOTION**

**Approved as submitted (Downing, Gomes) unanimous.**

**ITEM M-1** Issuance of a Revocable Permit for Passenger Check-in, All Nippon Airways Co., Ltd., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 043 (Portion).

Abby Lareau, DOT Airports, present to answer any questions.

Board Discussion-None

Public Testimony-None

**MOTION**

**Approved as submitted (Gon, Gomes) unanimous.**

**ITEM M-2** Issuance of a Revocable Permit for Passenger Check-in, MN Airlines, LLC dba Sun Country Airlines, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 053 (Portion)

Abby Lareau, DOT Airports, present to answer any questions.

Board Discussion-None

Public Testimony-None

**MOTION**

**Approved as submitted (Gon, Gomes) unanimous.**

**ITEM M-3** Issuance of a Revocable Permit for Aircraft Parking, Jahn Mueller, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.

Abby Lareau, DOT Airports, present to answer any questions.

Board Discussion- None

Public Testimony

*Dave Smith*, Division of Forestry and Wildlife. For the Board's information, we have had an issue with Jahn Mueller. An aircraft he rented crashed in the Honouliuli Forest Reserve and have been trying to get him to remove it. He has not complied. We have been in contact with him and said he is not responsible to remove it because he did not put it there. Unfortunately,

the people who did, perished in the accident. As the Owner, we feel he is responsible to remove it.

Roehrig asked if the applicant was present. Lareau said no. We would like to get his cooperation. He made the suggestion to defer.

Case asked Lareau if he is using this tie-down and he revocable permit is expiring or if it was going to be a new one? Lareau said it would be a new one. Downing asked when does the date start? Lareau replied, upon approval.

Downing said the reason he is asking is that the submittal says to be determined by the Director of Transportation at a later date. Lareau said that Mr. Mueller is currently a tenant at the airport. He already has a T-Hanger and is asking for additional space.

Roehrig made a motion to defer until Mr. Mueller comes back to the Board and work with us to remove the aircraft from the forest.

Downing commented that this is a secondary piece, he already has one, if we deny him, he can always come back after he talks to Staff. It can be issued again, it is not like he has it now.

Roehrig asked that we revoke both permits if he does not work with us. Downing would like to let him continue his R.P. as that is income coming in. Roehrig withdrew his motion to defer.

Case said we confirm these initially and upon consultation with the AG's office, DOT handles renewal.

**MOTION**

**Denied (Roehrig, Downing) unanimous.**

**ITEM M-4** Issuance of a Revocable Permit for Aircraft Parking, 3 MIN LLC, Kalaeloa Airport, Tax Map Key: (1) 9-1-13: Portion of 32.

Board Discussion-None

Public Testimony-None

**MOTION**

**Approved as submitted (Gon, Gomes) unanimous.**

**ITEM M-6** Issuance of a Direct Lease for the Development, Construction, Maintenance, and Operation of a Fixed-Based Facility that Repairs General Aviation Aircraft, Island Autoworks, Ltd., 'Upolu Airport, Tax Map Key: (3) 5-5-06: Portion of 31.

Ethan Tomokiyo, DOT Airports present the submittal.

Board Discussion

Case questioned the direct lease to someone who is going to start an airplane repair business at a facility that does not get much aircraft, it seems like a back-door way of starting development in a very rural place that is and this is a really rural airfield with no improvements on it. Maybe you should keep your development at the airports. Why is this not put up for auction?

Tomokiyo said to be consistent we have been offering direct leases when the need is for a fixed based facility. It satisfies a need. It is based on FAA's Grant assurance rule. He explained how the FBO request process, and following the Grant assurance.

Case said aircraft do not usually land there. They are usually serviced at the airport. Tomokiyo said they can fly to Kona and vice versa.

Bob Masuda, noted that Upolu Field is a completely paved airfield, it is next to the former Navy Communication area, which is no longer needed because we have satellite. It is set-up, while it is not manned anyone coming in can buzz the little station there as an emergency landing. It is an important emergency airfield. If anyone wants to improve the North Kohala area, it would be more actively used.

Case disagreed with that kind of direction, she felt that there is so much development, to encourage development by giving someone a plane repair business at a very used runway, that does not have any other facilities around, let's keep it as an emergency air field rather than develop it into a new air field.

The Board Members engaged in further discussion regarding direct lease, going out to auction, promoting competition and it was suggested that DOT engage the community and get input on how they feel about this.

**ADDRESS CONCERNS:**

- 1. What is the business plan?**
- 2. Address the disposal of toxic waste (in the ground and in the air)**
- 3. Will this be just for airplanes flying in and out of Kona Airport, Kohala Airport, Medivac, what will be the anticipated increase in air traffic.**

4. **Provide public input, it was suggested that they could contact North Kohala Community Development Plan Steering Committee which looks at land use and development in Kohala, they can be contacted through the County Planning Department. This would be a good venue to get community input.**
5. **Look at the Attorney General's opinion and suggested to send it to the Board for review. If the you have a lawyer, if he has formed an opinion and how it fits in. What are our obligations under these circumstances. We do not want to violate an Attorney General's opinion.**

Yuen asked if Roehrig was opposed to getting input from the Kohala Community Development for public input? No, as long as they know they are not making a decision.

Gon asked Chair to provide guidance to Tomokiyo. Case asked Masuda to assist.

**MOTION**

**Defer (Roehrig/Gon) unanimous.**

**ITEM M-5** Issuance of a Revocable Permit for Space for Spaces in the Main Terminal for Airline Operations, Southwest Airlines Co., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.

Abby Lareau, DOT Airports, present to answer any questions.

Board Discussion-None

Public Testimony-None

**MOTION**

**Approved as submitted (Gon, Gomes) unanimous.**

**ITEM M-7** Issuance of an Industrial Land Lease by Notice of Public Auction (Space No. 001-117), Lānaʻi Airport, Tax Map Key: (2) 4-9-01: Portion of 55.

Ethan Tomokiyo, DOT Airports, present to answer any questions.

Board Discussion-None

Public Testimony-None

**MOTION**

**Approved as submitted (Gon, Gomes) unanimous.**

*10:32 a.m. Break*

*10:50 a.m. Back in Session*

**ITEM C-1** Request Approval of an Estoppel Certificate for Kealakekua Heritage Ranch Conservation Easement South Kona District, Island of Hawai'i. Tax Map Key No.: (3) 8-2-012:001 (Por).

Dave Smith, Division of Forestry and Wildlife (DOFAW). Kealakekua Heritage Ranch, are looking at selling the ranch.

**Board Discussion**

Yuen, asked if they were in compliance with the Master Plan and how much the Department did to verify that. What measurable results have been achieved currently between 2013 amendment plan and 2018.

Irene Sprecher, DOFAW, for the Conservation Easement (CE) we monitor it annually, we did one in June 2017. We have been going out quarterly to check on the management and what they have been able to accomplish under their management plan which is associated with the CE. Based on what we have observed they have been no violations of the CE. They are living within the terms of the CE. For the management plan, it is a guiding document, if they want to take action on the land they need to follow the plan, it does not necessarily mean they have to take action. They have done some conservation fencing priorities that is in the plan. They are not exactly on line with the "By Date" accomplishments, which has been expressed to the new buyer.

Yuen wanted to clarification on the management plan, not having enforceable benchmarks. Sprecher explained that the CE is the legal requirement and restrictions on the land. The Management Plan guides any actions they would do under the CE, but does not necessarily require action. Yuen asked does that mean that there is no mandate for reforestation? Yuen said the Management Plan mentions reforestation of large tracts of native forest.

Sprecher said they have been working on (3) management areas. Yuen asked how the regeneration going? Sprecher, they have had their challenges and we are working with them.

The potential buyer has reached out and wants to talk through the Management Plan and some of their objectives for the property. They are in line with forest restoration and management of that area.



Public Testimony

*Avery Matro*, Kealakekua Heritage Ranch representative. Yuen asked if the zoning has changed? She was not sure.

*Christina Ohira*, Kealakekua Mountain Reserve representative. Gon asked if there was background information on the general goals of the buyer? Ohira, said the buyer is committed to follow the forest management plan. They already have had discussions with DOFAW. We have no plans to develop the property and just continue to reforest, finalize reports the seller is in the process of completing.

Gon asked what is the anticipated benefit to the Buyer? Ohira replied, they are interested in the Sandalwood on the property. They have identified a number of damaged trees that meet the 80% requirement to be harvested.

Ohira, said that they will be getting seedlings through Paniolo Tonewood in exchange for access over the property. We can get up to \$14,000.00 a year.

Gomes asked how many archeological sites have you identified on the parcels? Sprecher replied that they have to check the forest management plan.

Ohira commented as part of their due diligence, they reviewed SHPD's reports and found no significant historical sites.

Gomes asked how will they manage erosion control once they start harvesting are there any natural gullies, or water features that will be disturbed? Ohira said the are not a lot of well-defined streams on the property. The Management Plan for harvesting Sandalwood, the root ball of the tree is removed as part of the harvesting to encourage regeneration from the remaining roots in the ground. There is little soil disturbance and they do a good job of filling up the hole.

**MOTION**

**Approved as submitted (Yuen, Roehrig) unanimous.**

**ITEM E-1** Request for a Right of Entry to the Korean War Veterans Group, Big Island Chapter, for the Construction of a Korean War Memorial on Pi'opi'o Street in Hilo, Hawai'i, Near the Vietnam Memorial Which Currently Exists Within the Wailoa River State Recreation Area in Hilo, Hawai'i, Tax Map Key: (3) 2-2-13: portion of 003.

Curt Cottrell, State Parks. He would like to make an amendment on page 3, to strike the sentence "*Staff is also recommending that future requests similar to this submittal be allowed with Chairperson's approval*". Pursuant to our Administrative Rules 13-146.

Board Discussion

Roehrig asked what part of the park is the County responsible for? Cottrell said he was not sure. Roehrig noted that the Vietnam Memorial is taken care of by the Veteran's.

Public Testimony-None

**MOTION**

**Approved as submitted (Roehrig, Gon) unanimous.**

**ITEM L-1** Appointment of Leonard Vierra and Eric Hansen to Serve as Directors of the East Kauai Soil and Water Conservation District.

Alyson Yim, Engineering presented the submittal and had nothing to add.

Board Discussion-None

Public Testimony-None

**MOTION**

**Approved as submitted (Gon, Gomes) unanimous.**

**Item D-2** Sale of Lease at Public Auction for Industrial Purposes, Waiākea, South Hilo, Hawai'i, Tax Map Key: (3) 2-2-032:085 and 086.

Russell Tsuji, Land Division, amended page 4 of the submittal correcting the lease term to thirty (30) years from sixty-five (65) years. This is a unique situation, initially it was one lease. The warehouse straddles (2) parcels with a dividing wall on the boundary line. The history of this lot is that the tenant was able to have this subdivided and it may have had (2) business.

Board Discussion

Yuen said this is problematic because of the 2 parcels. There was discussion on how best to lease the land. Roehrig mentioned that he was concerned that the County noted that Parcel 085 is currently not connected to the sewer system, and a sewer lateral is not currently provided to the parcel and could be in violation of USEPA Large Capacity Cesspool closure requirements.

Tsuji said, we would disclose this information and it would be a requirement that they would have to make the improvement to comply with the law.

Public Testimony-None

**Amendments:**

1. **Amended page 4 of the submittal correcting the lease term to thirty (30) years from sixty-five (65) years**
2. **Amend the staff recommendation section by authorizing staff to exercise its discretion to determining whether to conduct one (1) auction and issue one (1) lease for both parcels 085 and 086 together, or to conduct two (2) auctions and issue (2) leases for parcels 085 and 086.**

**MOTION**

Approved as amended (Yuen, Gomes) unanimous.

**Item D-3** Grant of Term, Non-Exclusive Easement to HIJLTT LLC and TG Super 16088755 LLC for Seawall Encroachment Purposes, Puapua'a 1<sup>st</sup>, North Kona, Hawai'i, Tax Map Key: (3) 7-5-020:047.

Russell Tsuji, Land Division, OCCL stated that neither beach resources nor public access is negatively impacted by the wall and is not subject to a CDUA.

Board Discussion-None

Public Testimony- None

**MOTION**

Approved as submitted (Gomes, Gon) unanimous.

**ITEM D-6** Issuance of Revocable Permit to Kirby Offshore Marine Hawaii, LLC for Docking Purposes, Sand Island, Honolulu, Oahu, identified by Tax Map Key:(1) 1-5-041: seaward of 333.

Russell Tsuji, Land Division. This entity is an oil response emergency company.

Board Discussion

Downing asked if it interferes with Anuenue Fishery? Tsuji said, no. The blue outline in Exhibit A1 is an existing area GL for the land and submerged land that has been there for a while. They are going to into a cost sharing.

Case asked Tsuji to inform DAR of the current Tyco lease and the RP to Kirby.

**Public Testimony - None**

**MOTION**

**Approved as submitted (Roehrig, Gon) unanimous.**

**ITEM D-1** Amend Prior Board Action of July 28, 2017, Item D-10, *Consent to Assignment of Fifty Percent (50%) Interest in Ficker & Hunt, a Hawaii Partnership, also known as Ficker & Hunt Partnership, Lessee under General Lease No. S-4649, from Albert Ficker, Assignor, to Chester Hunt, Assignee; Acknowledgment that Lessee under General Lease No. S-4649 Will Thereby Become Chester Hunt, as Tenant in Severalty; Kekaha, Waimea, Kauai, Tax Map Key: (4) 1-3-008:003;*

The purpose of the amendment is to: (i) delete the portion of the Board approval stating that Chester Hunt will become the lessee under the lease, and instead confirm that the lessee will remain Ficker and Hunt, a Hawaii Partnership; and (ii) address the effect of a March 20, 1995 Extension of General Lease No. S-4649 (1995 Extension), and to specify that even though the extension incorporated a lease assignment premium provision into the lease, that provision and others in the 1995 Extension are unenforceable because they constitute an improper amendment of a public auction lease. Staff recommends an Amendment of the 1995 Extension to Eliminate all Terms and Conditions Therein That Are Inconsistent with General Lease No. S-4649 as Sold at Public Auction (except for the increase in the duration of the lease);

After-the-fact Consent to Sublease under General Lease No. S-4649, Ficker & Hunt, a Hawaii Partnership, Sublessor, to United States Postal Service, Sublessee; Approve 20-Year Extension of Lease Term, General Lease No. S-4649, Ficker & Hunt, a Hawaii Partnership, Lessee; Kekaha, Waimea, Kauai, Tax Map Key: (4) 1-3-008:003.

Russell Tsuji, Land Division. There was an assignment of lease premium change that was done with the re-stated lease. The subsequent law to allow percentage rent to be added on consent provision. The re-stated law came after the auction lease.

The lease is expiring and want to renew. They are not in good standing with DCCA, and would like to deny or let the lease expire or let them come in good standing with DCCA. There is a US Post Office on the property and we could issue on an interim basis a permit to allow the US Post Office to continue operations with the intent that we go back and get the property ready for auction.

Board Discussion

The Board had a very robust discussion regarding the lease, sub-leasing, assignment, extensions re-opening of leases and gross receipts. The concern is the US Post Office sub-lease and the State receiving percentage of their gross receipts.

Public Testimony-None

**Amendments:**

1. **Adding in recommendation 1a (a) that Ficker and Hunt shall come into good standing with the State Department of Commerce and Consumer Affairs within ninety (90) days of May 11, 2018;**
2. **Deleting recommendation 1(b);**
3. **Adding a requirement that the lease rent be reopened at fair market value (i.e., unimproved land) for the extended period.**

MOTION

Approved as amended (Yuen, Roehrig) unanimous.

Motion to adjourn (Gomes, Gon) unanimous.

There being no further business, Chairperson Suzanne Case adjourned the meeting at 1:08 pm. 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