

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

DATE: FRIDAY, JANUARY 25, 2019
TIME: **9:15 A.M.**
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAI'I 96813

MEMBERS

Suzanne Case
Tommy Oi
Stan Roehrig
Keone Downing

Jimmy Gomes
Chris Yuen
Sam Gon

STAFF

Russell Tsuji-Land
Sam Lemmo-OCCL
David Penn-DOFAW
Megan Statts-DOBOR

Kevin Moore-Land
David Smith-DOFAW
Emma Yuen-DOFAW
David Sischo-DOFAW

OTHERS

Julie China/AG
Olivia Pham/DOT-HAR
Jean Campbell/K1
Carl Imarato/K1
Dave Watase/K1
Bill Kucharski/C3
Stephanie Nagata/K2
Wally Ishibashi/K2
Dance Aoki/C2

Ross Smith/DOT-AIR
Tim Holland/F2,3,4
Teary Garron/k1
Jeff Hezog/D6
Kawika Freitas/D1
Michelle Sorenson/C3
Greg Chun/K2
Mike Maberry/K3

190125_0106/00:00:23

The meeting was called to order by Chairperson Case at 9:23 am. Member Gon read the contested case statement.

190125_0106/00:01:26

ITEM M-3 Issuance of a Right-of-Entry to Honolulu Authority for Rapid Transit (HART) for the Transplantation of Coconut Trees into the landscaped areas within the Parking Areas at Irwin Memorial Park, Piers 5/6, and the former U.S. Public Health Service Building near Piers 1/2, Honolulu Harbor, Oahu, Tax

Map Key Nos. (1) 2-1-013:007, (1) 2-1-001:057 (Portion), (1) 2-1-015:019 (Portion).

Olivia Pham, DOT-Harbors, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

190125_0106/0:02:36

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

ITEM M-2 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Alan R. Wehmer, Kawaihapai Airfield, Waialua, Hawaii, Tax Map Keys: (1) 6-08-14: 001 (Portion) and (1) 6-08-14: 017 (Portion).

Ross Smith, DOT-Airports presented Items M-1 and M-2.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gon) unanimous.

190125_0106/00:05:31

ITEM K-1 Conservation District Use Application (CDUA) KA-3828 for the Helios Hanalei, LLC Single Family Residence Project, by Helios Hanalei, LLC (Michael Gearon), Located at Princeville, Hanalei District, Island of Kauai, Tax Map Kay (4) 5-4-004:032.

Sam Lemmo, Office of Conservation and Coastal Lands, presented the submittal.

Board Discussion

Oi commented that he visited the site. Regarding the concerns of the site view plane, and slope stabilization. As long as the vegetation is kept in place, it would be hard to see the house. DOT has a plan for the slope stabilization and working along the highway.

Downing had the same concerns regarding the site view planes and asked what the penalties were. Lemmo referred to Condition No. 6. He addressed the question regarding

doing business at the site. The CDUA does not allow commercialism on the property as well.

Roehrig was satisfied with the restrictive conditions in the submittal. There was further discussion on the merits of the project and consequences should there be non-compliance with the conditions.

Public Testimony

Jean Campbell, representing the Applicant. They have no issues with the conditions. The Owner's intention is to use it as a family home and has no intention of renting it out. She addressed the slope stabilization and has been working with DOT as well. She clarified the site of the house is not on the edge of the cliff. He has no intention of using it for commercial use. The house is well within the guidelines.

Terry Gearon, noted that this has been a long dream of their family's as they have been visiting the island for many years

Carl Imarato stands by his written testimony and requested for a contested case on the basis of the slope stability and access into the valley causing protentional harm to his family if they are not able to access their home.

Yuen made the motion to into Executive Session and Gon second the motion. Unanimous.

10:10 am: Executive Session

10:45 am: Back in Session

190125_0107/00:00:05

Member Roehrig made the motion to deny the contested case, Member Oi, seconded the motion. (Roehrig, Oi) unanimous.

Case addressed Mr. Imarato and advised that if he wanted to pursue this, he would need to file an appeal.

Imarato continued his public testimony regarding the stabilization of the slopes at this site and more needs to be done and the visibility of house.

MOTION

Approved as submitted (Oi, Gomes) unanimous.

190125_0107:00:21:00

ITEM D-6 Issuance of Right-of-Entry Permit to U.S. Army Corps of Engineers on State Lands for Due Diligence Purposes for the Ala Wai Flood Control Project, Honolulu, Oahu, See Exhibit A for Tax Map Keys.

Kevin Moore, Land Division presented the submittal. Jeff Herzog, USACE, is present to

answer any questions.

Board Discussion

The discussion included how this was going to affect the surrounding stake holders and testimony received reflected that there were many who were not aware of the projects impacts on the surrounding neighborhoods and some families being displaced by the design of retention basins.

Herzog explained that certain features were designed from an economical perspective to protect the watershed and the Ala Wai Canal. Through the process there were structural and non-structural measures that were analyzed, and a recommendation was made for what features could provide a level of protection to the community, infrastructure, economy of the Ala Wai watershed, Honolulu and Waikiki. Due to space constraints along the Ala Wai canal and the boulevard, it was determined that a levy would not be sufficient or cost-effective, however, a flood-wall could contain the water within the canal. Permits still need to be applied for through City and County as well.

Gomes noted that testimony received was not favorable. Herzog replied that through their public engagements, they have responded in writing to those individuals who sent in comments.

190125_0107:00:38:40

Public Testimony

Dave Watase, his property has been targeted to be a detention basin and his property would be taken by eminent domain. He responded to DLNR in a letter that they had future plans to leave their home to their children. Despite the methodology that was sent to him and provided other alternatives. He has not received any response from DLNR or Army Corps of Engineers. Although, in Appendix G, they stated that the property owners would be compensated. He is opposed to granting the right of entry. Verbal contested case requested.

190125_0107:00:50:40

Motion to go into Executive Session made by Yuen, Gon seconded the motion.

11:32 am: Executive Session

11:40 pm: Back in session

190125_0109:00:00:40

Yuen made the motion to deny the request for contested case based on the right-of entry is for State lands and not Mr. Watase's, we are not making a decision today on the project itself. Downing seconded the motion. Unanimous.

MOTION

Approved as submitted (Roehrig/Downing) unanimous.

190125_0109:00:03:32

ITEM D-1 Issuance of Right-of-Entry Permit to Hawaii Beach Volleyball Association for Dinosaur Beach Volleyball Tournament at Kalapaki Beach, Lihue, Kauai, Tax Map Key: (4) 3-5-002: seaward of 002.

Kevin Moore, Land Division presented the submittal and applicant Kawika Freitas is present to answer any questions.

Board Discussion

Oi asked if the general public will have complete access to traverse the area?
Freitas replied yes.

Public Testimony-None

MOTION

Approved as submitted(Oi/Gon) unanimous.

190125_0109:00:07:18

ITEM C-3 Request to Amend a Grant from the Legacy Land Conservation Program to Ala Kahakai Trail Association (Contract No. 66886) by Removing, from the Area to be Covered by a Conservation Easement, a Footprint of Approximately 25 Acres for Possible Future Siting and Operation of a County Wastewater Treatment and Disposal Facility, Ka'ū, Hawai'i, Tax Map Key Number (3) 9-5-007:016,
and

Enter into an Agreement with the County of Hawai'i to Provide for Implementation of Land Conservation Fund Revenue Sharing Requirements in the Event of County Condemnation of the Footprint Area for Public Purposes.

David Penn, Division of Forestry and Wildlife, presented the submittal. Bill Kucharski, County of Hawaii, provided information on the project. Michelle Sorenson, consultant for the County and Laura Kaakua, The Trust for Public Land are present to answer any questions.

Board Discussion

The Board asked if there were any cultural sites. Keoni Fox with Ala Kahakai replied yes, and they have been involved with the County and can work around the cultural sites and felt there was no impact. The Board had concerns that the EIS has not been completed.

Kucharski, replied that nothing can happen until the HRS 343 process has been completed. If the County decides to put the treatment there, under the Statue, it comes back to the Board.

There was a robust discussion on how the funds are to be used and how the different agencies are affected.

Public Testimony-None

MOTION

Approved as submitted (Roehrig, Gomes) unanimous.

190125_0109/00:46:39

ITEM C-4 Approve Expenditures of Fiscal Year 2017 and Fiscal Year 2018 Encumbrances for Legacy Land Conservation Program Grant Agreement with Waipā Foundation for Land Acquisition at Halele‘a, Kaua‘i, Tax Map Key Number (4) 5-6-004:010, LLCP 15-01, and

Approve an Expenditure of Fiscal Year 2017 Encumbrance for Legacy Land Conservation Program Grant Agreement with Hi‘ipaka LLC for Land Acquisition at Ko‘olauloa, O‘ahu, Tax Map Key Number (1) 6-1-002:005, LLCP 16-01.

David Penn, Division of Forestry and Wildlife, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gomes) unanimous.

12:30 pm: Break

1:01 pm: Back in Session

190125_0110/00:01:19

ITEM K-2 (1) 2018 Annual Report by the University of Hawaii on the status of the implementation of the Mauna Kea Comprehensive Management Plan (CMP) for the University-managed lands on Mauna Kea, Kahohe, Hamakua, Hawaii, Tax Map Key Numbers (3) 4-4-015:009 and (3) 4-4-015:012 (non-action item) ; and (2) Request to delegate to the Chair of the Board of Land and Natural Resources the authority to name a Department of Land and Natural Resources (DLNR) representative to participate in the CMP five-year management review process.

Sam Lemmo, OCCL, gave a brief summary. There is a recommendation for the Board authorize the Chair to name a DLNR representative to the review committee for the update of the Comprehensive Management Plan for Maunakea.

Stephanie Nagata, Office of Maunakea Management, provided a PowerPoint report for the Board.

Board Discussion

The Board had a discussion regarding “Ahu’s” and Native Hawaiian access. The idea of making access user friendly.

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

190125_0110/00:57:45

ITEM K-3 (1) 2018 Annual Report by the University of Hawaii Institute for Astronomy on the Haleakala High Altitude Observatory Site Management Plan at Puu Kolekole, Makawao District, Maui, Tax Map Key number (2) 2-2-007:008 (non-action item); and (2) 2018 Annual Report on the status of the implementation of the Programmatic Agreement for the Daniel K. Inouye Solar Telescope (DKIST) at the High Altitude Observatory Site, Puu Kolekole, Makawao District, Maui, Tax Map Key number (2) 2-2-007:008 (**NON-ACTION ITEM**).

Sam Lemmo, OCCL, gave a brief summary of their site visit and how it differs from how it is managed by an Executive Order versus the Office of Maunakea Management. Mike Maberry, presented the University of Hawaii’s annual report on Haleakala.

Board Discussion

Downing commented that he had the privilege of visiting both Mauna Kea and Haleakala, and there is a big difference in cleanliness. Mauna Kea is very pristine whereas Haleakala looks like a dumping ground.

Lemmo noted that the site was an old military operation and the clean-up is under the FAA.

Maberry, noted that the University of Hawaii is responsible for the Observatory. He acknowledged the Native Hawaiian caretakers and Kupuna’s of Haleakala. They have been instrumental in helping to clean up the mountain.

Mayberry commented that the permit, management plan, and the previous year’s report are available at <http://dlnr.hawaii.gov/occl/astronomy-facilities/>.

190125_0110/01:27:04

ITEM E-1 Issuance of a Right-of-Entry to Elite Pacific Construction Inc., for improvements to the existing Pu’u ‘Ualaka’a State Park Radio Communication Facility at the Honolulu Fire Department Master Transmitter Site, Opu, Makiki, Honolulu, O’ahu, Hawai’i, Tax Map Key: (2)-5-019:011 (Portion).

Curt Cottrell, State Parks, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) unanimous.

90125_0110/01:28:35

ITEM D-2 Amend General Lease No. S-5360, Hale Opio Kauai, Inc, Lessee, Lot 50, Kapaa Homesteads, 1st Series, Kawaihau, Kauai, Tax Map Key: (4) 4-6-005:002.

The purpose of the amendment is to change the annual rental rate under the lease for the current reopening period from fair market rent to minimum rent at \$480 per annum, which is available to non-profit entities in accordance with the Board policy of May 13, 2005, agenda Item D-19, and to change the lease language for future rental reopening so that such reopening will be based on the Board's then prevailing minimum rent policy.

ITEM D-3 After-the-Fact Consent to Sublease under General Lease No. S-5001, Pubtime, Inc., Lessee/Sublessor, to JKL & Associates, LLC dba E Komo Mai Diner Bar & Grill, Sublessee, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-032:010. Approved as submitted (Gon/Gomes) unanimous

ITEM D-5 Authorize the Issuance of a Request for Qualifications/Request for Proposals to Operate the Waialeale Off-Road Motorcycle Park, Waialeale, Koolauloa, Oahu, Tax Map Key: (1) 5-8-002:002. Approved as submitted (Gon/Gomes) unanimous

Russell Tsuji, Land Division, did not have anything else to add to Items D-2, D-3, and D-5.

Board Discussion

Item D-3: Roehrig disclosed that the that the Lessee is a close friend of his.

Public Testimony-None

MOTION

Approved as submitted Items D-2, D-3 and D-5, (Gon, Gomes) unanimous.

90125_0110/01:30:25

ITEM C-2 Approve a Disposition of Land that was Acquired with a Grant from the Land Conservation Fund by the Kona Historical Society at Kona, Hawai'i, Tax Map Key Number (3) 8-2-015:013, Including Waiver of Revenue Sharing Provisions, to Greenwell Farms Incorporated.

David Penn, Division of Forestry and Wildlife, presented the submittal. Dance Aoki, is present to answer any questions.

Board Discussion

Roehrig made a declaration that his sister's name is all over the documents, but he does not have any financial interest and also is acquainted with William Norwood, President of Kona Historical Society.

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) Unanimous.

90125_0110/01:36:45

ITEM C-1 Annual Review of Grants from the Land Conservation Fund for Each Project that has been Pending for over Five Years – for Discussion and Possible Action:

(a) LLCP 13-02, DLNR Division of State Parks, Ulupō Heiau Buffer, Ko'olaupoko, O'ahu, Map Key Number (1) 4-2-103:032 (portion).

(b) LLCP 09-03, DLNR Division of State Parks, Kukuipahu Heiau Buffer, Kohala, Hawai'i, Tax Map Key Numbers (3) 5-6-001:051 and (3) 5-6-001:075.

David Penn, Division of Forestry and Wildlife, presented the submittal; this is in response to the performance audit.

Board Discussion

The wanted to know why these were pending after 5+years. Penn replied for Ulupō Heiau, YMCA is the landowner. It is in active negotiation.

For Kukuipahu Heiau Buffer, we are trying to get the landowner to donate it. We are not sure if it was written into the transfer of property and the owners are in Germany. Dave Smith, said he would follow up.

Public Testimony-None

Amendment:

Defer item (a) and terminate item (b)

Motion

Approved as amended (Yuen, Gomes) unanimous.

There being no further business, Chairperson Suzanne Case adjourned the meeting at 2:55 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