DAVID Y. IGE GOVERNOR OF HAWAII





BY THE BOARD AT ITS SUZANNE D. CASE MEETING HELD ON **OCTOBER 25, 2019**

APPROVED AS AMENDED

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 RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOL AWE ISLAND DESSERVE COMMISSION KAHOOLAWE ISLAND RESERVE COMMISSION LAND STATE PARKS

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

POST OFFICE BOX 621 HONOLULU, HAWAII 96809

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

DATE:

FRIDAY, September 27, 2019

TIME:

9:15 A.M.

PLACE:

KALANIMOKU BUILDING

LAND BOARD CONFERENCE ROOM 132

1151 PUNCHBOWL STREET HONOLULU, HAWAI'I 96813

MEMBERS

Suzanne Case Jimmy Gomes Stan Roehrig

Sam Gon Chris Yuen Tommy Oi

STAFF

Russell Tsuji-Land **Curt Cottrell-Parks** Dietra Myer Tremblay- DOFAW

Kevin Moore-Land Richard Howard-DOBOR Sam Lemmo-OCCL

OTHERS

Colin Lau/AG Ross Smith/DOT-AIR Brita Woeck/C1,2 Pete Manaut/C1,2 Sandra Pfund/D10 Meania Kekauula-Kukiai/C2 Walton Hong/K1 Devon Coon/J3 Lisa Bail/J3 Lila Lelepali/C1,2 Catalina Moala/C1,2 Lynn McCrory/J1

Eric Leong/DOT-HAR Olivia Pham/DOT-HAR Adam Young/C1,2 Lisa Kettley/C1,2 Ethan Ushio/D2 Polly Phillips/D2 Jim Coon/J3 LiAnneDriesa/J3 Sunny Unga/C1,2 Neva Fotu/C1.2 Zaz Dahlin/C1,2 Rodney Kilborn/J5

William Meurer/K2 Fisi'ipeau Drummondo/C1,2

Anuhea Drummondo/C1,2

09.27.2019.1/00:01:39

Chair Case called the meeting to order at 9:18 am and noted that Item E-1 will be withdrawn from today's agenda. Member Gon read the standard contested case statement.

09.27.2019.1/00:02:57

ITEM A-1 Request Approval of the August 23, 2019 Meeting Minutes.

Board Discussion

Member Yuen conveyed that he had sent in edits to be incorporated prior to the meeting.

Public Testimony-None

MOTION

Approved as amended (Gon, Gomes) unanimous.

09.27.2019.1/00:03:30

ITEM A-2 Request Approval of September 13, 2019 Meeting Minutes

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

09.27.2019.1/00:03:49

ITEM D-2 Set Aside to the County of Kauai for Proposed Site for Community Gatherings, Base Yard Operations, Storage and Public Parking; Authorize the Chairperson to Negotiate and Approve a Memorandum of Understanding Between the County of Kauai and the Division of State Parks for Proposed Base Yard, Storage, and Public Parking for Shared Use of the Property and Future Facilities Purposes; Issuance of Immediate Construction and Management Right-of-Entry Permit to the County of Kauai, Wainiha, Hanalei, Kauai, Tax Map Key: (4) 5-8-012:009.

Russell Tsuji, Land Division, presented the submittal and Wesley Matsunaga, Kauai District Land Manager was available to answer questions. Representatives from the Kauai County are present as well.

Board Discussion

Due to the land being a flood zone, the Board noted there should be no permanent structures built. There was a discussion between the County representatives and Board

Members about community consultation regarding the scope of the public parking component of the set-aside.

County of Kauai Elton Ushiro (EMS) & Polly Phillips (Policy Anyalyst), asked for the Board support and provided information on how the County intends to utilize the area for the benefit of the community.

Public Testimony-None

MOTION

Approved as submitted (Oi/Roehrig) unanimous.

09.27.2019.1/00:016:57

ITEM D-10 Cancellation of Governor's Executive Order No. 1396 and Re-set Aside to City and County of Honolulu for Emergency Services Facility, Hauula, Koolauloa, Oahu, Tax Map Key: (1) 5-4-001:045.

Russell Tsuji, Land Division, gave brief history of the re-set aside. Sandra Pfund, City and County of Honolulu, asked to have the EO redirected to HDS.

Board Discussion

Public Testimony

HFD Chief Manual Neves, Deputy Fire Chief, Randall Camara, Jim How, Ian Santi, present to support.

MOTION

Approve as submitted (Gon/Gomes) unanimous.

09.27.2019.1/00:019:46

Request for a Second Time Extension for Conservation District Use Permit KA-3744 to complete a single-family residence by the Consultant Walton D.Y. Hong on behalf of the landowner Mark Maxson and Robert Shaw located in Haena, Hanalei, Kauai, Tax Map Key: (4) 5-9-002:067.

Sam Lemmo, Office of Conservation and Coastal Lands, summarized the submittal. The Applicant's Attorney is present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gomes) unanimous.

09.27.2019.1/00:022:46

Grant of up to 29-years, Non-Exclusive Easement to Trilogy Corporation for Access, Maintenance Purposes, Landscaping and Open Space for Public Use at Manele Small Boat Harbor, Island of Lanai, County of Maui, Tax Map Key: (2) 4-9-017:006 (Por.);

and

Declare Project Exempt from Requirements of Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules.

Richard Howard, Division of Boating and Ocean Recreation, presented the submittal. Staff agrees that delete the box on "Exhibit A", note for the record that the statement regarding the lease is not before the Board.

Board Discussion

There was a robust discussion regarding Exhibit A. Howard noted that the mistake should only have included the easement, and the reference to the future lease is not before the Board.

Public Testimony

LiAnne Greson 3rd generation putting up signage for public use would be detrimental to their business.

Amendment:

- 1. Delete the reference to RP 38 and "Coterminous with Lease B-92-03" from Exhibit A
- 2. Delete all Signage Requirements on the condition that the area is open to the public.
- 3. Language in Recommendation #2, first paragraph, under the terms and conditions are specifically referencing, the Applicant requirements listed on page 3, numbers 1 and 2.

MOTION

Approved as amended (Gomes, Gon) unanimous.

09.27.2019.1/00:054:01

ITEM M-9 Issuance of four (4) Month-to-Month Permits to Alaska Marine Lines, Inc., Situated at Pier 29, Honolulu Harbor, Oahu, Tax Map Key: (1) 1-5-038:001 (Portion). Governor's Executive Order No. 2903.

ITEM M-10 Issuance of Month-to-Month Permit to Marine Spill Response Corporation, Situated at Port Allen Harbor, Kauai, Tax Map Key: (4) 2-1-003:006 (Portion). Governor's Executive Order No. 1047.

- ITEM M-11 Issuance of Month-to-Month Permit to Marine Spill Response Corporation, Situated at Pier 2, Nawiliwili Harbor, Kauai, Tax Map Key: (4) 3-2-004-034 (Portion). Governor's Executive Order No. 1332.
- ITEM M-12 Issuance of Month-to Month Permit to Blue Dolphin Charters, LTD., Situated in the Warehouse Shed at Port Allen Harbor, Kauai, Tax Map Key (4) 2-1-003:006 (Portion). Governor's Executive Order No. 1047.
- ITEM M-13 Issuance of Month to-Month Permit to Holo Charters, Inc., Situated in the Warehouse Shed at Port Allen Harbor, Kauai, Tax Map Key (4) 2-1-003:006 (Portion). Governor's Executive Order No. 1047.
- ITEM M-14 Issuance of Month-to-Month Permit to Captain Andy's Sailing, Inc., Situated in the Warehouse Shed at Port Allen Harbor, Kauai, Tax Map Key (4) 2-1-003:006 (Portion). Governor's Executive Order No. 1047.
- ITEM M-15 Issuance of Month-to-Month Permit to Na Pali Sea Tours, Inc., Situated in the Warehouse Shed at Port Allen Harbor, Kauai, Tax Map Key (4) 2-1-003:006 (Portion). Governor's Executive Order No. 1047.
- ITEM M-16 Issuance of Month-to-Month Permit to Catamaran Kahanu, Inc., situated in the former Fumigation Shed at Port Allen Harbor, Kauai, Tax Map Key (4) 2-1-003:006 (Portion). Governor's Executive Order No. 1047.
- ISSUANCE OF Month-to-Month Permit to Captain Andy's Sailing, Inc. (former Whale Watch Kauai Incorporated), Situated in the former Fumigation Shed at Port Allen Harbor, Kauai, Tax Map Key (4) 2-1-003:006 (Portion). Governor's Executive Order No. 1047.

Eric Leong and Olivia Pham DOT- Harbors, present to answer any questions for Items M-9 through M-17.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Roehrig, Gomes) unanimous.

09.27.2019.1/00:056:30

- ITEM M-1 Issuance of a Revocable Permit for Administrative Space, Airlines Committee of Hawaii, Inc., Inter-Island Terminal, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 073 (Portion).
- ITEM M-2 Issuance of a Revocable Permit for Office Space for Air Tour Operations, Hawaii Pacific Aviation, Inc. dba Mauna Loa Helicopters, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-72: 069 (Portion).

- ITEM M-3 Issuance of a Revocable Permit for Vehicle Parking, TM Designers, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 066 (Portion).
- ITEM M-4 Issuance of a Revocable Permit for an Aircraft Maintenance Shop, Trans Executive Airlines of Hawaii, Inc. dba Transair, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-072: 069 (Portion).
- ITEM M-5 Issuance of a Revocable Permit for Storage of Ground Service Equipment for Airline Operations, United Airlines, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).
- ITEM M-6 Issuance of a Revocable Permit for Aircraft Parking, AOG Hawaii, LLC, Kahului Airport, Tax Map Key: (2) 3-8-01: 019 (Portion).
- ITEM M-7 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Randall S. Cislo, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: 040 (Portion).
- ITEM M-8 Issuance of a Helicopter Facility Lease by Notice of Public Auction, General Aviation Subdivision Lots (Space Nos. 004-127 and 004-128), Lihue Airport, Tax Map Key: (4) 3-5-001: 008 (Portion).

Ross Smith, DOT-Airports, present to answer questions for Items M-1 through M-8.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

Recess: 10:15 am

Back in Session: 10:22 a.m.

09.27.2019.2/00:01:11

ITEM J-1 Continuation of Revocable Permit No. 37 to Lāna'i Resorts, LLC., DBA Pulama Lāna'i, Manele Small Boat Harbor, Lāna'i City, Island of Lāna'i, Hawai'i, Tax Map Key (2) 4-9-017:006 (Por.);

and

Declare Project Exempt from Requirements of Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules.

Ed Underwood, Division of Boating and Ocean Recreation explained that are working on the Lease and will not be ready by the time the RP expires.

Board Discussion

Does the public use the dock? Underwood said yes, and now it is going to be part of the lease to Pulama Lanai. Lynne McGrue, Pulama Lanai representative for the Applicant noted that they are currently working with the AG's office in finalize the lease.

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

09.27.2019.2/00:02:35

ITEM D-5 Issuance of Right-of-Entry Permit to ASP North America LLC, dba World Surf League, for a Women's Professional Surfing Competition at Lipoa Point, Honolua, Lahaina, Maui, Tax Map Key: (2) 4-1-001: Portion of 010.

Russell Tsuji, Land Division, presented the submittal. Representative for the Applicant is present to answer any questions.

Board Discussion

Have they done this before? Tsuji said yes.

Public Testimony

Rodney Kilborn, felt the fee is high, due to the lack of infrastructure and provided a summary of the event.

MOTION

Approve as submitted (Gomes, Roehrig) unanimous.

09.27.2019.2/00:16:38

Time Extension Request HA 20-05 for Conservation District Use Permit (CDUP) HA-3793 for a Single-Family Residence and Related Improvements by Mr. William Meurer at Opihikao, Island of Hawaii, Tax Map Key: (3) 1-3-004: 008.

Sam Lemmo, Division of Conservation and Coastal Lands, presented the submittal. The Applicant, William Muir explained that the delay has been securing the permits.

Board Discussion

The Board asked if he was satisfied with the 32 conditions? Muir replied yes.

Public Testimony-None

MOTION

Approved as submittal (Gomes, Roehrig) unanimous.

09.27.2019.2/00:27:14

- Request for Approval of the Supplemental Environmental Impact Statement for The Kawailoa Wind Energy Project, Applicant Kawailoa Wind, LLC, in the Waialua District, Island of O'ahu, Hawaii, Tax Map Keys: (1) 6-1-006:001, 6-1-007:001, 6-2-011:001.
- Request for Approval of Amendments to the Incidental Take License and Habitat Conservation Plan for the Kawailoa Wind Energy Project, Applicant Kawailoa Wind, LLC, in the Waialua District, Island of Oahu, Hawaii, Tax Map Keys: (1) 6-1-006:001, 6-1-007:001, 6-2-011:001.

Dietra MyersTremblay, Division of Forestry and Wildlife provided a summary of Items C-1 and C-2. Britra Woeck, representative for Kawaialoa Wind, updated the Board on the project.

Board Discussion

There was a discussion on how many megawatts does each turbine provide, and how are the adjustments with the blades making a difference on the take.

Public Testimony

The following provided testimony in opposition:

Merania Kekeuulo-Kukiai Keehule, Sony Unga, Lila Lelepali, Neva Fotu, Catalina Moala, Zaz Dahlin, Anthea Drummondo, Fisipeau Drummondo, Max, William Deldrine,

Gil Rivere, Keep the North Shore County, recommended that the EIS should be sent back for further review. Rivere orally asked for a contested case on Items C-1 and C-2

Member Yuen made a Motion to go into Executive Session to discuss the merits of the request for a contested case with legal counsel. Gon seconded. Unanimous.

12: 20 pm: Executive Session 1:07 pm: Back in Session

09.27.2019.3/00:3:32

Chair Contested Case noted that has been a request for a contested case on Item C-2.

Member Yuen made a Motion for Item C-2, (1) suspend any action or discussion of C-2 today, (2) we have one oral request for contested case, and would entertain any other oral requests and remind those making an oral request that they have 10-days to submit a written request and to review the Rules, Chapter 13-1 (HAR) for the requirements for perfecting a request for a contested case; (3) the Board delegates to the Chair the approval of the contested case hearing request, if the Chair recommends denial, it will be brought back to the Board for final action, (4) if the Chair approves request for contested case hearing, the Board authorizes the Chair to appoint a Hearing Officer for the contested case.

Member Gon seconded the motion. The vote was unanimous.

Chair Case noted that there was a related request for a contested case on Item C-1.

Member Yuen made a motion to deny the request for contested case hearing (Item C-1). He conveyed there is a statutory remedy for someone opposing an Environmental Impact Statement, which is to file in the Environmental Court. Member Oi seconded the motion. The vote was unanimous.

MOTION

Approve Item C-1 as submitted (Yuen, Gon) unanimous.

John (Pete) Manaut. Asked for an opportunity to oppose the contested case if it was granted. Brief to Chair, Copy Keep the North Shore Country. Applicant has 20-days to file their opposition, based on procedural issue.

09.27.2019.3/00:19:39

Mutual Cancellation of Revocable Permit No. 4 to Dolphin Excursions Hawaii, Inc. (DEHI) previously approved June 28, 2019 as Item J-2; and Issuance of a New Revocable Permit to DEHI, for Purposes of Trailer Boat Storage Yard, situated at Waianae Small Boat Harbor, Waianae, Island of Oahu, Hawaii, Identified by Tax Map Key: (1) 8-5-002:044 (Portion).

and

Declare Project Exempt from Requirements of Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules

Richard Howard, Division of Boating and Ocean Recreation, presented the submittal. Victor Osano, Applicant supports the submittal as the size of the area he uses has been reduced.

Board Discussion-None

Public Testimony-None

MOTION

Approve as submitted (Gon, Gomes) unanimous.

09.27.2019.3/00:23:12

Termination of Revocable Permit No. 20 to Maui Petroleum, Inc., for Dispensing/Delivery of Fuel via Tank Truck previously approved June 28, 2019 as Item J-2; and Issuance of a New Revocable Permit to Hawaii Petroleum, LLC., for Dispensing/Delivery of Fuel via Tank Truck; Maalaea Small Boat Harbor, Maalaea, Wailuku, Maui, Hawaii, Tax Map Key: (2) 3-6-001:002 (Por);

and

Declare Project Exempt from Requirements of Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules.

Richard Howard, Division of Boating and Ocean Recreation, gave a summary.

Board Discussion-None

Public Testimony-None

MOTION

Approve as submitted (Gomes, Gon) unanimous.

09.27.2019.3/00:24:37

ITEM L-1 Appointment of Michael Manor to Serve as a Director of the Hamakua Soil and Water Conservation District.

Carty Chang, Engineering, present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approve as submitted (Roehrig, Gomes) unanimous.

09.27.2019.3/00:24:37

ITEM E-2 Amend General Lease No. SP 0118, John Kocher and Crystal Kocher, Lot 7, Waimea (Kona), Kaua'i, Tax Map Key: (4) 1-4-003:005.

The purpose of this Amendment is to correct the Termination Date to read December 31, 2028 and Amend the Re-opening date. John Kocher is Tenant in Severalty as the widower of Crystal Kocher.

Curt Cottrell, Division of State Parks, did not have anything to add to the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approve as submitted (Gomes, Gon) unanimous.

09.27.2019.3/00:26:37

Request for a Conservation District Use Application (CDUA) OA-3840 for the Mauna Lahilahi Beach Park, by the City and County of Honolulu, Department of Design and Construction, for a Rock Revetment Project, situated at Waianae, Oahu, Hawaii, Tax Map Key: (1) 8-5-017:005.

Sam Lemmo, Office of Conservation and Coastal Lands, provided the background of the request. Representatives from the City are present.

Board Discussion

The Board asked if the area was ever a sandy beach? Lemmo replied, no, it was improved by the City by adding sand over the years. There was further discussion on the impact to the community. Curtis Kushi from the City and County of Honolulu agreed to the added conditions.

Public Testimony

Conditions:

- 1. The Permitee must obtain a land disposition to amend the existing Executive Order (EO 3452) to extend the seaward boundary of the Executive Order to the seaward edge of the existing breakwater.
- 2. Include the Entire Basin within the new boundaries of the Amended Executive Order.

MOTION

Approved as amended with added conditions (Gomes, Roehrig) unanimous.

09.27.2019.3/00:47:31

Request to Amend Prior Board Action of June 28, 2019, (Item J-2) for Issuance of 28 Revocable Permits ("RP") on Islands of Oahu, Maui, Hawaii and Kauai; by Amending Annual Rent for Island Ice Company (Kahului Small Boat Harbor, (Island of Maui) from \$274.47 to \$3,293.64 Annual Rent; Na Kalai Wa'a (South Kawaihae Small Boat Harbor, Island of Hawai'i) from \$40 to \$480 Annual Rent.

Richard Howard, Division of Boating and Ocean Recreation, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approve as submitted (Gomes, Gon) unanimous.

09.27.2019.3/00:47:31

ITEM D-1 Annual Renewal of Revocable Permits on the Island of Kauai. See Exhibit 2 for list of Revocable Permits.

Wesley Matsunaga and Kim Miller, Land Division, presented the submittal.

Board Discussion

RP 7795: Look to sell it as a remnant. Matsunaga will look into it for consideration RP 7821: The rent seems low considering the value of the property. Matsunaga conveyed the circumstances of the lease.

There was further discussion on RP's in Kapaa along the beach and review OHA's comments and report back, so we can respond and look at turning the RP's that have the opportunity to turn into a lease.

Mike Millay, Na Ala Hele, provided information on the access to Hoopili Falls.

MOTION

Approve as submitted (Oi, Gomes) unanimous.

09.27.2019.3/01:42:31

The Chair asked if the Board had any questions on the following items:

Cancellation of Revocable Permit No. S-7662, Parker Ranch, Inc., Permittee; Request for Waiver of Requirement for Conducting Phase I Environmental Site Assessment upon Cancellation of Revocable Permit No. S-7662, Upper Paauhau, Hamakua, Hawaii, Tax Map Key: (3) 4-4-014:004; and

Authorize the Division of Forestry and Wildlife to Conduct a Public Hearing on the Island of Hawai'i Regarding the Proposed Addition of Tax Map Key: (3) 4-4-014:004 comprising 101.4 acres more or less, to Mauna Kea Forest Reserve, Upper Paauhau, Hamakua, Hawaii.

- **ITEM D-4** One Year Holdover of Lease Term for General Lease No. S-3817, Maui Family Young Men's Christian Association, Lessee, Keanae, Hana, Maui, Tax Map Key: (2) 1-1-002:009.
- Grant of Perpetual, Non-Exclusive Easement for Waterline Purposes to the City and County of Honolulu, Board of Water Supply and Issuance of Construction Right-of-Entry; Kalawahine, Makiki, Honolulu, Oahu, Tax Map Key: (1) 2-4-032: portions of 001.
- **ITEM D-7** Request for Mutual Termination of Grant of Non-Exclusive Easement No. S-5632, Walter Scott Carter and Leilani Garcia Farinas, Lessee; Kahaluu, Koolaupoko, Oahu, Tax Map Key: (1) 4-7-019: Seaward of 071.

Kevin Moore, Land Division present to answer questions for Items D-3, D-4, D-6, and D-7.

Board Discussion-None

Public Testimony-None

MOTION

Approved Items D-3, D-4, D-6 and D-7 as submitted (Gon, Gomes) unanimous.

09.27.2019.3/01:42:59

ITEM M-18 Authorize the Department of Transportation, Highways Division, to acquire Parcels 102 and 103 from D.R. Horton-Schuler Homes, LLC to consolidate into Kuhio Highway, Kauai, Tax Map Key: (4) 3-7-003:033.

The purpose is required to process an Access and Use and Occupancy Agreement for a water line to DR Horton's subdivision.

There was no representative from DOT-Highways Division.

Board Discussion

Member Oi recused.

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) 5-Ayes (passes)

There being no further business, Chair Case, adjourned the meeting at 2:48 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