

SEP 28 2018 

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

DATE: FRIDAY, JUNE 8, 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
Chris Yuen

Stanley Roehrig
Keone Downing
Tommy Oi

STAFF

Russell Tsuji/Land
Ed Underwood/DOBOR
Roy Hardy/CWRM
Maria Carnavale/DAR
Ian Hirokawa/D9

Dave Smith/DOFAW
Curt Cottrell/PARKS
Sam Lemmo/OCCL
Cal Miyahara/Land

OTHERS

Amanda Weston/AG
Ross Smith/DOTA
Mandy Say/K1
Sara Tsukumoto/D3
Kristen Duen/K1
Dave Carroll/D3
Bonnie Kahape'a-Tanner/F1

Stephanie Nagata/K1
Dwayne Fisher/D3
Simon Amos/D3
Doug Ewald/D3
Leighton Yuen/D3
Loyal Kekahuna/F1

Chair Case called the meeting to order at 9:31 a.m. and announced that Item D-2 has been withdrawn from today's Agenda. Member Gomes read the contested case statement.

ITEM A-1 Approval of March 9, 2018 Meeting minutes.

ITEM A-2 Approval of March 23, 2018 Meeting minutes.

Board Discussion

Roehrig will give his changes to the Board Secretary, they are not substantive.

Public Testimony-None

MOTION

Approve Items A-1 and A-2 as submitted (Roehrig, Gomes) unanimous.

ITEM M-1 Issuance of a Revocable Permit for Ticket/Check-In Counters for the Purpose of Airline Operations, Southwest Airlines Co., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 053 (Portion).

ITEM M-2 Issuance of a Revocable Permit for an Airport Animal Quarantine Holding Facility, State of Hawaii, Department of Agriculture Animal Quarantine Branch, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 066 (Portion).

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

ITEM M-4 Issuance of a Revocable Permit for Spaces in the Main Terminal for Airline Operations, Southwest Airlines Co., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.

ITEM M-5 Issuance of a Revocable Permit for Parking and Storage of Rental Car Vehicles, The Hertz Corporation, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 3.

ITEM M-6 Issuance of a Revocable Permit for Industrial Land for a Bus and Shuttle Staging Area, JTB Hawaii, Inc., Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.

ITEM M-7 Issuance of a Revocable Permit for Aircraft Parking, Marcus Schuetter, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: Portion of 40.

ITEM M-8 Issuance of a Revocable Permit for Aircraft Parking, Paige Bowlus, Waimea-Kohala Airport, Tax Map Key: (3) 6-7-001: Portion of 08.

Mike Arbot and Dawn Tsue, DOT-Airports presented the submittals and did not have anything further to add to the submittals.

Board Discussion

ITEM M-2, In response to Oi's question, Tsue noted that the Animal Quarantine was not on a contract, and is now being put on a contract.

ITEM M-1, Roehrig asked if Southwest will go to Hilo? He is concerned that Southwest should include service to the neighbor islands, particularly to Hilo, in their plans. Case agreed with Roehrig. Arbot said he would pass along their comments.

Public Testimony-None

MOTION

Approved ITEMS M-1- through M-8 (Roehrig, Gomes) unanimous.

ITEM D-4 Request to Authorize: (i) Chairperson to Negotiate and Execute a Memorandum of Agreement between the Water Board of the County of Hawaii ("WBCOH") and the Board of Land and Natural Resources, on Behalf of the Department of Land and Natural Resources, Commission on Water Resource Management ("CWRM"), for the Kaloko Deep Monitor Well Purposes; (ii) Acquisition for CWRM of a Perpetual, Non-Exclusive Easement on Land Owned by WBCOH for the Kaloko Deep Monitor Well Purposes; (iii) Set-aside of the Easement so Acquired from WBCOH to CWRM; and (iv) Negotiation and Execution of a Right-of-Entry Permit for CWRM onto Land Owned by WBCOH for Survey and Construction Purposes, O'oma 2nd - Kaloko, North Kona, Hawai'i, Tax Map Key: (3) 7-3-009:030

Russell Tsuji presented for the Land Division. This is a Commission on Water Resource Management request to acquire lands from the County. He had nothing to add to the submittal.

Board Discussion

Roehrig asked if this Deep Monitor Well and the Kaloko Dam is to address drought in Kona? Roy Hardy, Ground Water Hydraulic Program Manager for CWRM responded that these monitoring wells are looking at a new fresh water source that is actually below the salt water.

Hardy said that CWRM is trying to assess if this is a regional phenomenon and if so, its implications for water supply. This would solve some of the water problems of the area. But more so, this is to help assess the usage and availability of water in the area. CWRM has known about this water for about 10 years.

In answer to Yuen's question, Hardy said the deep monitoring wells are 800-1000 feet below sea level.

Gomes asked about the pumping issues. Hardy noted that water at elevated level areas have to be lifted to delivery areas, and this is an engineering and cost problem.

MOTION

Approved as submitted (Roehrig, Gomes) unanimous.

ITEM D-5 Request to Authorize: (i) Chairperson to Negotiate and Execute of Memorandum of Agreement between Kaumalumu, LLC ("Owner") and the Board of Land and Natural Resources, on Behalf of the Department of Land and Natural Resources, Commission on Water Resource Management ("CWRM"), for the Pahoehoe Deep Monitor Well and Right-of-Way Purposes; (ii) Preliminary Approval for Acquisition on Behalf of CWRM of Perpetual, Non-Exclusive Easement on Private Land Owned by Owner for the Pahoehoe Deep Monitor Well and Right-of-Way Purposes; (iii) Set-aside of the Easement so Acquired from the Owner to CWRM; and (iv) Negotiation and Execution of a Right-of-Entry Permit for CWRM onto the Owner's Lands for Survey and Construction Purposes, Kaumalumu & Pahoehoe 1st, North Kona, Hawai'i , Tax Map Keys: (3) 7-7-001:016 and 018 (por.).

Tsuji and Hardy presented the submittal. The property is located about 10-miles south of the King Kamehameha Hotel, toward Keauhou. It is on the Queen Kaahumanu Highway.

Board Discussion

Roehrig asked for the location. Hardy said it was approximately 3-1/2 miles south from the King Kam Hotel.

Public Testimony-None

MOTION

Approved as submitted (Roehrig, Gomes) unanimous.

ITEM K-1 Conservation District Use Application HA-3812 by the University of Hawaii at Hilo for proposed infrastructure improvements at the Maunakea Visitor Information Station (VIS) at the Halepohaku Mid-level Facilities, Kaohe, Hamakua, Hawai'i, Tax Map Key (3) 4-4-015:012.

Sam Lemmo, Office of Conservation and Coastal Lands, presented the submittal. He said this item would not normally come before the Board, but because Mauna Kea is under a high-level scrutiny the Chair believes that items such as this should be moved up to the Board level to ensure adequate public comment and Board review. Lemmo gave some history of the project.

Lemmo, made the recommendation to amend changing Condition 24. He would like to note that SHPD has approved the Archaeological Monitoring Plan. Modify condition to say: The Applicant shall comply with the mitigation measures and Best Management Practices included in the Archaeological Management Plan, approved by SHPD in 2009.

Board Discussion

Roehrig noted that he had some questions about the archaeological monitoring plan and asked if SHPD was present (they were not). Lemmo noted that OHA had raised some question as to whether the archaeological monitors have the authority to stop work. To make sure, a condition that ensures that archaeological monitors have the authority to stop work is included in the permit.

Yuen asked if the original Visitor Center have a CDUP? Lemmo said yes, the current identified use is Astronomy.

Stephanie Nagata and *Fritz Klasher* from UH presented for UH and was available to answer questions.

Gomes followed up on some of Kalani Flores questions. Nagata verified that there are no cesspools on Mauna Kea. Klasher went through how run-off is addressed in the parking lot, which will be addressed by the placement of the walkway, and rip raff. Water will be directed to (4) dry sumps (Exhibit 4).

Downing asked some follow-up questions regarding the parking lot and the run-off, is it designed to go into the sumps? Klasher said yes, there may be some spill over.

Kristen Duen, Sustainable Resource Group, the engineering design addressed the run-off, in the EA it addressed the potential impacts and mitigation measures descriptions. Downing noted that it would be helpful if the Board could review the EA, which would have answered many of his questions. Gomes agreed.

Downing pointed out that the map on the back of Exhibit 4 shows 4 cesspools. Nagata, said they are not being used. One is a septic tank, but the plumbing has been removed. The other (3) cesspools are a septic system, which is pumped every 5-6 months. Concern is that the visitor capacity is being increased, but toilet capacity is not being increased. Nagata responded that the capacity is not being increased, they are creating parking for cars that are already there, but parking illegally.

Roehrig noted that he had a long discussion with Senator Kahele about this item, specifically about the Archaeological Monitoring Plan. Kahele is concerned that OMKM is violating conditions regarding Archaeological Monitoring because SHPD has not been receiving regular reports on the status of archaeological sites. Specifically, Kahele alleges that sites have been damaged and SHPD is not aware of the damage. Roehrig passed out a chart which said that two shrines were on UH property. UH explained that the only site on the property as the lithic scatter, which had been data recovered (so is no longer there) and the rest of the site, which included the shrines, were on Forest Reserve property.

Stephanie Nagata gave some history on the Archaeological Inventory Survey and Monitoring Plan. She noted that OMKM did not submit annual reports during the year and a half that SHPD was reviewing the survey. Once report was approved OMKM submitted their reports through 2015. The 2016 and 2017 reports are being reviewed by Kahu Ku Mauna and will be sent to SHPD shortly. Roehrig noted that the Board needs to know the status of these reports. He suggested that a condition in the CDUP be that OMKM has to be current on the archaeological assessment reports. Nagata pointed out that there are no historic properties at the project area under discussion.

Case noted that the project is to manage the number of visitors, rather than increasing the visitor count. Downing reiterated that people will need restrooms and he is not sure that question has been adequately addressed. Oi agreed.

Public Testimony

Mandy Say Kamehaikana'au. Opposes any further desecration of the Mauna. Passed a letter from the United Nations. Anything done on the Mauna has to be under Hawaiian sovereign government. Questioned the Board's jurisdiction given the UN stance.

Roehrig reiterated his concern about the archaeological sites.

Downing agrees that the parking lot is needed. Suggests that OMKM be proactive and go beyond minimal duty and give the public the idea that they are trying to solve some of the items they are concerned about. Reiterated his concern about adequate capacity to handle the potential number of visitors.

Case agrees with Downing. She believes that they are at the point of trying to address all of these issues to do with increased visitor access. Gomes and Downing reiterated request for EAs associated with submittals. Would like paper copies.

Unanimous. However, Roehrig noted that he will vote Aye with reservations.

Amendment:

Amend Condition 24. SHPD has approved the Archaeological Monitoring Plan. Modify condition to say: The Applicant shall comply with the mitigation measures and Best Management Practices included in the Archaeological Management Plan, approved by SHPD in 2009.

MOTION

Approved as amended (Yuen, Oi) unanimous (Roehrig with Reservations).

10:59 am: Break

11:10 am: Back in Session

ITEM D-3 Consent to Sublease under Lease of Non-Exclusive Easement No. S-5474, Waikoloa Beach Association, Lessee, to Global Resort Partners, Sublessee, and Consent to Sub-Sublease to Hawaii Nautical, Inc., Sub-sublessee, Anaehoomalu, South Kohala, Hawai'i, Tax Map Key: (3) 6-9-007: seaward of 011.

Russell Tsuji presented for Land Division. He stated that he wanted to make an amendment correcting page 3. The chart on page 3, the option term, years 2 through 5 referring to 2019 for year 2, 2020 for year 3, 2021 for year 4, and 2022 for year 5.

Board Discussion

Roehrig asked if the Waikoloa Beach Association is a non-profit. It is a 501 (c) (4). Leighton Yuen on behalf of Waikoloa Beach Association, was not sure if they are a 501(c) (3). The purpose is to maintain this lot between the beach and the hotel. It has only (4) members. It was formed by the Developers of the hotel for the purposes of maintaining Lot 11. Members are the owners of the 4 lots that surround Lot 11. This lot encompasses the fish pond.

Yuen clarified the business model and supported it.

Downing asked if the public can use these moorings? Tsuji said that they could not use the moorings without Board approval. Non-exclusive means that DLNR could issue other easements, but not that there is public use without a permit. Tsuji thinks it is a fair deal.

Public Testimony

Dwayne Fisher, Attorney for Global Resort Partners with Sara Tsukumoto, Simon Amos (Hilton) and Doug Ewald and Dave Carroll from Hawaii Nautical. Provided a map. Gave a history of the leases on the property as well as the rent for the lease. Today's request is for consent of a sub-sub lease for a concessionaires use of the moorings.

Roehrig noted his child works for the Hilton, where Hawaii Nautical has some boats, but does not think that will affect his vote.

Roehrig addressed Doug Ewald, Hawaii Nautical owner and expressed concerned about the mixed use of this area, and urged Hawaii Nautical to ensure communication with the canoe clubs so that when canoe races are on, they use extreme caution and are aware of it and to make sure there is coordination, especially on days when the waves are big.

Amendment: Correct page 3, the Chart for the Option Term, years 2 through 5 referring to 2019 for year 2, 2020 for year 3, 2021 for year 4, and 2022 for year 5.

MOTION

Approved as amended (Roehrig, Yuen) unanimous.

ITEM F-1. Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Native Hawaiian Practices Permit to Ms. Bonnie Kahape'a-Tanner, Māna Maoli / Kānehūnāmoku Voyaging Academy, for Access to State Waters to Conduct Activities for the Ola I Ke Au a Kanaloa Voyage and Maritime Vocation Program.

ITEM F- 2 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Special Ocean Use Permit to Ms. Bonnie Kahape'a-Tanner, Māna Maoli / Kānehūnāmoku Voyaging Academy, for Access to State Waters to Conduct Documentation of Halau Holomoana's "Ola I Ke Au a Kanaloa" Voyage and Maritime Vocation Program.

Maria Carnavale, PMNM Co-Manager, Division of Aquatics, presented Items F-1 and F-2 together and was available for questions.

Board Discussion

Gomes asked who the Cultural Practitioners going? Kahapea said she and Loyal Kekahuna Bisa will be the cultural practitioners. Gomes asked what information did you bring back from the 2014 voyage? She noted that the main goal was to train the students on the ship and encourage the students to go into maritime careers. The cultural practice is to give them a grounding and foundation in cultural practices related to maritime.

Gomes asked how many students have gone into maritime studies? Kahapea replied, out of past 4 cohorts, they have 14 students with 6 who are going into the maritime industry. Gave some examples of cultural practices related to fishing.

Roehrig asked if they have purple suji lines. Kahapea said hers is gray. Noted that they have a documentary, and the link will be provided to the Board members. Loyal Kekahuna Bisa. Is the program coordinator and has been doing it for four years? Has visited in past on Makani Olu.

Public Testimony - None

MOTION

Approved Items F-1 and F-2 as submitted (Roehrig, Gomes) unanimous.

ITEM D-9 Acquisition of Private Lands and Set Aside to Division of Forestry and Wildlife for Natural Area Reserve Purposes, Ka'ena, Waialua, O'ahu, Tax Map Key: (1) 6-9-002:012.

Russell Tsuji, for Land Division. This is for a set aside of lands at Kaena. It is supported by the North Shore Community.

Board Discussion

Roehrig disclosed he knew the Tom Family but it would not affect his vote.

Public Testimony-None

MOTION

Approved as submitted (Yuen/Roehrig) unanimous.

ITEM D-10 Delegation of Authority to Approve Rights-of-Entry to Utilize State Lands Statewide to Assist in Emergency Relief Efforts Upon the Issuance of a Governor's Emergency Proclamation.

Russell Tsuji, Land Division presented this item. Statewide Delegation Authority to the Chair and Department heads for Emergency Right-of-Entry upon the Governor declaring a State of Emergency.

Board Discussion-

Roehrig said he was concerned about future development for the Big Island on DLNR lands. He thinks that Land Division/DLNR needs to play a key role so that when these parcels come before the Board we can move these quickly.

Tsuji noted that Gordon Heit had met with Senator Ruderman. Senator Ruderman's plan is partially based on Heit's suggestions. He also noted the most of DLNR's Big Island lands has no infrastructure. Noted that the State through Governor's Office is also looking at sites. There was some discussion about past State development projects and the current lava situation.

Public Testimony- None

MOTION

Approved as submitted (Roehrig, Gomes) unanimous.

ITEM J-1 Denial of Request for Contested Case Hearing by Charles Carroll Regarding April 13, 2018 Decision to Issue a Request for Proposals for Development of Public Lands at the Ala Wai Small Boat Harbor Regarding Tax Map Key Nos.: (1) 2-3-037 and (1) 2-6-010.

Ed Underwood presented for DOBOR, Carroll did not make the request in a timely manner. He did not request it at the meeting, and he did not submit in writing within the time frame.

Board Discussion

Downing asked if Carroll has standing. Bill Wynhoff, AG said, the answer is that the person was untimely and he does not believe that the person has standing.

Public Testimony- None

MOTION

Approved as submitted (Roehrig, Gomes) unanimous.

ITEM J-2 Continuation of a Revocable Permit ("RP") to Island Ice Company, Situated at Kahului Boat Ramp, Owa, Kahului, Island of Maui, Hawaii Tax Map Key No. (2) 3-7-001:023 (Por.)

Ed Underwood presented for DOBOR. This was not on the original yearly RP renewal list because they were behind in their rent and since have become current.

Board Discussion

Downing asked how far behind on rent due? Underwood said a couple of months.

Yuen asked if they only operated the ice machine. Underwood said that it is a stand-alone ice service. Yuen commented that they could do a concession instead. Underwood said they are looking into.

Public Testimony-None

MOTION

Approve as submitted (Gomes, Oi) unanimous.

ITEM M-9 Authorizing the Department of Transportation to Dispose of Interstate Highway I-HI (93) fka Federal Aid Project NO. F-59, Land Court Lot 38A. Tax Map Key: (1) 2-8-09:30 (por.).

Bill Wynhoff sat in for HDOT to answer questions.

Board Discussion- None

Public Testimony-None

MOTION

Approve as submitted (Roehrig, Gomes) unanimous.

ITEM C-1 Approval and Recommendation to the Governor Issuance of an Executive Order for Addition of Tax Map Key (4) 2-4-003:001 Comprising Approximately 163.842 acres, to Līhu'e-Kōloa Forest Reserve, Kōloa, Kaua'i

Approval and Recommendation to the Governor Issuance of an Executive Order for Withdrawal of Tax Map Key (4) 3-9-002: Portion of 001, Comprising Approximately 1467 Square Feet, from Līhu‘e-Kōloa Forest Reserve, Līhu‘e, Kaua‘i.

Approval and Recommendation to the Governor Issuance of an Executive Order Setting Aside to Agribusiness Development Corporation for Agricultural and Related Purposes, Tax Map Key (4) 3-9-002: Portion of 001, Comprising Approximately 1467 Square Feet, Līhu‘e, Kaua‘i.

Dave Smith presented for DOFAW. One parcel adds a much-needed corridor that allows for access to land locked areas in the Lihue Koloa forest reserve, and corrects a survey area on land transferred to ADC.

Board Discussion

Gomes asked if they took land away from a rancher. Oi noted that the lease rent was too high, so he gave it up. He also noted that at the time the lease was cancelled, the Board recommended that the land go to Forestry.

Public Testimony-None

MOTION

Approved as submitted (Oi, Gomes) unanimous.

ITEM D-1 Issuance of Direct Lease to the Roman Catholic Church in the State of Hawaii, Saint Theresa School, for Parking Purposes, Kekaha House Lots, Kekaha, Waimea, Kaua‘i, Tax Map Keys: (4) 1-3-004:054 and (4) 1-3-011:001.

Russel Tsuji presented for the Land Division.

Board Discussion- None

Public Testimony- None

MOTION

Approved as submitted (Oi, Roehrig) unanimous.

ITEM D-6 After-the-Fact Approval of Issuance of Right-of-Entry Permit to Maui’s Original Hawaiian Corporate Games, Inc., for Beach Game Competition Purposes, Wailea Beach, Honuaula, Maui; TMK (2) 2-1-008: seaward of 107.

Russel Tsuji presented for the Land Division.

Board Discussion- None

Public Testimony- None

MOTION

Approved as submitted (Gomes, Roehrig) unanimous.

ITEM D-7 Grant of Term, Non-Exclusive Easement to Hawaiian Electric Company, Inc. for Utility Purposes and Immediate Construction Right-of-Entry Permit; Moanalua, Honolulu, O'ahu TMK (1) 1-1-003: portions of 003, 207, 211 and 212.

Russel Tsuji presented for the Land Division.

Board Discussion- None

Public Testimony- None

MOTION

Approved as submitted (Oi, Gomes) unanimous.

ITEM D-8 Amend Prior Board Action of December 9, 2016, Item D-20, *Grant of Term, Non-Exclusive Easement to Martha K. Bush for Pier Purposes; Termination of Revocable Permit No. S-6546; Kaneohe, Ko'olaupoko, O'ahu, Tax Map Key: (1) 4-5-058:121.*

The amendment will increase the easement area from 284 square feet to 538 square feet and adding "eave and seawall" into the character of use of the requested easement.

Russel Tsuji presented for the Land Division. Cal Miyahara clarified and noted that they added the pylons in the water so the pier increased in width and length.

Board Discussion- None

Public Testimony- None

MOTION

Approved as submitted (Gomes, Roehrig) unanimous.

Motion to adjourn (Gomes, Roehrig) unanimous.


There being no further business, Chairperson Suzanne Case adjourned the meeting at 3:50 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