

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
BOARD OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

APPROVED
BY THE BOARD AT THE
MEETING HELD ON
09.13.2019

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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

DATE: FRIDAY, JULY 26, 2019
TIME: **9:15 A.M.**
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

MEMBERS

Suzanne Case
Stan Roehrig (arrived at 9:30am)
Tommy Oi

Jimmy Gomes
Sam Gon
Chris Yuen

STAFF

Russell Tsuji-Land
Bridgette Agustin-DAR
Richard Howard-DOBOR
Ed Underwood-DOBOR
Josh Atwood-DOFAW

Brian Nielson-DAR
Ed Underwood-DOBOR
Alan Downer-SHPD
Pua Aiu-Chair's Office

OTHERS

Dan Morris/AG
Olivia Pham/DOT-HAR
James Yamashiro/DOT-HWY
Peter Young/J1, D6
Michell Otake/D6
Naomi K./D4

Ross Smith/DOT/Air
Eric Leong/DOT/HAR
Kevin Simon/DOT-HWY
Heidi Meeker/D7
Mike Dahilig/C2
David Day/D4

ITEM A-1

Joe Rizzi/D6
Jeff Olsten/I1

Paul Olsten/I1
Keith Perry/C2

190726_0135/00:00:34

Chair Case called the meeting to order at 9:15 am. Member Gon read the contested case statement.

190726_0135/00:00:34

ITEM A-1 Meeting minutes for June 14, 2019 for approval.

Board Discussion

Member Yuen submitted comments to be incorporated into the minutes.

Public Testimony- None

MOTION

Approved as Amended (Gon, Gomes) unanimous.

190726_0135/00:02:07

ITEM D-7 First Amendment for Lease of Federal Property No. N62478-12-RP-00014 for Mokapu Elementary School at Marine Corps Base Hawaii, Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-4-009:007.

The amendment will add to the existing lease (a) Mokulele Elementary School, located at 250 Aupaka Street, Honolulu, Tax Map Key: (1) 1-1-002: portions of 008; (b) Hickam Elementary School located at 825 Manzelman Circle, Honolulu, Tax Map Key: (1) 9-9-001: portions of 003; and (c) Lehua Elementary School Parking Lot located near 791 Lehua Street, Pearl City, TMK (1) 9-7-016: portions of 001, together with other pertinent statutory updates.

Russell Tsuji, Land Division presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Oi) unanimous

190726_0135/00:03:01

ITEM D-8 Issuance of Right-of-Entry Permit for Construction of Road "S" to D.R. Horton – Schuler Homes, LLC on Lands Encumbered by Memorandum of Agreement dated May 1, 2012 between the Department of Hawaiian

Home Lands and Department of Land and Natural Resources, as amended on July 19, 2016 Regarding Construction of Roads in East Kapolei II, Kapolei, Ewa, Oahu, Tax Map Key: (1) 9-1-017: portions of 161.

Russell Tsuji, Land Division presented the submittal. Michelle Otake, Representative for D.R. Horton-Shuler Homes, LLC, present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Oi) unanimous

190726_0135/00:05:01

ITEM C-2 Authorize the cancellation of Executive Order 3564, delegate authority to the Chairperson to negotiate and finalize a re-set aside to the County of Kauai for housing and management of memorial and arboretum improvements purposes a re-set aside to the Division of Forestry and Wildlife for native plant nursery and base yard purposes, and authorize the transfer funds to the County of Kauai for memorial and arboretum improvements, Tax Map Key: (4) 3-8-005:002 Lihue, Kauai (known as the Pua Loke Nursery and Arboretum).

Pua Aiu for Division of Forestry and Wildlife, passed out a newer map of the parcels to the members and presented the submittal. County is present to answer any questions.

Board Discussion-None

Oi asked what the purpose of breaking it down to six parcels? Aiu replied she did not have the answer, eventually it will be two parcels. Michael Dahilig, Managing Director and Keith Perry, Operations Analyst, County of Kauai answered questions regarding the resources and the subdivision process for the uses of the land.

Public Testimony-None

MOTION

Approved as submitted (Oi, Gon) unanimous.

190726_0135/00:14:24

ITEM D-4 Approve Amendment to General Lease No. S-4588 as Resolution to Rental Reopening, InSite Towers Development, LLC; Kalawahine and Opu, Honolulu, Oahu, Hawaii; Tax Map Key: (1) 2-5-019: Portion of 013

The Board may go into Executive Session pursuant to Section 92-5(a) (4), Hawai'i Revised Statutes, in order to consult with counsel on questions

and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities.

Russell Tsuji, Land Division presented the submittal. Counsel for Insight is present and stands by their written testimony.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) unanimous.

190726_0135/00:19:17

ITEM J-1 Request for Approval of the Final Environmental Assessment for the Jupiter Research Foundation Marine Science Center;

and

Request for Authorization for The Board to Issue a Finding of No Significant Impact (FONSI); Located on the OEQC Web Site Labeled: 2019-03-23-HA-DEA-Marine-Science-Center-At-Kawaihae-Harbor

and

Authorize Issuance of a Direct Lease with the Jupiter Research Foundation, for Purposes of a Marine Science Center, Situated at Kawaihae Small Boat Harbor South, Kawaihae, Island of Hawaii, Hawaii, Identified by Tax Map Key: (3) 6-1-003:026 (Portion).

Richard Howard, Division of Boating and Recreation, presented the submittal. Correction to page 3, regarding annual rent through direct negotiation, Staff obtained an appraisal and applicant agrees to the appraised rent.

Board Discussion

The question asked was what is electro-biological? Peter Young and Joe Rizzi, Jupiter Foundation provided information and examples of how it works.

Public Testimony-None

MOTION

Approved as amended (Roehrig, Gon) unanimous.

190726_0135/00:30:12

ITEM D-6 Set-Aside to Department of Land and Natural Resources, Division of Boating and Ocean Recreation (DOBOR) for Small Boat Harbor Purposes;

Issuance of Management Right-of-Entry Permit; Transfer of Revocable Permit No. S-5407; Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-4-022: seaward of 032.

Russell Tsuji, Land Division presented the submittal.

Board Discussion

The question was raised regarding piers with boats without leases. Ed Underwood, DOBOR, noted that he is working with Mr. Young on a fee schedule.

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) unanimous.

190726_0135/00:30:12

- ITEM M-1** Issuance of a Revocable Permit for Container Storage and Equipment Staging Area, Nan, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003:001 (Portion).
- ITEM M-2** Issuance of a Revocable Permit for a Preferred Hold Room at Gate 7 of the Main Terminal, Alaska Airlines, Inc., Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-043:040 (Portion).
- ITEM M-3** Issuance of a Revocable Permit for Ramp Space for Office Flex Units to Support Airline Operations, Delta Air Lines, Inc., Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-043: 040 (Portion).
- ITEM M-4** Issuance of a Revocable Permit for a Preferred Hold Room at Gate 3 in the Main Terminal, Hawaiian Airlines, Inc., Līhu'e Airport, Tax Map Key: (4) 3-5-001:008 (Portion).
- ITEM M-5** Issuance of a Direct Land Lease to Replace Existing State Lease No. DOT-A-98-0019 for an Air Traffic Control Tower and Storage/Receiver Facility Site, U.S. Federal Aviation Administration, Līhu'e Airport, Tax Map Key: (4) 3-5-001: 008 (Portion).

Ross Smith, DOT-Airports was present to answer any questions.

Board Discussion

Based on encouraging competition, the Board had concerns regarding Items M-2 and M-4, preferred hold-rooms for the airlines. Smith replied it was written in their lease agreement and explained how the airlines qualify.

Public Testimony-None

MOTION

Approved as submitted Items M-1 through M-3, Item M-5 (Gomes, Gon) unanimous. Item M-4 approved as submitted; Oi, Opposed

190726_0135/00:30:12

ITEM M-6 Issuance of Two (2) Revocable Permits to Hawaii Stevedores, Inc., situated at Pier 51, Honolulu Harbor, Oahu, Tax Map Key: (1) 1-5-041:111 (Portion), Governor's Executive Order Nos. 2462 and 2844.

Olivia Pham, DOT-Harbors present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) unanimous.

10:15 am: Break

10: 27 am: Back in session

190727_0135/00:00:06

Member Gon recused himself from this item

ITEM I-1 Settlement of Enforcement Action against the Edwin C. Olson Trust No. 2. during the course of Land Altering Activities without a permit. Amauulu Camp Cemetery, Pu'u' eo Ahupua'a, South Hilo, Island of Hawai'i, Tax Map Key: (3) 2-6-008:028.

Alan Downer, State Historic Preservation Division, presented the submittal.

Board Discussion

The Board discussed the statement provided by the Olson Trust No. 2 and the role SHPD played in their review. Paul Olston and Jeff Olston provided a statement from the Olston Trust No. 2 regarding the enforcement action. There was a lengthy discussion.

Public Testimony-None

12:20 pm: Break

12: 30 pm: Back in session

190727_0135/01:57:06

MOTION

Approved as submitted (Yuen), and explained his reasoning. Chair Case second the motion for discussion.

Vote: Aye: Yuen, Case; Oppose: Roehrig, Gomes; No Vote: Oi
Motion does not pass.

Roehrig made a MOTION to reject the proposed offer and that we apply the original fine of \$54,960 that was levied and without including language of culpability. Gomes second the MOTION for discussion with the fine to be paid to the State Historic Preservation fund. There was further discussion. Roehrig withdrew this Motion.

MOTION to defer made by Roehrig to bring back to the Board as a violation and not a settlement. Gomes second the MOTION for further discussion. MOTION withdrawn by Roehrig.

Oi made a MOTION to amend settlement offer of \$54,960.00 and that the Trust does not admit liability in this matter which can be accepted or rejected by the Olsen Trust No. 2. Gomes second the MOTION. Further discussion.

VOTE: Approved amended settlement (Oi, Gomes) unanimous.

190727_0135/02:35:40

ITEM D-3 Approval of 15-Year Term Extension of General Lease No. S-4257, aFein Holdings, LLC, Lessee; Kapaa Town, Kauai, Tax Map Key: (4) 4-5-009:008.

Consent to Sublease under General Lease No. S-4257, aFein Holdings, LLC, Lessee, to (i) Dorland and Associates, Inc., CPAs, and (ii) Island Rental Cars, LLC, Sublessees; Kapaa Town, Kawaihau, Kauai, Tax Map Key: (4) 4-5-009: portions of 008.

After-the-fact Consent to Sublease under General Lease No. S-4257, aFein Holdings, LLC, Lessee, (iii) Julian M. Martinez dba Kukui Street Tattoo, (iv) Eat Chef George, LLC, (v) Hannah Finazzo-Krueger, LLC, (vi) Christopher Mario Ragsdale Jr, (vii) Adam Lang and (viii) Max Lemaire, Sublessees; Kapaa Town, Kawaihau, Kauai, Tax Map Key: (4) 4-5-009: portions of 008.

Russell Tsuji, Land Division presented the submittal.

Board Discussion

There was a question regarding participation in the sublease. Tsuji, noted it was an old lease and is being reviewed at the AG's office.

Public Testimony-None

MOTION

Approved as submitted (Oi, Gomes) unanimous.

190727_0135/02:40:37

ITEM C-1 Request for Approval of a Memorandum of Agreement between the Hawaii Department of Land and Natural Resources/Division of Forestry and Wildlife, United States Fish and Wildlife Service, United States Coast Guard, Island Conservation, and the National Tropical Botanical Gardens, regarding the Lehua Island Ecosystem Restoration Project.

Josh Atwood, Division of Forestry and Wildlife presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

190727_0135/02:41:37

ITEM M-7 Request Authorization to the Department of Transportation (DOT) to dispose of Vineyard Thoroughfare, Federal Aid Project No. F-098 (2), Nuuanu Avenue to Lusitania Street Section, Tax Map Key: (1) 2-1-018:040.

The request is by the abutting Land Owner, Tax Map Key: (1) 2-1-018-049. The land is surplus to DOT's needs and DOT has no objection to the sale.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gomes) unanimous.

190727_0135/02:42:12

ITEM D-2 Issuance of Right-of-Entry Permit to Pohakukaeua Kekaulua, on behalf of Kauai Bodyboarding Association at Shipwreck's Beach (Keoniloa Beach) for a Bodyboarding Contest; Shipwreck's Beach (Keoniloa Beach), Poipu, Koloa, Kauai, Tax Map Key: (4) 2-9-001: seaward of 001.

Russell Tsuji, Land Division present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gon) unanimous.

190727_0135/02:42:18

ITEM D-5 Cancellation of Governor's Executive Order No. 3488 and Re-set Aside a Portion to Department of Public Safety for Correctional Institution and Related Purposes and a Portion to City and County of Honolulu for Reservoir Purposes; Grant of Perpetual, Non-Exclusive Easement to the City and County of Honolulu, Board of Water Supply for Access and Drainage Purposes; Issuance of Management Right-of-Entry; Kailua, Koolaupoko, Oahu, Tax Map Key: (1) 4-2-003:004, 024, 025, 026.

Russell Tsuji, Land Division present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) unanimous.

190727_0135/02:42:32

ITEM D-9 Amend Prior Board Action of June 28, 2002, (Item D-10), *Grant of Perpetual, Non-Exclusive Easement to Board of Water Supply for Waterline Purposes, Aiea, Ewa. Oahu, Tax Map Key: (1) 9-9-05:01.*

An amendment is required to (1) Include Water Meter in the purposes of the easement and (2) Issue a Management Right-of-Entry to the City and County of Honolulu.

Russell Tsuji, Land Division present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) unanimous.

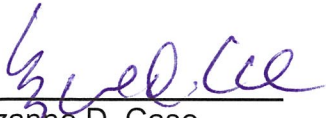
There being no further business, Chairperson Suzanne Case adjourned the meeting at 1:07 pm. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and available for review. Certain Items on the agenda were taken out of sequence to accommodate 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