

APPROVED BY THE BOARD
AT ITS MEETING HELD
FEBRUARY 22, 2019

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

DATE: FRIDAY, September 14, 2018
TIME: 9:15 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAI'I 96813

Meeting called to order at 9:26 a.m. by Chair Case. Member Yuen read the standard contested case statement. Chair Case noted that they will review the minutes and Item D-3 in the afternoon.

MEMBERS

Suzanne Case
Stanley Roehrig
Keone Downing

Sam Gon
Tommy Oi
Chris Yuen

STAFF

Russell Tsuji-Land
Barry Cheung-Land
Malama Min-Land
Curt Cottrell/Parks
Ed Underwood-DOBOR
Kevin Yim-DOBOR
Irene Sprecher-DOFAW

Kevin Moore-Land
Richard Howard-Land
Mike Fujimoto-DAR
Cathy Gewecke-DAR
Megan Statts-DOBOR
David Smith-DOFAW
Marigold Zoll-DOFAW

OTHERS

David Day/AG
David Smith-DOT-Air
Mike Chun/D13
Aaron Mahi/D13

Julie China/E1
Dan Ornelles/C1
Dustin Griffith/C1
Donne Dawson/D13

ITEM A-1

Christopher Dawson/D13
David Deponte/D1
Gary Oqin/D7
Dan Nellis/C1
William Aila/E1
Jennifer Lim/D13
Tyler Ralston/D13
Steve Uyeda Ibara/D13
Joe Ibara/D13
Sheila Oliveira/D1
Teresa Kaneakua/D13
Diane Praywel/D7
James Nicolay/D13
Carl Smigielski/D13
Duane DeSoto/K1
Ike Goza/J1
Cathy Goeggel/D13
Linda Wong/D13
Lei Learmont/C1
Jim McCloy/D13

Vince Krog/D1
Chris Kinimaka/D1
Steve Raffertry/C1
Dave Raney/D13
Paul Alston/D14
Dave Druz/D15
Jeiel Yamamoto/D5
Heather Ostram/D8
Gerald Glennon /D13
Dickerson Lee/D5
Victor Velasco/F/1
Dre Kalili-DOT-Harbor
Lynn McCrory/J3
Frances Kana-Silva/C1
John Foti/J1
James Manaku/E1
Victor Velasco/F1
Elizabeth Reilley/D13
Laura Theilen/D13
David Frankel/D13

ITEM E-1 Requesting Approval for the Sale of Food and T-Shirts as a Fundraiser for Mālama Mākua on September 22, 2018 at Ka'ena Point State Park, Mākua Section, Wai'anae, O'ahu. Tax Map Key: (1) 8-2-001:001.

Curt Cottrell, State Parks presented the submittal. Representatives from Mālama Mākua, William Aila and Duane DeSoto are present to answer any questions.

Board Discussion-None

Public Testimony

James Manaku, Sr., is concerned with commercialism. He opposed the commercial use in the park.

MOTION

Approved as submitted (Gon/Yuen) unanimous.

ITEM D-14 Acquisition of Accreted Lands to State of Hawai'i for Beach Purposes, Kailua, Ko'olaupoko, O'ahu, Tax Map Key: (1) 4-3-007: seaward of 036.

Russell Tsuji presented the submittal.

Board Discussion

Downing asked what is the positive side of doing this? The beach could be there today, could be gone tomorrow. What kind of liability do we face? Tsuji commented concerning liability, it would be treated like any other shoreline, the benefit was anything seaward would be considered state land and not be considered accreted land and private land. Downing asked under that rationale what stops someone else coming to us to quit-claim land they want to get rid of?

Tsuji said they evaluate these offers and we do not always go along with it, some are high-risk areas/cliffsides that would have potential high liability for the State. Tsuji said that is not the case here, this would be attached to the shoreline which the State already has. Tsuji assured Downing that there was a policy in place to evaluate lands that are offered to the State.

Oi asked when they quit-claim a portion of the property, the future buyers are aware they cannot build anything on it? Did the State Surveyor go out and inspect this area? Tsuji replied, they State Surveyor did not for this donation. Oi noted that the State Surveyor is responsible to inspect accreted land. Tsuji said that there was a shoreline certification in place. Oi wanted to be sure that there was not a liability to the State in taking the accreted land.

Public Testimony

Paul Alston, Owner. They have not made any improvements to the accreted lands since they bought it. The accretion is subject to a current pending new accretion petition and would like to donate it to the community. He has informed and the buyer understands the boundary lines and the accretion is not part of the parcel.

Amendment:

Note in the text of the submittal that parcel 36 consists of parcels formally identified as 36, 37, and 38.

MOTION

Approved as amended (Yuen, Gon) unanimous.

ITEM D-15 Acquisition of Private Lands and Set Aside and Management Right-of-Entry to Division of State Parks for Preservation, open space, cultural, recreational, and public parks purposes, Pūpūkea, Ko'olauloa, O'ahu, Tax Map Keys: (1) 5-9-024:001, (1) 5-9-023:001, (1) 6-1-002-022.

Curt Cottrell, State Parks, and Malama Minn, Land Division presented the submittal. Noted that the Owner is present to answer any questions.

Board Discussion

Roehrig, asked for clarification on the requirements on page 2. Minn, said it was all done. The due diligence has been completed

Public Testimony

Dave Druz, President of A Charitable Foundation Corporation asked if the Board had any questions for him. He has submitted written testimony. Case and the Board members thank him for his generous donation.

MOTION

Approved as submitted (Gon, Oi) unanimous.

9:50 am Break (reset sound system)

10:01 am Back in session

ITEM C-1 Request Approval of 1) Acquisition of Private Lands; 2) Issuance of Management Right of-Entry to Division of Forestry and Wildlife; 3) Issuance of Set Aside to Division of Forestry and Wildlife for Forestry and Wildlife Purposes; and 4) Authorize Division of Forestry and Wildlife to Conduct Public Hearing on the Island of O’ahu for Proposed Addition to ‘Ewa Forest Reserve, Pa’ala’a-Uka, Waialua, and Wahiaiwā, O’ahu, Tax Map Keys: (1) 6-3-001:003, 6-4-004:011, 7-1-002:011 And 7-2-001:003; and

Request Delegation of Authority to the O’ahu Branch Manager to Issue Access Permits for these parcels under Chapter 171, HRS, until the parcels are added to the Forest Reserve System.

David Smith, Division of Wildlife and Forestry, presented the submittal along with Marigold Zoll and Irene Sprecher. He made an amendment to page 8 of the submittal; strike out part of the sentence, “the contract will be funded by proceeds from the sale of the Property”. He described some of the issues they will be addressing going forward.

Marigold Zoll, DOFAW, highlighted the importance of this conservation land that provides various opportunities that can be implemented.

Board Discussion

David Day, AG, asked for clarification on the Agreement of Sale that was handed out. Irene replied that it was a new Exhibit F to be added between the Department of Land and Natural Resources and the Trust for Public Lands.

Case asked to point the changes out. Sprecher, it is a new Draft of Exhibit F, on page 2, the review date changed to today, additional clarification on the closing of the property will be done. Getting the unrestricted No Further Action letter from the Department of Health. On page 5 of the Agreement of Sale, paragraph 11. Clarifies that there will be funds will be left in escrow until the work is completed.

Downing asked about the access road. Irene replied it is the only road that leads to the Poamaho Trail. Downing asked if this is the only road to access the Ewa Forest Reserve, is to be used to traverse by both for commercial forestry and the public. Sprecher said, there is another access point at the end of California Avenue, however this is the only access point to the Poamaho Trail.

Downing asked to clarify the use of the road. Sprecher replied, at the moment, management uses it on week days and the public uses it on weekends and holidays and we will still require permits to access the upper part of the forest reserve.

Smith noted that they would separate the uses to have safe operations, currently the road is controlled entirely from the initial point all the way up to the locked gates. Downing mentioned there was a MOU to use the road till 2026. Smith clarified that it terminates upon the sale of the parcels. Downing asked if there were others interested in this buying this property. Zoll, said yes. Downing suggested that we should buy only the three parcels and not the contaminated one. We have this property that is contaminated and we had questions from Land Division and the AG about contamination. His concern is why the rush to obtain this property before it gets cleaned up and put the State in a liability situation. If it cannot be cleaned up we a stuck with this property. He said we really do not know what is there except for the samples that show there is contamination. Can we make an agreement to purchase after it is cleaned up?

Sprecher said that the timing is related to funding and perhaps get an extension on that and explained why they were trying to meet the land owners timeline. They took a good look at the firing range on the property and that is the only issue remaining on the property, the other two sites have been cleaned up and are the responsibility of the Navy and feel comfortable with those sites. They have done an over and beyond phase one analysis, a part of phase two on the Environmental Review for the firing range.

Sprecher noted that discussions with Public Land Trust and Department of Health have agreed to the scope of the project. They have confirmed that the type of lead associated with the firing range that it will affect the ground water, we are committed to removing all contamination from the property and feel comfortable with the risk. The commitment to start the work will start upon the recordation of the deed.

Roehrig' s comments included the Board's responsibility of due diligence and felt that there was not much money to indemnify from Dole and if the contamination from the unauthorized firing range is significant, felt that the State would stand the risk of loss for people using the area. He noted that usually there is a title report, metes and bounds, certification that there was an EIS done, and then we get an NFA (No Future Action Required) and certified by the Department of Health.

Sprecher replied that the remediation has not happened. Roehrig is concerned because this has not been done yet, that the Board ahead of time that before the remediation has to vote based on their word. Sprecher noted that in the Agreement of Sale, Trust for Public Lands has

committed to ensuring that they will seek a No Further Action from the Department of Health. She said that the remediation work will start on recordation, but it will take DOH up to a year to process the NFA.

The Board had a robust discussion regarding the clean-up of the firing range and Sprecher and Steve Rafferty provided information on the remediation work.

Case said the issues that are being outlined, are issues that the Staff has outlined. This has been the result of a very long negotiation and exploration of the issues and the Staff feels confident based on the work that has already been done and the commitments in place from the remediator that we sufficiently manage the risk. Basically, we are in agreement on the remaining issues are and it will be helpful to hear from Dole and others who would like to testify.

Roehrig stated that he would like to hear from the Trust for Public Lands that they will be indemnify the State if they are wrong. It is a wonderful project.

Yuen noted that this is a very important piece of land for the State to acquire, it secures access to one the nicest forest reserves on Oahu. It's a 15- million-dollar transaction. Approximately 10% of funds come from the State and 90% comes from either Federal grants, The Trust for Public Lands, and the U.S. Navy. We would like to see the best situation come out of the remediation. They have been negotiating for years, in looking at the issues on the downside, we should not forget the upside of the transaction, we are getting this beautiful piece of property from grants, so we should keep that in mind.

Public Testimony

Dan Ornelles, Dole Foods provided history of the firing range and explained it will be cleaned up and is not near the trail. Dole is indemnifying the State up to \$450,000.00. From the beginning Dole has worked with DOFAW to traverse the land to reach the conservation area.

Lei Learmont, would like DLNR to monitor the place.

Julie China, Deputy Attorney General. She assisted DOFAW/Land Division, with the negotiation of this project and feels ultimately this was the best deal we could make. We wanted to present this to the Board will disclosing "warts" and all. It is not our position that we are against this project or acquisition. We wanted to make sure the Board was advised of everything and out in the open, so you could make an informed decision.

MOTION

Approved as submitted (Yuen, Gon) 5-1 (Roehrig nay) Motion Passes.

11: am: 5-minute break

11:15 am: back in session

ITEM J-3 Continuation of Revocable Permit No. 37 to Lana'i Resorts, LLC, dba Pūlama Lana'i, Mānele Small Boat Harbor, Lana'i City, Island of Lana'i, Hawai'i, Tax Map Key: (2) 4-9-017:006 (Portion).

Kevin Lim, Division of Boating and Recreation, presented the submittal and a working on a lease. Lynn McCroy from Pulama Lanai is here to support the RP to continue until the lease is finalized

Board Discussion

Oi commented that he was glad that they are moving towards a lease.

Downing asked why the rent was \$28,000 and now your taking out fast-lands? McCure said that the fast-lands are used by others and we just cross-over.

Public Testimony-None

MOTION

Approved as submitted (Oi, Gon) unanimous.

ITEM D-7 Consent to Assignment of General Lease No. S-5188, Kona ABC LLC, Assignor, to Valencia Gateway Retail IV, LLC, Assignee, for Commercial Purposes, 'Auhaukea'e 2nd, North Kona, Hawai'i, Tax Map Key: (3) 7-5-009: 043.

Russell Tsuji, Land Division, had nothing to add to the submittal. Applicant and Counsel are present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Roehrig, Oi) unanimous.

ITEM D-13 Issuance of Right-of-Entry Permits for Beach Activities to be held on October 16 and 17, 2018; and Issuance of Revocable Permit for Recreational and Maintenance Purposes; Resorttrust Hawaii, LLC, Applicant; Wai'alaie, Honolulu, O'ahu, Tax Map Key: (1) 3-5-023:041.

Russell Tsuji, Land Division, presented the submittal and representatives from Resorttrust Hawaii provided a video of the property and is happy to answer questions. There are (2) public testimonies that were heard prior to the rest of the submittal being presented.

Public Testimony

Mike Chun, is in support of the Kahala Hotel to renew their permit and submitted a written testimony. He said the Resort is an important part of the community. Does not feel the use of the parcel creates a conflict with the public.

Downing asked if their Association allow for public weddings in front of their beach condos? Chun said the Association does not own that parcel, we take care of though. Wedding coordinators come, and he has witnessed a few weddings, they come and take pictures.

Case asked if the Kahala Beach Apartments connected to the hotel corporation? Chun said no. Case said she wanted to understand what is driving people's interest in this. Having lived next door have you seen an increase in commercial use since you have been there?

Chun said he did not know what commercial activity was. You have families going to the beach, I use basically for swimming. Case asked about parking on the street? Chun said with respect to Kahala Avenue, no. Most will park at the public park or walk along the beach (members of the public).

Yuen asked if people can drop off by the public access and find some other place to park? Does the Kahala have public parking. Chun said he was unsure.

Aaron Mahi, in terms of the RP, as a member of the public who fishes along the beach area, he is in support of issuing of the RP. He never felt that the hotel infringed on his rights. He has performed music at the Hotel many times and with previous owners have performed on the grassy area.

Russell Tsuji, Land Division, addressed the street parking, he has noticed that public park is busy, and you must park in the neighborhood. Downing said there is no parking on Kahala Avenue in front of the hotel.

Tsuji continued with the submittal presentation and provided the history of the fast lands and where we are today. Recreational and maintenance use is subject to interpretation. The Hotel's feeling is that the use of chairs, cabanas, shower caddie, in the RP area is consistent with resort hotel operations and part of recreation and maintenance purposes. They want to know what is allowed and what is not allowed in the RP when they created the beach.

Downing asked regarding setting the chairs and beach cabanas, how is that different from Waikiki or Kaanapali? Tsuji said he was not sure if Kaanapali was man-made. Waikiki was marsh-land and they filled it. There are some beach agreements around there, Outrigger has one with conditions and a small area. It is different that this is a man-made beach, not a natural beach.

Downing commented that we have stopped Kaanapali from pre-setting, we have been fighting pre-setting in Waikiki.

Case said the public beach is not the disposition, this is from the shoreline up, although it is related, this disposition does not cover the beach. Downing said this is his point, where the grass is now, was probably reclaimed beach, it was not grass. There is an adjustment as the shoreline migrates.

There was a robust discussion regarding fill-lands, fast-lands, natural beach, and use of chairs, cabanas in the RP areas using the measurements of the equipment and not the area being used.

Board Discussion

Jennifer Lim, representing Resorttrust Hawaii, LLC and *Gerald Glennon*, General Manager, provided a video to show the hotel boundaries, and placement of items for use by hotel guests, and where public access. Lim explained the video will help clear up confusion as to the hotel boundaries and where public access is clearly allowed and how prior ownership used the area. Emphasizing the boundaries between the hotel and the public access. Since they have received numerous complaints regarding commercial use they have scaled back the use of the RP. They are seeking clarification on what can or cannot be done in the RP area. They are requesting to be able to preset certain types of items for the exclusive use of hotel guests in the RP area. She made the case that they have been conducting business as was done for decades regarding the gazebo and have since moved it into the hotel property line. They have complied with all the requests to move equipment onto the hotel property. They would like to request to have overflow seating for their restaurant in the RP area.

Downing asked to clarify the public access, he felt that the indentation of the grass area for public access was not clear and it was a liability as you can trip and fall the other option that was presented at the neighborhood board meeting showed a clearly marked path.

Downing felt that Resorttrust Hawaii has been stuck in a situation that has become an issue with the community regarding access and commercial uses in the RP area.

Roehrig asked about revenue generated from restaurant that served the RP area in the last four years? He wanted to know where they were at with prior income made from the restaurant on public land. Glennon replied that the restaurant serves both the pool and RP area it would be hard to decipher what was sold at the pool area and what was sold on the beach it would take time, but it could be done. Roehrig said what we decide will set precedent and we must treat everyone fairly.

Lim commented that should this clarified RP be approved; Land Division will have an appraisal done. It is our understanding that the appraisers will take into consideration the specific area and uses.

Glennon noted that they are sensitive to the community and scaled back the use of the RP. We are hoping to clarify this for the definition for everyone's benefit of the recreational use at the Kahala. They are open to pay what is fair to use a portion of the RP for the cabanas. The Kahala

has always been an open environment for everyone. We just want to clarify what this RP will allow us to do.

Public Testimony-continued

Dave Raney, Sierra Club contact in the Waialae-Kahala area, testified in opposition, his concerns were identifiable public access, and better signage. Not all the neighborhood people are happy. The neighborhood board had agreed to specific public access and there are still on-going discussions. Respectfully request then Board be specific regarding public access.

Yuen asked Raney what his expectations of the public use of the State parcel? It is a public right to be able to traverse the parcel to access the beach. Is it the public's expectation or desire to lounge on the grass? Raney replied, yes as a parcel of State land.

Tyler Ralston, opposes the old and new RP's and the commercialism events held in the RP. He questioned the staff submittal that listed 40-items that they want approval to be placed on State land. When you add up the numbers it does not add up. Submitted written testimony.

Downing asked where would you like to use recreationally? Ralston said all of it. Depends on what activity we were having. It is all meaningful to him.

Public testimony for D-13 was suspended.

ITEM D-5 Issuance of Land Patent in Confirmation of All of Land Commission Award No. 4096 to S. Kaaloa, situate at Kukuihaele, District of Hāmākua, Island of Hawai'i, Tax Map Key: (3) 4-8-008:018.

Russell Tsuji, Land Division stands by staff submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Roehrig, Oi) unanimous.

ITEM D-9 Issuance of Right-of-Entry Permit to Hawaii Surfing Association Maui for Surf Contest Event Operations at Haneo'o (Koki Beach), Hāmoa, Hāna, Maui, Tax Map Key: (2) 1-4-007:009 por.

Russell Tsuji, Land Division, did not have anything else to the submittal. There is a representative here to answer any questions.

Board Discussion

Downing questioned the square footage of the tent, should the square footage include the space around it that the people use? Case clarified that in the future we should calculate the entire area of exclusive use or areas where the public would think it was prevented from traversing. Downing suggested to amend the fee from \$44.00 to \$50.00.

The Board felt that calculating just the footprint of the tent was not an accurate measurement as people use the area between the tents as well.

Public Testimony-None

Amendment:

Change the fee to \$50.00.

MOTION

Approved as amended (Downing, Roehrig) unanimous.

ITEM D-4 Consent to the Lease of Lands under Governor's Executive Order No. 4539 from the County of Hawaii to HKI Kawili LLC for Veterans Center and Affordable Senior Housing with Preference to Veterans and Spouses Purposes, Waiākea, South Hilo, Hawai'i, Tax Map Key: (3) 2-4-057:030.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Roehrig, Yuen) unanimous.

ITEM D-1 Request to Amend License Agreement dated July 1, 2016 between the Bank of Hawaii as Trustee of the Kukuilono Park Trust Estate, as Licensor, and State of Hawaii, by its Department of Accounting and General Services, on Behalf of the Office of Enterprise Technology Services, as Licensee, for a Transmission Tower and Radio and Microwave Communication Facility for Public Safety and Public Services, at Kalaheo Homesteads, 2nd Series, Koloa, Kaua'i, Tax Map Key: (4) 2-3-005: por. 002.

The purpose of the amendment is to change the License Agreement location from Tax Map Key: (4) 2-3-005: por. 002 to (4) 2-3-005:011.

Russell Tsuji, Land Division, had nothing to add to the submittal. Vince Krog, DAGS, available to answer any questions.

Board Discussion

Downing asked how come we charge so little to put towers on our property and they charge us so much? Tsuji replied, we charge by appraisal, this is private property leased to the State. Krog said this is on a private golf course that was previously under the National Guard. DAGS is taking management of. They negotiated and took over the lease, cheaper than what the Feds were paying.

Public Testimony-None

MOTION

Approved as submitted (Oi, Gon) unanimous.

Return to Item D-13 3:28

Resume public testimony D-13.

Laura Thielen, recommends not approving the RP and look at a long-term disposition and summarized her written testimony.

Carl Smigielski, as a resident he never had any issues and supports tourism. Summarized his written testimony.

Paul Skeillen, supports the hotel, they keep the beach clean, gives back to the community, planted 300 trees and feels that they are a good neighbor.

Jim McCloy, provided information regarding the structures that have permits in the SMA and the ones that do not have permits. In 2017, they filed a building permit for change of use. They enlarged the kitchen without the proper permits. The hotel has used the RP area for weddings and cooperate events which is not allowed. The employees have to park in the neighborhood. He would like to see the Hotel be held accountable to all the rules and regulations that pertain to the hotel. Parking is a huge problem. The employees are told to park in the neighborhood when there is an event.

Kathy Coeggell, President of Animal Rights Hawaii. She is concerned with public access, the road that goes up to the Hotel says, "Private Road", does that inhibit people who want to go up and access through a tiny gate? There is no parking. The State park is always full. She feels they do not want local people. There has been a leaking pipe that comes out from the Dolphin Quest facility that empties out into the public swimming area.

Linda Wong, testified and stood by her written testimony she submitted. She has been working on a resolution for over a year to get proper beach access in good faith through the neighborhood board meetings. She is opposed to granting a revocable permit.

David Frankel, he wanted to say that the term recreation is ambiguous. Use does not mean commercialism. HRS 171-10 defines the kind of uses the land can be used for, HAR 13-221-2 which defines commercial activity. Provided information regarding expansions that have not been permitted. He continued on the different uses that do not have permits or authorization. He provided a summary of his written testimony. He requested a contested case hearing on the renewal of the RP, issuance of new RP and the Right-of Entry on Item D-13 and Item D-17 RP 7849. He requested a contested case hearing and later withdrew it.

Yuen made a motion to go into Executive Session, to consult with the Board's attorney pertaining to the request for contested case. Gon second the motion. Unanimous.

5:20 pm: Back in session

Returning (4) Members (Case, Oi, Yuen, Downing) Roehrig and Gon did not return to the meeting.

Yuen modified his Motion to Approve the Right-of- Entry, defer action on the new RP (Item D-13 and RP 7849) pending receipt of a written request for a contested case and the current RP 7849 to continue till December 31, 2019. Oi, second the motion.

Amendment:

The Board approved the Right-of-Entry Permits; deferred on the Issuance of a new or amended Revocable Permit pending receipt of David Frankel's petition for a contested case. The Board noted the current Revocable Permit shall to continue at least through December 31, 2018.

MOTION

Approved as amended (Yuen, Oi) unanimous.

- ITEM M-1** Issuance of a Revocable Permit for Office Space, Blind Vendors Ohana, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 57.
- ITEM M-2** Amendment No. 1 to Fueling Facilities Lease No. DOTA-15-0014 to Add Land and a Subsurface Pipeline Easement for the Operation of an Aviation Fueling Facility, Hawaii Fueling Facilities Corporation, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 038, Portion of 005, and Portion of 010.
- ITEM M-3** Issuance of a Revocable Permit for Aircraft Parking, Ground Imaging, Inc., Kalaeloa Airport, Tax Map Key: (1) 9-1-13: Portion of 32.

- ITEM M-4** Issuance of a Revocable Permit for Airport Land to Store Chiller Containers for an In-Flight Catering Service for Airlines, Flying Food Group, LLC, Līhu'e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.
- ITEM M-8** Issuance of a Revocable Permit for the Installation and Operation of Two Automated Teller Machines to Lava Lava ATMs LLC, Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-043: Portion of 040.
- ITEM M-9** Issuance of a Revocable Permit for Office Space for Construction Management Team, Bowers + Kubota Consulting, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 050 (Portion).
- ITEM M- 10** Issuance of a Revocable Permit for Aircraft Parking, Takahiro K. Endo, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 23.
- ITEM M-11** Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Pacific Air Charters, Incorporated, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 22.
- ITEM M-12** Issuance of a Revocable Permit for Office Space for Air Charter Operations, Pacific Air Charters, Incorporated, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-72: 69 (Portion).
- ITEM M-13** Issuance of a Revocable Permit for Construction Material Storage and Equipment Staging, Ralph S. Inouye Co., Ltd., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).
- ITEM-M-14** Issuance of a Revocable Permit for Parking and Storage of Rental Car Vehicles, EAN Holdings, LLC, Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 32.
- ITEM M-15** Issuance of a Revocable Permit for Two Main Terminal Floor Spaces and Two Ramp Spaces for Airline Operations, Southwest Airlines Co., Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.

Ross Smith, DOT-Airports, presented Items M-1 through M-4 and Items M-8 through M-15 and has nothing more to add to the submittals and will answer any questions the Board may have.

Board Discussion-None

Public Testimony-None

MOTION

Approved Items M-1 through M-4 and Items M-8 through M-15 as submitted (Downing, Yuen) unanimous.

- ITEM M-5** Issuance of a Gratis Construction Right-of-Entry to Grain Craft/Pendleton Flour Mills, LLC, for Demolition and Remediation work at the Flour Mill Processing building, Pier 23, Honolulu Harbor, O'ahu, Tax Map Key: (1) 0-5-039: Portion of 022.
- ITEM M-6** Issuance of Revocable Permit to Lyft, Inc., for Vehicle Egress and Ingress, and for Cruise Passenger Pick-up at the Cruise Terminal at Pier 2. Honolulu Harbor, O'ahu, Tax Map Key No.: (1)2-1-015: Portion of 009.
- ITEM M-7** Issuance of a Revocable Permit to Rasier, LLC, for Vehicle Egress and Ingress and for Cruise Passenger Pick-up at the Cruise Terminal at Pier 2. Honolulu Harbor, O'ahu, Tax Map Key: (1) 2-1-015: Portion of 009.
- ITEM M-16** Request for Approval of Issuance of a Lease by Negotiation to Matson Terminals, Inc. for cargo operations on Sand Island, Piers 51-53, Honolulu Harbor, O'ahu. Tax Map Keys: (1) 1-5-41:049, 111, 115, 126, 167, 170, 181, 185, 187, 200, 286, 307, 313, 320, 323, 324 & (1) 1-5-41:321 (portion).
- ITEM M-17** Request for approval of Issuance of a Lease by Negotiation to Hawaii Stevedores, Inc (HIS) for cargo operations at the new Kapalama Container Terminal, Pier 24 & 43, Honolulu Harbor. Tax Map Keys: (1) 1-2-25:002, 009, 011, 012, 016, 017, 030, 040, 042, 043, 044, 045, 046, 047, 048, 049, 050, 051, 052, 053, 054, 055,056, 057, 058, 059, 060, 061, 062, 063, 064, 065, 066, 067, 068, 070, 71, 073, 074, 075, 076, 077, 078, 080, 082, 084, 085, 086, 088, 089, 091, 092, 094, 096, 098, 100, 103, 104, 105, 110, 111, 112,115, 117, 118, 119,120, 121, & (1) 1-2-32:002 (portion).
- ITEM M-18** Issuance of Construction Right -of-Entry to the U.S. Army Corps of Engineering (USACE) for uses related to dredging, temporary dewatering and staging areas, Nāwiliwili Harbor, Kauai. Tax Map Keys: (4) 3-2-003:001, 002, 003, 023, 040, & (4) 3-2-051, 052, 054, 05, 059, 061, 64, 065, 067, 072 and 074.

Dre Kalili, DOT-Harbors presented Items M-5 though M-7 and M-16 through M-18 and is happy to answer any questions.

Board Discussion

Items M-16 and M-17: Yuen said we have a proposal to negotiate leases to the two major container ship operators right now. Kalili replied there are several others that move containers, but these are the two largest companies. There are several others who move containers into Hawaii on barges, so they are not the exclusive operators. Yuen wanted to confirm that there is room for other operators as the State welcomes and encourages competition. Kalili responded

“yes”, there is space available, these two leases would not encumber all space in Honolulu Harbor.

Item M-18: Oi asked Tsuji from Land Division regarding previous approval for research in Nawiliwili Harbor for reef or coral right where Matson is where Sea Flight was? Would this affect the research?

Mike Fujimoto, DAR, answered the question, and said that it does not affect coral sampling.

Public Testimony-None

MOTION

Approved Items M-5 through M-7 and Items M-16 through M-18 as submitted (Oi/Yuen) unanimous.

ITEM D-17. Annual Renewal of Revocable Permits on the Island of O’ahu. See Exhibit 2 for list of Revocable Permits.

Richard Howard and Barry Cheung, Land Division, presented the renewal of the annual revocable permits submittal. Noted a correction on page 3, paragraph 3, fourth sentence, should read 31 of 63, rather than 34. Of the 63 RP’s, 34 will remain status quo for various reasons. The Oahu District has identified (5) that are potential direct leases, (13) of the 63 are in the process of becoming easements. We have reasonably contacted (2) permittees to convert to long-term dispositions, (2) RP’s will be cancelled after they have been inspected, (1) will be set-aside to Parks and the other is no longer in use. We are seeking to sell (7) permits at auction.

Board Discussion

RP 3954: American Legion Clubhouse. Downing noted that they lowered their rent from \$5,321.16 to \$480.00 on the idea that they are a non-profit. Are we going to allow all non-profits the \$480.00 rate? Cheung replied that it is done on a case by case basis and there is a benefit to the public (veterans) and has met with their Board. Downing asked who set the amount last year? Cheung said it was from historical data. Downing asked if this was a trend, anyone who uses State land and is a non-profit can get it for \$480.00?

Case commented that these go through an analysis through the revocable permit process, whether there is a public benefit versus not making money. This public benefit here is veteran services. Downing said he was fine with that.

RP 5407: Kaneohe Yacht Club. Downing asked about Yacht Club? Cheung said they met with them to discuss turning this into a long-term disposition. The Yacht Club had concerns regarding the easement conditions allowing for public access which are protected under the State Constitution. We are awaiting further response from the permittee. They are a non-profit but

do not provide a public benefit it's a social organization. Downing felt they were commercial side.

Downing asked why they are only increasing their rent in 2019 by 3% when others are 10%? Howard said it was based on the recommendation of the appraiser. On page 2 of the submittal there is a Category listing from A to E, which explains how the rents were appraised by CBRE, Inc. and that is what they based the percentages on. Some of the percentages went from 10% to 1000 percent. We are going to do it incrementally to bring them up to fair market value.

RP 7242: Luluku Banana Growers, COOP. Oi asked if they are planning to turnover to DOFAW? Cheung said that the position of DOFAW is that they do not allow commercialism in the forest reserve, we will continue to manage it for now since it is surrounded by forest reserve.

Public Testimony

Dave Frankel, said he opposed RP 7849.

Amendment:

Approved the renewal of the Oahu group of revocable permits through December 31, 2019, except for Revocable Permit 7849 to ResortTrust Hawaii LLC. See decision on D-13 above.

MOTION

Approved as amended (Downing/Yuen) unanimous.

ITEM D-10. Rescind Prior Board Action of March 28, 2003, Item D-9, *Consent to Assign Perpetual, Non-exclusive Access, and Utility Easement [L.O.D. No. S-27947], from Ronald R. & Miriam M. Jacintho, as Assignor, to First City Corp., Assignee; Tax Map Key No: (2) 2-1-006: Por. 077;*

Kevin Moore, Land Division, submittal is very detailed, and he is available for any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Yuen) unanimous.

ITEM F-1 Request for Final Approval to Adopt Amendments to Hawaii Administrative Rules Chapter 13-95, Rules Regulating the Taking and Selling of Certain Marine Resources. These Amendments are Intended to Give the Department Authority to Authorize Take of Stony Coral and Live Rock in Limited Circumstances by 1) Adding Definitions of "Renewable Energy Projects" and "Mitigation" to Section 13-95-1, and 2) Adding New Subsections in 13-95-70 and 71 that Allow the

Department to Authorize Damage of Stony Corals and Live Rocks for the Development or Operation of Renewable Energy Projects and Require Mitigation to Offset Stony Coral and Live Rock Damage from Any Authorized Take under those subsections.

The proposed amendments to Hawaii Administrative Rules Chapter 13-95 can be reviewed online at:

<http://ltgov.hawaii.gov/the-office/administrative-rules/> or can be reviewed or obtained in person at the Division of Aquatic Resources (DAR) offices on O'ahu at 1151 Punchbowl St. Room 330 Honolulu, Hawai'i, 96813 from 8:00 am to 3:30 pm, Monday through Friday, except Holidays

Mike Fujimoto and Cathy Gewecke, DAR. There are no changes to the submittal. Gewecke will email the PowerPoint presentation.

Board Discussion-None

Public Testimony

Victor Velasco, Engineer, Honolulu Sea Water Air Conditioning, provided testimony at the public hearings and is in support of the proposed rule change.

Case thanked DAR for being very diligent in working through the very difficult process.

MOTION

Approved as submitted (Yuen, Oi) unanimous.

ITEM J-1 Issuance of a Revocable Permit to Lanikai Canoe Club, for Storage for Canoes on Lanikai Beach, Kailua, Island of O'ahu, Hawai'i, seaward of Tax Map Keys: (1) 4-3-007:041, 042, 044, 044, 045, 051, 053, and 066.

Megan Statts, DOBOR, presented the submittal. DOBOR received numerous complaints from the community and the Division conducted a sweep of Lanikai beach and posted 90-vessels with 72-hour Notice to impound due to all the issues of storing on State property. The Canoe club came forward and asked for a permit to store the canoes on the beach.

Board Discussion

Downing noted that it is only for a certain time of year. Statts replied, yes, during the paddling season (March -October) they would have up to 28-outrigger canoes and during the off season anywhere from 10 to 15 on the beach.

Case thanked DOBOR for their hard work cleaning up Lanikai Beach, it was a major effort.

Public Testimony

Dave Smith, representing the canoe club is present to answer any question. The community has provided positive feedback.

MOTION

Approved as submitted (Downing, Yuen) unanimous.

ITEM J-2 Declare Project Exempt from Requirements of Chapter 343, Hawaii Revised Statutes, and Title 11, Chapter 200, Hawaii Administrative Rules and Approve Issuance of Perpetual, Non-Exclusive Easement to Kauai Island Utility Cooperative for Electrical Service for Job No. B94DK71A Port Allen Small Boat Harbor Floating Dock Improvements, 'Ele'ele, Island of Kaua'i, Hawai'i, Tax Map Key: (4) 2-1-003:010 (Portion).

Kevin Lim, DOBOR presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Yuen) unanimous.

ITEM D-3 Approve Mediated Settlement of Rent Reopening Dispute in General Lease No. S-4786, Hilo Trading Company, Ltd.; Waiākea, South Hilo, Island of Hawai'i, Hawai'i; Tax Map Key: (3) 2-1-003-008.

David Day, Deputy AG, disclosed that he was the attorney who helped negotiate this with Land Division on this and is serving as Board Council staffing this meeting. He stated that he can execute his duty as staff council with no conflict of interest.

Blue Kaanehe, Land Division presented the submittal.

Board Discussion

Downing commented that to go from \$20,580.00/year to \$43,758/year must have been hard on the Lessee.

Yuen noted that lowered the percentage on the gross proceeds. Kaanehe noted that was a difficult negotiation.

Tsuji said that this was an auction lease.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Oi) unanimous.

ITEM D-2 Amend Prior Board Action of July 24, 2015, Item D-2, *Sale of Portion of Ditch Easement G, to Clement T. Esaki and Amy I. Esaki, Trustees of the Clement T. Esaki, and Amy I. Esaki Trust, at Kapahi Farm Lots, Kapa'a, Kawaihau, Kaua'i, Tax Map Key: (4) 4-6-011:028.*

The purpose of the amendment is to change the referenced easement area from 1,500 square feet to 3,257 square feet.

Russell Tsuji, Land Division, had nothing else to add to the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Yuen) unanimous.

ITEM D-6 Issuance of Land Patent in Confirmation of a Portion of Land Commission Award No. 11216, Apana 39 to M. Kekauonohi, situate at Keōpū, District of North Kona, Island of Hawai'i, Tax Map Key: (3) 7-5-001:029.

Russell Tsuji, Land Division, had nothing else to add to the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Yuen) unanimous.

ITEM D-8 Issuance of Land Patent in Confirmation of a Portion of Land Commission Award No. 7716, Apana 4 to R. Keelikolani, situate at La'aloa, District of N Kona, Island of Hawai'i, Tax Map Key: (3) 7-7-007:091.

Russell Tsuji, Land Division, had nothing else to add to the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Yuen) unanimous.

ITEM D-16 Authorization of Sale of Lease and Conveyance of Leasehold Commercial Improvements by Bill of Sale at Public Auction for Business, Commercial or Industrial Purposes, Waipahu, 'Ewa, O'ahu, Tax Map Key: (1) 9-4-049:062.

Russell Tsuji, Land Division. We did a though analysis of this and the history and practice of Land Division is ground leases, and we are not equip to handle these to of space leases. The idea is to get a Master Lessee involved who can sublet the small spaces within the building.

Richard Howard, Land Division. This was acquired through an exchange with Hawaii Baptist Academy. There were nine tenants when we took over the property and currently on Revocable Permits.

Board Discussion

Yuen asked to clarify, someone is going to pay us cash for the improvements? Howard replied yes. Yuen said, then they are bidding on a Ground Lease, thereafter we will open on the basis of a ground lease based on market value? Tsuji, said yes.

There was further discussion regarding being the Landlord and having to auction each space and the feasibility of it. The request in the submittal turned out to be the best option.

Public Testimony-None

MOTION

Approved as submitted. (Oi, Yuen) unanimous.

MOTION TO ADJORN (Gomes, Roehrig) unanimous.

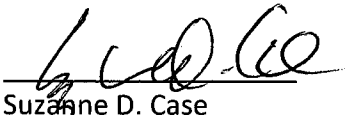
There being no further business, Chairperson Case adjourned the meeting at 5:40 pm. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and available for review. Certain Items on the agenda were taken out of sequence to accommodate applicants or interest parties present.

Respectfully submitted,



Darlene S. Ferreira
Land Board Secretary

Approved for submittal:



Suzanne D. Case
Chairperson
Department of Land & Natural Resources