

DAVID Y. IGE
GOVERNOR OF HAWAII



APPROVED
BY THE BOARD OF LAND
AND NATURAL RESOURCES
AT THE MEETING HELD ON
AUGUST 23, 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

STATE OF HAWAII
BOARD OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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, JUNE 28, 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

Jimmy Gomes
Chris Yuen

STAFF

Russell Tsuji-Land Division
Curt Cottrell -Parks
Sam Lemmo-OCCL
Carty Chang-Engineering
Maria Carnevale-DAR

Richard Howard-DOBOR
Dave Smith-DOFAW
Fin McCall-DOBOR
Mike Malay-DOFAW

OTHERS

Linda Chow/AG
Jesseca Zane/DOT-HAR
Bart Howk/K1
Denver Coon/J2
Kai Nishiki/J4
Jan Alejandro/J2
James Manaku/J1
Mike Gibson/J3
Clint Anderson/J1
John Swanson/J2

Ross Smith/DOT-AIR
Darin Uesugi/E1
Kay Hampton/D8
Peter Kubota/D5
Lance Collins/J4
Cary Meyer/F1
John Ferguson/D4
Tammy Harp/J5,6,7,9
Miles Sakai/D5

190628_0131/00:00:22

Chair Case called the meeting to order at 9:52 a.m. and read the contested case standard statement.

190628_0131/00:01:33

ITEM E-1 Request or Approval to Conduct a One Day Community Event “Day at Lake Wilson” That Will Include Commercial Vendors and Educational Booths to Be Held on Saturday, November 2, 2019 from 8:00 Am To 3:00 Pm at The Wahiawa Freshwater State Recreation Area, O’ahu, Hawai’i, Tax Map Key: 7-6-001-006-0000.

Curt Cottrell, State Parks presented the submittal. Noted that a representative is present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Yuen) unanimous.

190628_0131/00:02:32

ITEM K-1 Proposed Rule Amendment OA 19-01 Request for Public Hearing: Petition to Amend Title 13, Chapter 5, Hawaii Administrative Rules (13-5, HAR) to Amend an Existing Conservation District Subzone by Castle Medical Center dba Adventist Health Castle Located in Kaneohe, Oahu, Tax Map Key (1) 4-5-035:010.

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

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Yuen, Gomes) unanimous.

190628_0131/00:06:39

ITEM M-18 Issuance of a Revocable Permit to SAUSE BROS., INC., to replace existing Revocable Permit No. H-04-2449, situated at Pier 5, Kalaeloa Barbers Point Harbor, Oahu, Tax Map Key: (1) 9-1-014:024 (Portion), Governor’s Executive Order No. 3383.

Jesseca Zane, DOT-Harbors, present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Roehrig) unanimous.

190628_0131/00:07:43

ITEM D-8 Issuance of Right-of-Entry Permit to Waikiki Community Center for Beach Activities Purposes to be held on July 6 and 7, 2019 at Duke Kahanamoku Beach, Honolulu, Oahu, Tax Map Key: (1) 2-3-037: portions of 021.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Roehrig) unanimous.

190628_0131/00:08:33

ITEM D-3 Authorize the Department of Land and Natural Resources, Land Division, to Negotiate a Development Agreement for a 30-Year Extension of Lease Term, General Lease No. S-3742, JH Moku Ola, LLC, Lessee; Lot 29, Waiakea Industrial Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-058:014.

Consent to Sublease, General Lease No. S-3742, JH Moku Ola, LLC, Lessee, to Maui Varieties Investments, Inc. Sublessee, Waiakea Industrial Lots, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-058:014

Russell Tsuji, Land Division, added an amendment to the submittal.

Board Discussion

There was discussion regarding the sublease participation.

Public Testimony

Peter Kubota and Miles Sakani did not agree that rent participation applies to the sublease. Tsuji noted that they will have the AG's office make the determination.

Amendment:

Land Division is authorized to negotiate the Development Agreement for the 30-year extension and consented to the sublease pending decision on whether to increase the rent based on the sublease rent to be collected. Staff to inquire with the Department of the Attorney General on whether the lease, as amended allows the Board to charge additional rent based on the

sublease rent collected, and if affirmative, Staff will work with the Lessee on an appropriate amount of rent increase for consenting to the sublease.

MOTION

Approved as amended (Roehrig, Yuen) unanimous.

190628_0131/00:22:39

ITEM F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Carl Meyer, Hawai'i Institute of Marine Biology, University of Hawai'i, for Access to State Waters to Conduct Research Activities to Quantify the Movements and Ecology of Top Predators.

Maria Carnevale, Co-Manager PNMM, Division of Aquatics, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Roehrig, Gomes) unanimous.

190628_0131/00:23:39

ITEM D-6 Issuance of Right-of-Entry Permit to Nellie's on Maui, Ltd. for Purposes of Demolishing Existing Seawall, Waikapu, Wailuku, Maui, Tax Map Key: (2) 3-8-014: seaward of 008.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Roehrig) unanimous.

190628_0131/00:24:39

ITEM M-1 Issuance of a Revocable Permit for a Field Office and Construction Staging Area for Materials, Certified Construction, Inc., Daniel K. Inouye International Airport, Tax Map Keys: (1) 1-1-003: 066 (Portion) and (1) 1-1-003: 068 (Portion).

ITEM M-2 Issuance of a Revocable Permit for a Satellite Dish, Host International, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).

ITEM M-3 Amendment No. 34 to Concession Lease No. DOT-A-92-0018 for the Addition of Spaces to Offer Food and Beverage Services to the Traveling

Public, Restaurant and Lounge Concession, Host International, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).

- ITEM M-4** Issuance of a Revocable Permit for a Baggage Service Office, MN Airlines, LLC dba Sun Country Airlines, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 042 (Portion).
- ITEM M-5** Issuance of a Revocable Permit for Space to Park One All Nippon Airways Shuttle Bus, Robert's Tours and Transportation, Inc. dba Robert's Hawaii Tours, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: 001 (Portion).
- ITEM M-6** Issuance of a Revocable Permit for a Hazardous Waste Receptacle and Storage Closet, United Airlines, Inc., Daniel K. Inouye International Airport, Tax Map Keys: (1) 1-1-003: 001 (Portion) and (1) 1-1-003: 065 (Portion).
- ITEM M-7** Issuance of a Hangar Facilities Lease by Notice of Public Auction, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-72: 23.
- ITEM M-8** Issuance of a Revocable Permit for Aircraft Parking, Gary Meola, Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.
- ITEM M-9** Issuance of a Revocable Permit for Space in the Main Terminal for Airline Operations, Southwest Airlines Co., Kahului Airport, Tax Map Key: (2) 3-8-01: Portion of 19.
- ITEM M-10** Issuance of a Revocable Permit for Storage Space in the Main Terminal, Hawaiian Airlines, Inc., Moloka'i Airport, Tax Map Key: (2) 5-2-04: Portion of 8.
- ITEM M-11** Issuance of a Revocable Permit for a Food Truck Parking Space, G's Que, LLC, Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.
- ITEM M-12** Issuance of a Revocable Permit for Aircraft Parking, Robert Gavel Jr., Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.
- ITEM M-13** Issuance of a Revocable Permit for an Office Trailer and Vehicle Parking, Hawaii Fueling Facilities Corporation, Ellison Onizuka Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.
- ITEM M-14** Issuance of a Revocable Permit for Ambulance Vehicle Parking, International Life Support, Inc. dba American Medical Response, Waimea-Kohala Airport, Tax Map Key: (3) 6-7-001: Portion of 08.

ITEM M-15 Issuance of a Revocable Permit for Equipment Parking, Helicopter Consultants of Maui, LLC, Hilo International Airport, Tax Map Key: (3) 2-1-12: Portion of 90.

ITEM M-16 Issuance of a Revocable Permit for a Preferred Hold room in the Main Terminal, Hawaiian Airlines, Inc., Līhu'e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.

Ross Smith, DOT Airports, present to answer any questions regarding Items M-1 through M-16.

Board Discussion

ITEM-16: The Board asked if this is a written policy regarding preferential gates that the binds the Board to? Smith, replied it has always been this way. The Board will defer this Item until their questions can be answered.

Public Testimony- None

MOTION

Approve as submitted Items M-1 through M-15, Defer Item M-16 (Roehrig, Gomes) unanimous.

190628_0131/00:35:31

ITEM J-3 After-The-Fact Consent to Sublease Under Harbor Lease No. H-82-4, GKM, Inc., Sublessor, to Dolphin Journey's, LLC, Sublessee, Honokohau Small Boat Harbor, Kailua-Kona, Hawaii, Tax Map Key: (3) 7-4-008:042 (Por).

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

Board Discussion-None

Public Testimony

Michael Gibson, in support.

MOTION

Approve as submitted (Roehrig, Gomes) unanimous.

190628_0131/00:37:31

ITEM J-1 Issuance of a Revocable Permit to Kaneohe Cultural Foundation, for Storage for Canoes on Unencumbered State Shoreline on Kaneohe Bay, Kaneohe, Island of Oahu, Hawaii, Seaward of Tax Map Key: (1) 4-5-006:001;

and

Declare Project Exempt from Requirements of Chapter 343, HRS And Title 11, Chapter 200, Hawaii Administrative Rules.

Richard Howard, DOBOR, presented the submittal. Applicant is present.

Board Discussion

The Board discussed if there were any other areas they store the canoes? Anderson said due to "King Tides", there is no sand.

Public Testimony

Clint Anderson, stated that there is hardly any place to store their canoes. They have reached out to the City for years and have not been able to get a site near the ocean.

190628_0131/00:43:38

ITEM J-4 Approve Installation Outside of an Established Offshore Mooring Area After-The-Fact, Kaanapali, Lahaina, Island of Maui, Hawaii, for Pacific Jet Sports, Inc., GPS Coordinates: 20°54.622'N, 158°41.832'W;

and

Declare an Existing Offshore Mooring Exempt from Requirements of Chapter 343, Hawaii Revised Statutes, and Title 11, Chapter 200, Hawaii Administrative Rules.

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

Board Discussion

There was a robust discussion regarding the Offshore Mooring Area at Kaanapali.

Public Testimony

Kai Nishiki and *Lance Collins* provided testimony regarding the increase of unlawful activity and safety of all.

MOTION

DEFER (Gomes, Roehrig) unanimous.

190628_0131/01:17:18

ITEM J-2 Renewal of 28 Revocable Permits on the Islands of Oahu, Maui, Hawaii and Kauai, See **Exhibit E** for List of Revocable Permits;

and

Declare Project Exempt from Requirements of Chapter 343, HRS And Title 11, Chapter 200, Hawaii Administrative Rules.

Richard Howard, DOBOR, presented the submittal.

Board Discussion

Public Testimony

John Swanson, RP 35 holder had questions regarding his 2020 rent.

MOTION

Approved as submitted (Roehrig, Yuen) unanimous.

11:28 a.m.: Break

11:35 am: Back in Session

190628_0132/00:00:22

Chair Case asked for a Motion to Defer Items J-5, J-6, J-7 and J-9 (Roehrig, Gomes) unanimous.

190628_0132/00:03:40

ITEM J-10 Approve Installation Outside of an Established Offshore Mooring Area After-The-Fact, Kailua Bay, Kailua-Kona, Island of Hawaii, Hawaii, for Pueo Bay LLC, Coordinates: 19.6315278, -155.98499;

and

Declare an Existing Offshore Mooring Exempt from Requirements of Chapter 343, Hawaii Revised Statutes, and Title 11, Chapter 200, Hawaii Administrative Rules.

Fin McCall, DOBOR, presented the submittal. Noted that there are no designated off-shore moorings.

Board Discussion

The Board asked to describe what was there. John Swanson, Representative for Pueo Bay, LLC, said there was just a platform.

Public Testimony-None

MOTION

Approved as submittal (Roehrig, Gomes) unanimous.

190628_0132/00:06:04

ITEM J-8 Approve Installation Outside of an Established Offshore Mooring Area After-The-Fact, Kihei, Island of Maui, Hawaii, for Hawaii Explosives & Pyrotechnics, Inc., Coordinates: Latitude 20.7791 and Longitude -156.4708;

and

Declare an Existing Offshore Mooring Exempt from Requirements of Chapter 343, Hawaii Revised Statutes, and Title 11, Chapter 200, Hawaii Administrative Rules.

Richard Howard, DOBOR, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Roehrig) unanimous.

190628_0132/00:06:54

ITEM L-1 Delegation of Authority to the Chairperson to: (1) Procure, Award and Enter Into Professional Service Consultant Contracts for Capital Improvement Program Projects Appropriated by the Legislature as Listed in Exhibit 1 or Program Operating Funds; (2) Declare a Construction Project Exempt from the Preparation of an Environmental Assessment or Approve an Environmental Assessment and Issue a Finding of No Significant Impact, if Appropriate; and (3) Approve, Procure and Enter Construction Contracts for Capital Improvement Program Projects Appropriated by the Legislature as Listed in Exhibit 1 or Program Operating Funds.

ITEM L-2 Appointment of Harry "Pono" von Holt to Serve as a Director of the Mauna Kea Soil and Water Conservation District.

Carty Chang, Engineering, presented the submittal for Items L-1 and L-2.

Board Discussion

Item L-1: Roehrig asked for information regarding Hilo Base Yard Bulk Fuel Tank Installation, Pohoiki Boat Ramp/Beach, Wailoa Small Boat Ramp, East Hawaii Historic Preservation Center. Chang answered his questions.

Gomes asked for information regarding Kanaio Dry Forest Fence, Kahului Harbor location of the Portable Bathroom Complex location, and if it was for game management? Is this for game management? Smith and Chang provided answers.

Yuen commented that when there is a delegation to the Chair to award contracts to also include delegation to terminate contracts that are within the Chairs authority.

Public Testimony-None

MOTION

Approved as submitted Items L-1 and L-2 (Gomes, Yuen) unanimous.

190628_0132/00:25:01

Tammy Harp, *Items J-5, J-6, J-7 and J-9, Opposes.*

190628_0132/00:44:44

ITEM C-1 Approve the use of a Request for Interest for Federal Grants with the U.S. Department of Agriculture Forest Service Wildland Urban Interface and Landscape Scale Restoration Grant Programs and Delegate to the Chairperson the Authority to Award, Execute, and Extend Agreements with Successful Providers.

Dave Smith and Mike Malay, Division of Forestry and Wildlife, noted that three sentences were missing from the bottom of the page, and amended the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as amended (Gomes, Yuen) unanimous.

190628_0132/00:46:11

ITEM D-1 Quitclaim of State's Interests, if Any, in Portions of Remnant Parcel (Parcel R) to: (i) Nancy Y. Kurokawa and Grace M. Hall, Co-Trustees of the Conrad I. Nonaka Revocable Living Trust, dated October 31, 1991, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-010:011 (por.) and (ii) Russell H. Nonaka, Trustee of the Russell H. Nonaka Trust, and Christine M. Nonaka, Trustee of the Christine M. Nonaka Trust, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-010:053 (por.).

ITEM D-2 Set Aside Portions of Accreted Lands Along the Hanalei River to the County of Kauai for Public Park and Other Recreational Purposes, Hanalei, Kauai, Tax Map Key: (4) 5-5-001: Portions of Hanalei Riverbank.

ITEM D-5 Cancellation of Governor's Executive Order No. 3415 and Reset Aside to the Department of Land and Natural Resources, Division of Forestry and Wildlife, for Operations, Equipment Storage and Related Ancillary Purposes, Kula, Makawao, Maui, Tax Map Key: (2) 2-3-003:118.

ITEM D-7 Rescind Prior Board Action of May 26, 2017, Item D-3, *Amend Grant of Non-Exclusive Easement, GL No. S-5998, for Walkway, Stairs, Shower Station, Concrete Pier Block Remnants and Landscaping Purposes, to Napili Kai, Ltd., Napili 2 and 3, Lahaina, Maui, Tax Map Key: (2) 4-3-002: seaward of 026, 027 & 028. The purpose of the amendment is to increase the easement area by approximately 140 square feet.*

Grant of Term, Non-Exclusive Easement to Napili Kai, Ltd. for Walkway Purposes, Napili 2 and 3, Lahaina, Maui, Tax Map Keys: (2) 4-3-002: seaward of 026, 027 & 028.

ITEM D-9 Amendment of Prior Board Action of October 27, 2017, Agenda Item D-11, *Issuance of a Right-of-Entry Permit to the United States to Conduct Defense Environmental Restoration Program Activities on State Lands Including Submerged Lands on the Islands of Oahu, Maui, and Hawaii. See Exhibit A for List of Subject Properties.*

The purpose of the amendment is to add nine tax map key parcels to the list of State lands approved for right-of-entry by the prior Board action, as requested by the United States through the U.S. Army Corps of Engineers acting as its agent. These public lands are in Lalamilo and Waikoloa on the Island of Hawaii. See Exhibit A for a list of the subject properties.

Russell Tsuji, Land Division, present to answer any questions on Items D-1, D-2, D5, D-7, and D-9

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted Items D-1, D-2, D-5, D-7 and D-9 as submitted (Gomes, Roehrig) unanimous.

190628_0132/00:47:28

ITEM M-17 Request to Authorize Conveyance of Remnant Lot 8-C-2 of Land Court Application 477, Map 22, Iwilei, Honolulu, Oahu, Tax Map Key: (1) 1-5-13: Right-of-Way to Lowe's Home Centers, LLC by Quitclaim Deed.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Roehrig) unanimous.

190628_0132/00:47:48

ITEM A-1 Approval of meeting minutes for March 22, 2019.

ITEM A-2 Approval of meeting minutes for April 12, 2019.

Board Discussion

Yuen: April 12, 2019, spelling incorrect for Waikaumalo.

Public Testimony-None

Motion

Approve March 22, 2019 as submitted, and April 12, 2019 as amended (Roehrig, Gomes) unanimous.

There being no further business, Chairperson Case adjourned the meeting at 10:10 am. 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