

APPROVED AS AMENDED

BY THE BOARD AT ITS

MEETING HELD ON

APRIL 9, 2020

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

DAVID Y. IGE
GOVERNOR OF HAWAII



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: February 14, 2020
TIME: **9:00 A.M.**
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAI'I 96813

MEMBERS

Suzanne Case
Jimmy Gomes
Vernon Char

Sam Gon
Chris Yuen
Kaiwi Yoon

STAFF

Russell Tsuji-Land
Kevin Moore-Land
Carty Chang-ENG
Brian Nielson-DAR

Sam Lemmo/OCC
David Smith/DOFAW
Sang Kim-Parks
Brian Sakoda-DAR

OTHERS

Ross Smith/DOT-Air
Onaona Thoene/K2
Mike Foley/D3
Linda Chow/AG

Olivia Pham/DOT-HAR
Sheri Hamilton/K2
Veronica Nordyke/K1

02.14.2020(1) 00:03:54

Chair Case called the meeting to order at 9:02 am. Member Gon read the standard contested case statement.

02.14.2020(1) 00:05:23

ITEM A-1 Request Approval of meeting minutes for January 10, 2020.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) unanimous.

02.14.2020(1) 00:05:41

ITEM D-2 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.

Russell Tsuji, Land Division presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Char) unanimous.

02.14.2020(1) 00:06:25

ITEM M-1 Issuance of a Revocable Permit for the purpose of Erecting a Temporary Hangar to Store Experimental Solar Power Drones, Aerovironment, Inc., Kalaeloa Airport, Tax Map Key: (1) 9-1-13: 032 (Portion).

ITEM M-2 Issuance of a Revocable Permit for Aircraft Parking, Christopher K. Taleghani, Kahului Airport, Tax Map Key: (2) 3-8-01:178 (Portion).

ITEM M-3 Issuance of a Revocable Permit for Equipment Storage and Tandem Vehicle Parking, Workforce Services, Inc., Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: 003 (Portion).

ITEM M-4 Issuance of a Revocable Permit for Ramp Space for Ground Service Equipment Parking, Southwest Airlines, Co., Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-43: 003 (Portion).

Ross Smith, DOT-Airports, present to answer any questions for Items M-1, M-2, M-3 and M-4. Requested to withdrawn Item M-7.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted Items M-1, M-2, M-3 and M-4 as submitted (Gon, Gomes) unanimous.

02.14.2020(1) 00:07:50

ITEM M-5 Issuance of Direct Lease to Develop, Construct, Operate and Maintain Airline Offices in the Main Terminal, Southwest Airlines, Co., Hilo International Airport, Tax Map Key: (3) 2-1-012: 009 (Portion).

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

Board Discussion

It was noted the Board supported this use.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Char) unanimous.

02.14.2020(1) 00:08:56

ITEM M-6 Issuance of a Grant of Non-Exclusive Easement and Management and Construction Right-of-Entry for the Ahukini to Lydgate Park Bike and Pedestrian Shared-Use Path Project, County of Kauai, Department of Public Works, Lihue Airport, Tax Map Keys: (4) 3-5-001 008 (Portion), (4) 3-5-001: 159 (Portion).

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

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Char, Gomes) unanimous.

02.14.2020(1) 00:08:56

ITEM K-2 Conservation District Enforcement HA 20-21 Regarding an Alleged Unauthorized Residence and Use of a Single-Family Residence as a Transient Rental by Ms. Sheri Parish-Hamilton, Located at 84-5607 Ke Ala O Keawe Road, Honaunau Beach Lots, South Kona, Hawai'i Tax Map Key: (3) 8-4-013:016.

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

Board Discussion

There was a long discussion revolving around property which is in a conservation district, non-conforming structure, set-back issue, and lack of a CDUA permit for the house and staff would like to see the property become compliant.

Public Testimony

Onaona Thoene, Counsel, representing Sheri Hamilton (present) provided the background history of the property. They have submitted written testimony and stated their position.

10:15 am: Break

10:35 am: Back in session

02.14.2020(2) 00:00:08

Continue Item K-2

Amendment:

Recommendation #1: Reduce fine to \$1,000.00

Recommendation #2: No Fine

Recommendation#3: Reduce fine to \$10,000.00

Recommendation #10: Increase time to file after-the-fact CDUA from 90 days to 180 days.

MOTION

Approved as amended (Yuen, Gon) unanimous.

02.14.2020(2) 00:07:52

ITEM K-3 Conservation District Enforcement HA 20-17 Alleged Transient Rental by Mr. Christopher Gorham Arai and Ms. Tess Marie Lusher, Located at 87-3173 Mapuna Road, Kona Paradise Kaohe 4th, South Kona, Hawai'i Tax Map Key: (3) 8-7-019: 031.

Sam Lemmo, Office of Conservation and Coastal Lands, conveyed that counsel for Mr. Arai is asking for a 30-day deferral.

The Board agreed to WITHDRAW THE ITEM.

02.14.2020(2) 00:11:48

ITEM K-1 Conservation District Enforcement HA 20-20 Regarding an Alleged Transient Rental by Mr. James Miles Hugh Wilson, Ke'ei Beach LLC, Mr. Hubert F. Est Richards, and Ms. Elizabeth A. Richards, Located at 83-677 Ke'ei Beach Road, Ke'ei 1st – Ke'ei 2nd, South Kona, Hawai'i Tax Map Key: (3) 8-3-006:009.

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

Board Discussion

The Board discussed the non-permitted use of the CDUA with Nordyke.

Public Testimony

Veronica Nordyke, representing the Wilson Family provided the history of the home and noted that when the family inherited the home they were not aware the house was in a conservation district. Requested to have the fines removed.

02.14.2020(2)00:25:14

Member Yuen made a motion to go into Executive Session to consult with the Deputy Attorney General over legal issues. Member Gon second the motion and the Board voted unanimously.

11:01 am: Executive Session

11:10 am: Back in Session

02.14.2020(2) 00:37:11

Item K-1 Continued

MOTION

Approved as submitted (Yuen, Gomes) unanimous.

02.14.2020(2) 00:37:44

ITEM D-3 After-the-Fact Issuance of Right-of-Entry Permit to the Association of Unit Owners of Kauai Kailani for Emergency Temporary Shoreline Protection Structure and Beach Nourishment Activities; Grant of Term, Non-Exclusive Easement to the Association of Unit Owners of Kauai Kailani for a Sand Groin on Unencumbered State Land; Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-3-009: seaward of 041.

Russell Tsuji, Land Division, presented the submittal. Noted that OCCL has previously issued a Notice of Violation and compliance will be necessary

Board Discussion

The Board asked if the Applicant agreed with the Staff submittal. Mike Foley, Oceanit, replied yes.

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

02.14.2020(2) 00:41:40

ITEM D-4 Amend Prior Board Action of January 25, 2019, 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 value 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.

The purpose of the current amendment is to correct the time period for payment of minimum rent under the lease.

ITEM D-5 Rescind Prior Board Action of July 12, 2019, Item D-2, *Consent to Assign General Lease No. S-5579, John Contrades, III, Assignor, to Adam Asquith, Assignee; Authorize the Mutual Cancellation of General Lease No.S-5579 to John Contrades, III, Lessee, and Waiver of Its Level One (1) Hazardous Waste Evaluation Requirement; Kapaa, Kawaihau, Kauai, Hawaii; Tax Map Keys: (4) 4-6-005: 007 & 008.*

ITEM D-6 Issuance of Right-of-Entry Permit to Maui Interscholastic League (MIL), for Event Operations Purposes Related to the 2020 Maui Interscholastic League Surf Meet, at Koki Beach, Haneoo, Hana, Maui, Tax Map Key: (2) 1-4-007: Portion of 009.

ITEM D-7 Issuance of Right-of-Entry Permit to Weil & Associates, Inc., for Beach Volleyball Clinic Purposes at Wailea Beach, Wailea, Honuaula, Maui; TMK (2) 2-1-008: seaward of 089.

ITEM D-8 Rescind Prior Board Action of November 19, 2004, Item D-5, *Sale of Reclaimed Lands to Gordon Imata, Trustee, Kahaluu, Koolaupoko, Oahu, Tax Map Key: (1) 4-7-019:22 seaward*

Grant of Term, Non-Exclusive Easement to Gordon Y. Imata and Natalie K. Imata, Co-Trustees of (1) The Gordon Y. Imata Trust dated August 16,

2011, and (2) The Natalie K. Imata Trust dated August 16, 2011, for Seawall, Steps and Reclaimed Land Purposes; Kahaluu, Koolaupoko, Oahu, Tax Map Key: (1) 4-7-019: Seaward of 022.

Russell Tsuji, Land Division, present to answer any questions for Items D-4, D-5, D-6, D-7 and D-8.

Board Discussion-None

Public Testimony-None

MOTION

Approved Items D-4, D-5, D-6, D-7 and D-8 as submitted (Gomes, Gon) unanimous.

02.14.2020(2) 00:42:30

ITEM E-1 Amend Prior Board Approval of Nov. 16, 2007, Item E-2: Withdrawal from Governor's Executive Order No. 2876; Set Aside to the County of Hawaii for Park and Recreational Purposes; Authorize Cancellation of Various Encumbrances; Memorandum of Understanding with the County of Hawaii; Construction and Management Right-of-Entry to the County of Hawaii, Portions of the Land of Keahuolu and Lanihau-Nui, North Kona, Hawaii, Tax Map Keys: (3) 7-5-05:007, 072, 073, 074, 079, 082, 083.

The purpose of the amendment is to change recommendation no. 1 to cancel Executive Order No. 2876 to the Division of State Parks and to change recommendation no. 3 to allow for the re-set aside of the entire area previously under Executive Order No. 2876 to the County of Hawaii.

The purpose of the amendment is to cancel Executive Order No. 2876 and to re-set aside the area to the County of Hawaii for park and recreational purposes.

Sang Kim, State Parks, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Yuen, Gon) unanimous.

02.14.2020(2) 00:43:30

ITEM F-1 Request for Final Approval to Repeal Hawaii Administrative Rule (HAR) Title 13, Chapters 84 and 89 and to Amend and Compile HAR Title 13,

Chapter 95, to Update and Consolidate Rules regulating the Take, Possession, and Sale of Samoan Crab, Kona Crab, and Lobster.

Brian Nielson and David Sakoda, Division of Aquatic Resources, provided a summary of the submittal.

Board Discussion

There was a discussion regarding Kona Crabs.

Public Testimony-None

MOTION

Approved as submitted (Gon, Yuen) unanimous.

02.14.2020(2) 00:52:30

ITEM L-1 Request that the Board Delegate Authority to the Chairperson, and the Chairperson's Designee, Certain Powers and Duties under Hawaii Administrative Rules Chapter 13-190.1, Dams and Reservoirs

Carty Chang, Engineering, presented the submittal. Edward Matsuda, Staff Engineer is present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submittal (Gon, Gomes) unanimous.

02.14.2020(2) 00:52:30

ITEM C-1 Request approval to enter into a Memorandum of Understanding between the State of Hawaii Department of Land and Natural Resources and the United States Department of the Agriculture Forest Service for Shared Stewardship of Hawaii's Forests,

and

Authorize the Chairperson to amend, finalize, and execute the Memorandum of Understanding subject to approval as to form by the Department of the Attorney General.

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

Board Discussion

Existing biosecurity plan in place was discussed.

Public Testimony-None

MOTION

Approved as submitted (Gon, Char) unanimous.

There being no further business, the meeting was adjourned at 11:40 am. Recording(s) of the meeting and written testimonies submitted 24-hours before the meeting are posted on-line and available for review. Certain Items on the agenda were taken out of sequence to accommodate applicants or interest parties present.

Respectfully submitted,

Darlene Ferreira

Darlene S. Ferreira
Land Board Secretary

Approved for submittal:

Suzanne D. Case

Suzanne D. Case
Chairperson
Department of Land & Natural Resources