

DAVID Y. IGE
GOVERNOR OF HAWAII



**APPROVED BY THE BOARD
AT ITS MEETING HELD ON
MARCH 13, 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

**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, JANUARY 24, 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
Tommy Oi (Arrived at 9:25 am)
Kaiwi Yoon

Sam Gon
Chris Yuen
Vernon Char

STAFF

Russell Tsuji-Land
Kevin Moore-Land
David Smith/DOFAW
Maria Carnevale-DAR

Sam Lemmo/OCC
Richard Howard/DOBOR
Ian Hirokawa-Land
Carty Chang-ENG

OTHERS

Ross Smith/DOT-Air
John Rickel/D3
Jennifer Lim/D7

Olivia Pham/DOT-Har
Zendo Kern/K2
David Frankel/D5, D7

01.24.2020(1) 00:01:00

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

01.24.2020(1) 00:01:00

ITEM A-1 Request Approval of meeting minutes for December 13, 2019.

Board Discussion-None

Public Testimony-None

MOTION

Approve as submitted (Gon, Gomes) 6-Ayes, Member Oi was not present.

01.24.2020(1) 00:01:00

ITEM D-3 Denial of Petition for Contested Case Hearing filed by Oceanfront 121, Inc. on December 23, 2019, Regarding December 13, 2019 Agenda Item D-2, *Authorize the Issuance of a Request for Qualifications / Request for Proposals for Lease of Improved Public Lands; Waiakea, South Hilo, Hawai'i, Tax Map Key: (3) 2-1-005:020.*

Kevin Moore, Land Division presented the submittal.

Board Discussion-None

Public Testimony

John Rickel, Attorney for Oceanfront 121 Inc. conveyed the Association's position.

MOTION

Approved as submitted (Yuen, Char) 6-Ayes (Member Oi, was not present)

01.24.2020(1) 00:09:03

ITEM M-3 Request for Cancellation of Perpetual Non-Exclusive Easement 6B, and to Issue Exclusive-Use Easement 6C to Servco Pacific Inc., for a Term of Thirty-Five (35) years. Tax Map Key: (1) 1-2-024:001 (Portion), Governor's Executive Order No. 3947.

Olivia Pham, DOT Harbors, presented the submittal with one amendment referencing Tax Map Key: (1) 1-2-025:001 within the submittal to Tax Map Key: (1) 1-2-025:011.

Board Discussion-None

Public Testimony-None

MOTION

Approved as amended (Gon, Gomes) 6-ayes (Member Oi was not present)

01.24.2020(1) 00:09:55

ITEM K-2 Conservation District Use Application HA-3852 for Jeffery and Vanessa Huff's Single-Family Residence, Landscaping, and Associated Improvements Located at 3221 Kaiwiki Road, Kaiwiki, South Hilo, Hawai'i, Tax Map Key: (3) 2-6-011:026.

The Final Environmental Assessment was published in the December 8th, 2019 edition of *The Environmental Notice*. Should members of the Board like to review the Final EA, it can be found at:

http://oeqc2.doh.hawaii.gov/Doc_Library/2019-12-08-HA-FEA-Huff-SFR-at-Kaiwiki.pdf

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

Board Discussion

Yuen noted that there have been previous requests in this area and asked Lemmo if any have been denied? Lemmo replied, no.

Member Gomes asked where they were planning to obtain the fruit trees his concern was that there is a beetle bug from Kau and Kona that is spreading.

Public Testimony

Zendo Kern, Planning Consultant for the Huff's and Heydon Akins, son-in-law of the applicant, confirmed that they will follow all conditions of the CDUP and asked for the Board's support.

MOTION

Approved as submitted (Yuen Gomes) 6-ayes (Member Oi was not present)

01.24.2020(1) 00:14:12

ITEM D-7 Denial of Petition for Contested-Case Hearing filed by David Kimo Frankel on October 29, 2019; Regarding October 25, 2019 Agenda Item D-7, Revocable Permit No. 7915 to Resorttrust Hawaii, LLC; Waialae, Honolulu, O'ahu, Tax Map Key: (1) 3-5-023:041.

Kevin Moore, Land Division presented the submittal. David Frankel is present and Jennifer Lim from Resorttrust.

Board Discussion

There was a robust discussion on declaratory rules and the merits of requesting a contested case.

Public Testimony

Frankel presented his position why a contested case was appropriate.

Jennifer Lim, representing Resorttrust presented the position of the hotel.

MOTION

Approve as submitted (Oi, Char) unanimous.

01.24.2020(1) 00:14:12

ITEM D-5 Denial of Petition for Contested Case Hearing filed by Sierra Club of Hawaii on October 18, 2019, Regarding October 11, 2019 Agenda Item D-1, Continuation of Revocable Permits S-7263, S-7264, S-7265 to Alexander & Baldwin, Inc. and S-7266 to East Maui Irrigation Co., Ltd., for Water Use.

Ian Hirokawa, Land Division presented the submittal.

9:53 am Board took a brief recess

01.24.2020(1) 00:49:17

10:03 am: Back in Session.

ITEM D-5- CONTINUED

Board Discussion

Member Gomes recused himself from this item. There was a discussion regarding the merits the use of a request for a contested case and its merits.

Public Testimony

David Frankel representing Sierra Club conveyed their position.

MOTION

Approve as submitted (Yuen, Char) unanimous.

01.24.2020(1) 01:12:53

ITEM M-2 Issuance of a Revocable Permit for Aircraft Parking, Seawings LLC, 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

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Oi) unanimous.

01.24.2020(1) 01:14:19

ITEM D-1 Amend Prior Board Action of May 11, 2018, Item D-1 as amended, *Amend Prior Board Action of July 28, 2017, Item D-10, Consent to Assignment of Fifty Percent (50%) Interest in Ficker & Hunt, a Hawaii Partnership, also known as Ficker & Hunt Partnership, Lessee under General Lease No. S-4649, from Albert Ficker, Assignor, to Chester Hunt, Assignee; Acknowledgment that Lessee under General Lease No. S-4649 Will Thereby Become Chester Hunt, as Tenant in Severalty; Kekaha, Waimea, Kauai, Tax Map Key: (4) 1-3-008:003;*

The purpose of the amendment is to: (i) delete the portion of the Board approval stating that Chester Hunt will become the lessee under the lease, and instead confirm that the lessee will remain Ficker and Hunt, a Hawaii Partnership; and (ii) address the effect of a March 20, 1995 Extension of General Lease No. S-4649 (1995 Extension), and to specify that even though the extension incorporated a lease assignment premium provision into the lease, that provision and others in the 1995 Extension are unenforceable because they constitute an improper amendment of a public auction lease. Staff recommends an Amendment of the 1995 Extension to Eliminate all Terms and Conditions Therein That Are Inconsistent with General Lease No. S-4649 as Sold at Public Auction (except for the increase in the duration of the lease);

After-the-fact Consent to Sublease under General Lease No. S-4649, Ficker & Hunt, a Hawaii Partnership, Sublessor, to United States Postal Service, Sublessee; Approve 20-Year Extension of Lease Term, General Lease No. S-4649, Ficker & Hunt, a Hawaii Partnership, Lessee; Kekaha, Waimea, Kauai, Tax Map Key: (4) 1-3-008:003.

The purposes of the current amendment are for the Board to: (1) delete that portion of the Board's May 11, 2018 action under Item D-1 that specified the lessee would remain Ficker & Hunt, a Hawaii Partnership, and instead reinstate that portion of the Board's action of July 28, 2017, Item D-10, consenting to the assignment of an undivided fifty percent (50%) interest in the canceled Ficker & Hunt partnership registered September 8, 1982 from Albert Ficker, as assignor, to Chester Hunt, as assignee, and confirming that Chester Hunt thereby became the lessee under the lease as tenant in severalty; (2) consent to the assignment of the lease from Chester Hunt, as assignor, to Ficker & Hunt, a Hawaii Partnership registered on May 23, 2018, as assignee; (3) ratify the consent to sublease approved at its meeting of May 11, 2018, Item D-1, with the clarification that Ficker & Hunt, a Hawaii Partnership registered on May 23, 2018 is the sublessor and the United States Postal Service is the sublessee; (4) ratify the 20-year extension of lease approved at its meeting of May 11, 2018, Item D-1, with the clarification that Ficker &

Hunt, a Hawaii Partnership registered on May 23, 2018 is the lessee in the extension period; and (5) change a portion of the improvements required for the lease extension by replacing “reconstruction of the apron connecting the parking lot to the road” with “replacing two rooftop air conditioning units,” and find that lessee’s expenditure of \$114,393.15 for improvements to the premises is sufficient for the lease extension.

Kevin Moore, Land Division present to answer questions.

Board Discussion -None

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) unanimous.

ITEM D-4 Set Aside to County of Hawai’i for Parking Purposes, Waiakea, South Hilo, Hawai’i, Tax Map Key: (3) 2-2-018:038.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) unanimous

ITEM D-6 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Special Event Aerial Fireworks Display at Duke Kahanamoku Lagoon on February 17 and 23, 2020, Waikiki, Honolulu, O’ahu, Tax Map Key: (1) 2-3-037: portion of 021.

Kevin Moore, Land Division presented the submittal.

Board Discussion

Gomes asked if any of the metals falling into the ocean have a detrimental effect on marine life. Moore was unsure and will follow-up with DAR.

Public Testimony-None

MOTION

Approved as submitted (Gomes, Yuen) 6-Ayes; Gon abstained

01.24.2020(1) 01:17:20

ITEM J-1 Amend Prior Board Action of July 13, 2018, (Item J-3) to issue Five-Year Concession Contracts with an Option to Renew for One Additional Five-

Year Term for Operating Fuel Dispensing Trucks at Mā'alaea Small Boat Harbor, Maui, Tax Map Key: (2) 3-6-001:002; Keauhou Small Boat Harbor, Hawai'i, Tax Map Key: (3) 7-8-012:055; Kailua-Kona Small Boat Harbor, Hawai'i, Tax Map Key: (3) 7-5-006:039; and Kawaihae Small Boat Harbor, Hawai'i, Tax Map Key: (3) 6-1-003:023.

This Submittal requests amendment of the Prior Action by specifying the authorization is to operate Fuel Dispensing Trucks via three Separate Concession Contracts to be offered at Mā'alaea Small Boat Harbor, each according to one of three Specified Fuel Types, that a Single Concession Contract will be offered to sell both Gasoline and Diesel Fuels covering all three named Hawaii Island Small Boat Harbors; and the deletion of the Option to Renew for one additional Five-Year Term from each Concession Contract.

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

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Yuen) unanimous.

01.24.2020(1) 01:18:52

ITEM J-2 Amend Prior Board Action Dated September 27, 2019, Item J-5, Termination of Revocable Permit No. 20 to Maui Petroleum, Inc, for Dispensing/Delivery of Fuel via Tank Truck previously approved on 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; Mā'alaea Small Boat Harbor, Mā'alaea, Wailuku, Maui, Hawai'i, Tax Map Key: (2) 3-6-001:002 (Por);

The purpose of this amendment is to correct the Monthly Per Gallon Rent from \$0.05 Per Gallon to \$0.005 Per Gallon for the Revocable Permit issued to Hawaii Petroleum, LLC.

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

Board Discussion

Yuen asked if they were going to convert to a concession? Howard replied yes.

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

01.24.2020(1) 01:22:47

ITEM J-3 Mutual Cancellation of Revocable Permit No. 50 to Nawiliwili Yacht Club, Nāwiliwili Small Boat Harbor, Nāwiliwili, Island of Kauaʻi, Hawaiʻi Tax Map Key: (4) 3-2-03:043 (Portion).

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

Board Discussion

Public Testimony

MOTION

Approved as submitted (Oi, Gon) unanimous.

01.24.2020(1) 01:23:37

ITEM E-1 Amend General Lease No. SP0115, Glen Hontz and Virginia Dunas, Lot 35, Waimea (Kona), Kauaʻi, Tax Map Key: (4) 1-4-002:015.

The purpose of this Amendment is to correct the Termination Date to read December 31, 2028 and amend the Re-Opening date. Virginia Dunas Is Tenant-in-Severalty as the Widow of Glen Hontz.

Alan Carpenter, State Parks present to answer the questions.

Board Discussion

The Board asked if they can amend these types of changes at one time. Carpenter replied they are moving in that direction.

Public Testimony-None

MOTION

Approved as submitted (Gon, Oi) unanimous.

01.24.2020(1) 01:24:43

ITEM K-1 Conservation District Enforcement HA 20-18 Alleged Unauthorized Use – Mr. Gary and Mrs. Caroline Killeen’s Alleged Transient Rental Located in the Conservation District at 87-288 Kaohe Road, Kona Paradise Kaohe 4th, South Kona, Hawaiʻi, Tax Map Key: (3) 8-7-019:036.

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

Board Discussion

The Board reviewed the special condition of the CUA with the Wedemeyer’s who noted that their mother was unaware of the condition and apologized. They took down the advertisement upon receiving the Notice of Violation.

Public Testimony

Bill Wedemeyer and Corene (wife), son of Caroline Killen provided information regarding their family's situation and use of the home.

Amendment:

Include the Killeen Trust as owners.

MOTION

Approved as amended (Yuen, Gon) unanimous.

01.24.2020(1) 02:09:08

Carty Chang, Engineering present both Items L-1 and L-2.

ITEM L-1 Appointment of A. Iwalani Poaipuni and Haunani F. Collins to Serve as Directors of the Hana Soil and Water Conservation District

ITEM L-2 Appointment of Steve Chaikin to Serve as a Director of the Molokai-Lanai Soil and Water Conservation District

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

01.24.2020(1) 02:09:40

Chair leaves for a meeting and will return.

01.24.2020(1) 02:10:13

ITEM L-3 Hawaii Dam Safety Program Briefing (**Non- Action Item**)

Carty Chang and Edward Matsuda, Engineering, brief the Board with a PowerPoint presentation

01.24.2020(1) 03:05:24

ITEM F-1 Papahānaumokuākea Marine National Monument permittees briefing regarding activities conducted in 2019. (**Non-Action Item**)

Maria Carnevale

Charles Littnan (NOAA)-Monk Seals & Turtles

01.24.2020(1) 03:31:24

Hannah Barkley (SOEST) – Reef Monitoring

01.24.2020(1) 03:52:24

Kim Hinano- Protective Species (Humpbacks)

There being no further business, Chair Case, adjourned the meeting at 1:30 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 Ferreira

Darlene S. Ferreira
Land Board Secretary

Approved for submittal:

Suzanne D. Case

Suzanne D. Case
Chairperson