

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

DATE: FRIDAY, October 26, 2018  
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  
Ed Underwood-DOBOR

Sam Lemmo-OCCL

**OTHERS**

Julie China-AG  
Lynn McCroy/J2  
Jim Coon/J4  
Jeff Overton/K3  
Dawn Horn/K3  
Nick Lawson/K3  
Dan Brown/K3  
Michael J. Lee/K3  
Wally Ito/D7  
Jon Pang/D2  
Sharon Tanaka/K3  
Kevin Chang/D7  
Dennis Fujii/D7  
Lester Goo/K3  
Jack Furtano/  
Dean Crowell/D7  
Dawn Snyder-Seelig/K3  
Oriana Coleman/D7  
Janet Mandrell/J3

Greg Barbour/D4  
David Smith/K1  
John Sakaguchi/K2  
Barrie Morgan/K3  
Lanny Busher/K3  
Harvey Gerwig/K3  
David Gion/K3  
Chris Cramer/D7  
George Antoneus/D7  
Layne Tanaka/K3  
Charles Young/D7  
Pamela Fujii/D7  
Yvonne Izu/D7  
Kehaulani Custino/D7  
Alan Murakami/D7  
Terese Parsons/K3  
Terry Seelig/K3  
Milton Coleman, Jr/D7  
Paul Miles/J3

**NOTE:**

***The following Items were deferred:***

***Items C-1; D-1; D-3; D-5; D-6; D-7; F-1; J-1; J-3; M-1; M-2; M-3; M-4; and M-5***

**181026\_0085/00:00:20**

Chair Case called the meeting to order at 10:40 am. Member Gon read the contested case statement.

**181026\_0085/00:00:56**

**ITEM A-1** Request Approval of the August 10, 2018 Meeting Minutes.

**ITEM A-2** Request Approval of the August 30, 2018 Meeting Minutes.

**Board Discussion**

ITEM A-1: Member Gon noted he provided his edits to the Land Board Secretary. Member Yuen and Member Gomes were not present at this meeting.

ITEM A-2: Member Gomes noted he was not present.

**Public Testimony-** None

**MOTION**

**ITEM A-1, approve as amended (Roehrig, Gon) 5-Ayes (Yuen & Gomes did not vote).**

**ITEM A-2, approve as submitted. (Roehrig, Gon) 6- Ayes (Gomes did not vote)**

**181026\_0085/00:02:22**

**ITEM K-4** Third Time Extension Request for Conservation District Use Permit (CDUP) OA-3579 for the Honolulu Seawater Air Conditioning Project by Honolulu Seawater Air Conditioning, LLC. located upon submerged land, makai of Kaka'ako Waterfront Park, offshore of Plat (1) 2-1-060 and Channel D of Ke'ehi Lagoon, Island of O'ahu.

Sam Lemmo, Office of Conservation and Coastal Lands, they have been delayed for reasonable reasons.

**Board Discussion**

There were concerns as to how long this would take to complete based on the delays for certain approvals. Overall it is a good project.

**Public Testimony-**None

**MOTION**

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

Chair Case took a moment to recognize Julie China, Deputy Attorney General for her role in securing the acquisition of the property at Helemano that was on the front page of today's newspaper.

**181026\_0085/00:08:47**

**Item K-2** Conservation District Use Application (CDUA) OA-3807 Regarding the South Kahana Stream Bridge Replacement Project by the State of Hawaii, Department of Transportation, Located in the Ko'olauloa District, Island of O'ahu on Tax Map Key(s): (1) 5-2-005:001, (1) 5-2-005:022, (1) 5-2-005:023, and (1) 5-2-002:001.

Sam Lemmo, OCCL, DOT needs to replace the bridge and create a temporary by-pass road which would be in conservation.

Board Discussion

What is the life expectancy of the bridge and has sea-level rise been taken into consideration? Lemmo replied that the stream area will be improved and should have better drainage.

The Board felt this was an opportunity to build something new that will address sea-level rise and it needs to be taken into consideration. The question regarding the temporary residence was thoroughly discussed and DOT Consultant, John Sakaguchi (Wilson Okimoto) provided information on why and how the temporary residence would be used as well as consent by tenant.

Sakaguchi addressed the sea-level rise issue, the current bridge opening of the stream is 90-feet and when completed the opening will approximately 170-feet. The height of bridge is approximately 5-feet above mean sea-level.

The Board had a robust discussion regarding the future of sea-level rise and whether the current plan for the bridge will be effective and if the roads will eventually have to be raised/move. It was suggested that DOT adopt consideration regarding sea-level rise.

Public Testimony

*Mike Lee*, it seems you are also looking for a cost analysis, if you raise it so many feet, it's going to cost so much, land disturbances to take into consideration, social impact that goes with it, so for every foot rise, you have a number that takes that all into consideration. He provided a brief history of how and why the roads were designed in the past along the coastline.

**Condition:**

DOT shall assess the vulnerability of the bridge to sea-level rise prediction of 3.2 -feet by 2060 and 6-feet by 2100, and report back to DLNR/OCCL to work on necessary modifications for acceptance or Board authorization.

Gon stated for the record, "It shall be the policy of the BLNR to require proposals explicitly include assessments of anticipated sea-level rise effects and adaptive plan elements".

**MOTION**

**Approve with condition (Gon, Roehrig) unanimous.**

**181026\_0085/01:00:44**

**ITEM J-2** Approve Installation of Two New Offshore Moorings Outside of a Designated Offshore Mooring Area, Kaunolu Bay and Huawai Bay, Island of Lanai, For Lanai Resorts, LLC (Dba Pulama Lanai). Concur that the Issuance of a Revocable Permit for this Project will probably have Minimal or No Significant Effect on the Environment and Accept the Finding of No Significant Impact.

Ed Underwood, Division of Boating and Ocean Recreation. This submittal was brought before the Board at the last meeting but lack the 343 Exemption requirement.

Board Discussion

In the submittal there is no mention of cost/fee in the submittal. Underwood, they currently have a lease in the bay and are not sure what the mooring fee will be. They are going to pay, we are going out with proposed rules regarding moorings soon.

Public Testimony

Lynn McCury, Pulama Lanai. We have no issue with paying a mooring fee. We currently pay 10% for docking fees and the moorings are going to cost \$50,000 each and plan on maintaining them. They prefer a private mooring as there is consistent commercial activity at the harbor and they would not have to compete for space as our guests are not on a schedule.

**MOTION**

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

**181026\_0085/01:09:06**

**ITEM D-4** Consent to Assign Sublease K-26 under General Lease No. S-5619, CELLANA LLC, Assignor, to CYANOTECH CORPORATION, Assignee, Kalaoa 1<sup>st</sup>, North Kona, Hawai'i, Tax Map Key: (3) 7-3-043:102.

Russell Tsuji, Land Division. CELLANA is asking for an assignment as they are delinquent in rent and would like to assign the lease. Greg Barbour is present to answer any questions.

Board Discussion-None

Public Testimony-None

**MOTION**

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

**181026\_0085/01:09:06**

**ITEM D-2** Denial of Petition for Contested Case Hearing filed June 4, 2018 by Petitioners Liko-o-Kalani Martin and Na Mo’o Kupuna o Wailua, Regarding Board Action of May 25, 2018, Agenda Item D-1:

*Consent to Assign General Lease No. S-4878, Grant of Easement Nos. S-4244 & S-4645, and Land Office Deed Nos. S-12,850 & S-27,442, Coco Palms Ventures LLC, as First Assignor, to PR II Coco Palms LLC, as First Assignee/ Second Assignor, and from PR II Coco Palms LLC, First Assignee/ Second Assignor, to Coco Palms Hui LLC, as Second Assignee, Wailua, Kawaihau (Puna), Kaua’i , Tax Map Keys: (4) 4-1-003:005, por. 017, por. 039, and por. 044.*

*Amendment of Grant of Easement Nos. S-4244 and S-4645, and Land Office Deed Nos. S-12,850 and S-27,442, Coco Palms Hui LLC, Grantee, Wailua, Kawaihau (Puna), Kaua’i, Tax Map Keys: (4) 4-1-003:005, por. 017, por. 039 & por. 044, and 4-1-005:017.*

*Grant of Easement Nos. S-4244 and S-4645, and Land Office Deed Nos. S-12,850 and S-27,442 already exist. The purpose of amending the documents is to insert a provision allowing the easements to “Run with the Land,” thereby becoming assignable without the written consent of the Board of Land and Natural Resources. The easements will be appurtenant to and inure to the benefit of Coco Palms Hui LLC’s private property identified as Tax Map Key: (4) 4-1-003:007.*

Russell Tsuji, Land Division, presented the submittal.

Board Discussion-None

Public Testimony-None

**MOTION**

**Approve as submitted (Yuen, Oi) unanimous.**

**181026\_0085/01:16:09**

**ITEM J-4** Consideration of Settlement Proposal in Civil No. 17-1-0483(3), Na Papa’iwawae ‘Ula ‘Ula, Et. Al. V. DLNR”. The Board may go into Executive Session Pursuant to Section 92-5 (a)(4), Hawaii Revised Statutes, In Order to Consult with Its Attorneys on Questions and Issues Pertaining to The Board’s Powers, Duties, Privileges, Immunities, And Liabilities.

Daniel Morris, Deputy Attorney General, provided the back ground of the case. There was a proposal made. The mediator and the parties involved asked to bring it to the Board for their consideration in Executive Session, so the parties can have a sense of the Board's position and parameters.

Board Discussion

Gon motioned to go into Executive session. Gomes second.

Public Testimony-None

12:06 p.m.: Executive Session

12:45 p.m.: Back in Session

**181026\_0087/00:02:36**

**ITEM K-1** Conservation District Use Application (CDUA) OA-3821 Regarding the **Grossman** Scour Apron Erosion Control Project by Elizabeth Rice Grossman, Located in the Ko'olaupoko District, Island of O'ahu, on Submerged Lands of the State, seaward of Tax Map Key: (1) 4-3-005:094.

Sam Lemmo, OCCL, summarized the submittal and stands by their recommendation, this is inconsistent with the objectives and policies related to Coastal management. The applicant's Consultants are present to answer any questions.

*Chris Conger and David Smith*, Sea Engineering for the Applicant. Passed out pictures and what each represented. Provided the history of the area. The Owner's would like to make improvements to their legal seawall. The data they have collected, the science and observations indicate the possibility of improved coastline. They were methodical in their presentation.

Board Discussion

The Board discussed the primary objection is to protect the upland, the suggestion is to build it on the Applicant's property and not in front of the existing wall.

Public Testimony

*Teresa Parsons*, Kailua Neighborhood Board, said the Neighborhood Board did not support the scour apron.

**MOTION**

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

**(1) Nay (Yuen)-He noted that new seawalls vs existing walls, he would be willing to entertain an experimental wall where there is an existing one.**

**181026\_00087/01:38:20**

**ITEM K-3** Conservation District Use Application (CDUA) OA-3818 Regarding the **MDHE**, LLC Single Family Residence Project by MDHE, LLC, Located in the Ko'olaupoko District, Island of O'ahu on Tax Map Key: (1) 4-2-004:001.

Sam Lemmo, Office of Conservation and Coastal Lands, provided information regarding the application, this is the second one. There are many concerns and reasons why the Staff recommendation is to deny the approval of a CDUA listed in the submittal. There is an error in the submittal, when you look at the alternatives that are identified by the Applicant on Exhibit 13, after analyzing it we mistakenly thought that Site "O" was the preferred site. Site C is the correct location. The Applicant's reason for choosing their preferred site, is for "reasonable accommodation" for health issues.

*Jeff Overton and Barry Morgan, G70, Applicant's planner.* Noted they have worked closely with OCCL to look at the site for alternative areas for a single-family home. The Applicant prefers Site A. The discussion revolved around the depth of work involved for the driveway and the view planes, erosion control, type of soil and basic construction issues surrounding conservation area.

*Dawn Horn, Managing member.* Referred to her written testimony. They worked very carefully with experts to meet the criteria of the CDUA. They also took the community into consideration and worked to address their concerns. They have reduced the area for the forest stewardship, moved the proposed Subsistence Agriculture Garden Area so it insured no portion of the proposed home drive-way, stewardship or gardening took place above, below, or adjacent to the same hillside slips as any Kailua Bluffs neighbor property. Conveyed that CDUA OA-3818 meets all the Conservation Criteria

4: 20 p.m.: Break

4:30 p.m. Return

**181026\_0088/00:00:04**

**Chair Case noted the following would be deferred:** C-1; D-1; D-3; D-5; D-6; D-7; F-1; J-1; J-3; M-1; M-2; M-3; M-4; and M-5

*Scott Arakaki, Attorney representing Dawn Horn regarding the Fair Housing Act relating to reasonable accommodations.*

Public Testimony

The following testified in support of the CDUA, *Lanny Busher, Nick Lawson, Harvey Gerwig, David Gion.* They felt that the Horn's would be good stewards of the land and have known the family for many years

The following testified opposing the CDUA, *Michael Lee, Layne & Sharon Tanaka, Teresa Parsons, Terry Seelig, Hugo de Vries, Lester Goo*. The concerns discussed included the negative impact to the environment regarding, erosion and sedimentation flowing into the wetlands affecting habitat, storm water run-off, loss of open space.

#### Board Discussion

The Board discussed the different sites and agreed on the alternate Site C and discussed conditions that would help mitigate erosion control, storm water run-off and the view plane.

#### **Amendment:**

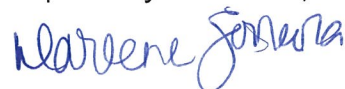
- 1. Approval of Site C with bent driveway, forest stewardship area and the subsistence ag area**
- 2. Erosion Control Measures put in place**
- 3. Use of Earth and Non-Reflective tones on the Exterior**
- 4. To the extent that people in any of the subdivisions are required to participate in any drainage management activities such as clearing the silt basins. This lot will be required to participate in that.**
- 5. All mitigation measures required for best management practices for erosion control during construction and post-construction**

#### MOTION

Approved as amended (Yuen, Downing) unanimous.

Chairperson Suzanne Case adjourned the meeting at 4:45 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.

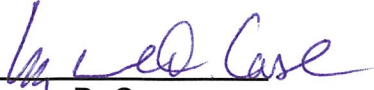
Respectfully submitted,



Darlene S. Ferreira  
Land Board Secretary



Approved for submittal:



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Suzanne D. Case  
Chairperson  
Department of Land & Natural Resources