

DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

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

DATE: JUNE 12, 2020
TIME: 9:00 A.M.
LOCATION: Online via ZOOM, Live on YouTube

MEMBERS

Suzanne Case
Tommy Oi
Vernon Char
Jimmy Gomes (Absent)

Chis Yuen
Sam Gon
Kaiwi Yoon (Joined at 10:00am)

STAFF

Russell Tsuji-Land
Kevin Moore-Land
Katherine Cullison-DOFAW
Brian Neilson-DAR
Ed Underwood-DOBOR
Nicole Smith-DAR

David Smith-DOFAW
Ian Hirokawa-Land
Chris Teague-DAR
Sam Lemmo-OCCL
Carty Chang-ENG

OTHERS

Linda Chow/AG
Ella Foley Gannon/C1
Sean O'Keefe/C2
Reginald David/C2
Ella Foley Gannon/C2

Michelle Bogardus/C1
Reginald David/C1
Paul Conry/C2
Mahealani M. Krafft/C2
Dan Peck/C2

Kaala Uratani/D3
Jason Fujimoto/D3
Brian W. Tilker/D3
Brian Loving/D7
Dean Uyeno/D7

Michael Fujimoto/D3
Adam Bauer/D3
Derek Lindsey/D7
Ayron Stauch/D7

06.12.2020 00:00:01

Chair Case opened the meeting with announcements. Member Gon read the standard Contested Case statement. Chair Case noted that Items C-2, C-3 and Item K-1 will be heard after 10:00 am.

06.12.2020 00:02:09

ITEM A-1 Request Approval for the meeting minutes for May 8, 2020

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Char) 5-Ayes unanimous.

06.12.2020 00:02:32

ITEM C-1 Request for approval to enter into a 2-year contract with the Zoological Society of San Diego to provide services to operate the Endangered Bird Captive Propagation Facility on Maui, the Maui Bird Conservation Center, and to provide expert Avicultural Services to conduct related Forest Bird Propagation Projects at the Keauhou Bird Conservation Center on the Island of Hawaii and throughout the State;

and

Request approval of Declaration of Exemption to Chapter 343, HRS Environmental Compliance Requirements for the project. (Gon, Char) 5-eyes

David Smith, Katherine Cullison, Division of Forestry of Wildlife, presented the submittal. Lainie Barry present to answer any questions

Board Discussion

What have been some of the experiences in the past and who is staffing it? Barry replied, Staff is from San Diego and they have local interns. One of the major successes is the Aala native bird breeding and releasing into the wild and monitoring how they are doing and expanded on two other types of native birds they are working with and other organizations they are working with.

Public Testimony-None

MOTION

Approved as submitted (Gon, Oi) 5-Ayes unanimous.

06.12.2020 00:17:47

ITEM D-1 Amend Prior Board Action of March 24, 2017, Item D-5, *Amend Prior Board Action of March 28, 2014, Item D-4, Set Aside to the County of Kauai for Affordable Housing of Various Lots in Wailua Houselots, Kapaa Makai, Hanapepe, and Waimea, Kauai, as subsequently amended by Board Action of April 24, 2015, Item D-2; Tax Map Keys: (4) 1-6-004:003, (4) 1-9-009:006, 007, 008 & 009, (4) 1-9-010:003 & 033, (4) 4-1-009:054, (4) 4-1-011:016 & 020, (4) 4-5-008:009 & 012, and (4) 4-5-011:007.*

The purpose of the amendment is to delete the three Kapaa Makai parcels from the list of parcels approved for set-aside to the County of Kauai for potential affordable housing sites, identified as Tax Map Keys: (4) 4-5-008:009 & 012 and (4) 4-5-011:007.

The purpose of the current amendment is to delete Tax Map Keys: (4) 1-9-010:003 & 033 from the set-aside because the State Historic Preservation Division has determined that the two parcels might contain burial sites. (Gon, Char) 5-ayes

Russell Tsuji, Land Division, presented the submittal.

Board Discussion

Did Historical Preservation confirm the burials? Tsuji replied, not that he was aware. There was further discussion regarding the reason the City & County wanted to delete the parcels from the set-aside.

Public Testimony-None

MOTION

Approved as submitted (Gon, Char) 5-Ayes unanimous.

06.12.2020 00:32:01

ITEM D-2 Sale of Land License at Public Auction for Removal of Rock Aggregate Purposes, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-013:002 portion.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion

Is it legal to reimbursement of the EA if the Applicant does not win the Bid? Chow, AG, noted it is legal. There was further discussion regarding the Bidding process.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Gon) 5-Ayes unanimous.

06.12.2020 00:41:00

ITEM D-3 Authorize the Chairperson to Approve and Execute a Development Agreement for 30-Year Extensions of Lease Terms and to Execute Lease Extension Documents Pertaining to:

General Lease No S-3592; Hawaii Planing Mill, Ltd. dba HPM Building Supply, Lessee; Waiakea, South Hilo, Hawaii, Tax Map Keys: (3) 2-2-032:067 and 078;

General Lease No. S-3609; Hawaii Planing Mill, Ltd., Lessee; Waiakea, South Hilo, Hawaii, Tax Map Keys: (3) 2-2-032:068 and 070; and

General Lease No. S-3611; Hawaii Planing Mill, Ltd., as to an undivided 80% interest, and William MacKenzie, Trustee under that certain Indenture of Trust created March 26,

1955, by Nelle Wood Carlsmith for the benefit of Carl Wendell Carlsmith, Edith Mattson Carlsmith and Donn Wendell Carlsmith, as to an undivided 20% interest, Lessees; Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-032:021.

Kevin Moore, Land Division, presented the submittal. Representing HPM Michael Fujimoto, Jason Fujimoto, Adam Bauer, and Brian W. Tilker present to answer any questions.

Board Discussion

HPM was thanked for the service they provide to the Hilo Community.

Public Testimony

Jason Fujimoto, noted that the company will be turning 99-years of service this year.

MOTION

Approved as submitted (Yuen, Oi) 5-Yays unanimous.

06.12.2020 00:46:26

ITEM D-4 Sale of Lease at Public Auction for Industrial Purposes, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-058:004.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion- None

Public Testimony-None

MOTION

Approved as submitted (Yuen, Oi) 5-Ayes unanimous.

06.12.2020 00:47:06

ITEM D-5 Amend Prior Board Action of August 13, 2004, Item D-6, Cancellation of Governor's Executive Order No. 1965; Issuance of Term, Non-Exclusive Easement for Temporary Underground Sewer Line; Grant of Perpetual, Non-Exclusive Easement to Waimea

Wastewater Company, Inc. for Sewer Line Purposes, Lalamilo, South Kohala, Hawaii; Tax Map Key: (3) 6-7-003:020.

The Purpose of the Amendment is to Change the Term, Non-Exclusive Easement for Temporary Underground Sewer Line to a Perpetual, Non-Exclusive Easement for Sewer Line Purposes.

Russell Tsuji, Land Division, presented the submittal. Avery Matro representing the Applicant, present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Yuen, Gon) 5-Ayes unanimous.

06.12.2020 00:48:16

ITEM D-6 Grant of Perpetual, Non-Exclusive Easement to the City and County of Honolulu for Maintenance of Erosion Control Improvement Purposes; Manoa, Honolulu, Oahu, Tax Map Key: (1) 2-9-026: portions of 014 and 043.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Char) 5 – Ayes unanimous.

06.12.2020 00:49:30

ITEM D-7 Amend Grant of Perpetual, Non-Exclusive Easement to Hawaii Kai Marina Community Association for Maintenance of the Hawaii Kai Marina Entrance Channel and Sandbag Groin Purposes, Maunaloa, Oahu; Tax Map Key: (1) 3-9-002: seaward of Kalaniana'ole Highway near the bridge.

The amendment is to increase the easement area by an additional 7,852 square feet for the purpose of replacing the existing deteriorating sandbag groin with a new larger permanent rock rubble groin.

Russell Tsuji, Land Division, presented the submittal. Derek Lindsey, Sea Engineering, present to answer any questions

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Char) 5-Ayes unanimous.

06.12.2020 00:51:17

ITEM D-8 Issuance a Right-of-Entry and Delegation of Authority to the Chairperson to Issue Future Rights-of-Entry to the United States Geological Survey for the Installation, Operation, Repair, Maintenance and Removal of Stream Monitoring Stations on Lands under the Management of the Department of Land and Natural Resources. A List of Properties is Attached as Exhibit A.

presented the submittal. Ian Hirokawa, Land Division, Brian Loving (USGS) Ayron Stauch (CWRM), present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Char) 5-Ayes unanimous.

06.12.2020 00:57:04: Recess

06.12.2020 00:58:02 Back in Session:

06.12.2020 00:59:20

ITEM E-1 Continuance of Revocable Permit No. SP0550 to Go Holoholo, Inc., a Hawai'i Corporation for the use of the Nutridge House and Grounds on State Parks land at Pu'u 'Ualaka'a State Wayside, Opu, Makiki on the Island of O'ahu, Tax Map Key: (1) 2-5-019:004 portion.

Curt Cottrell and Alan Carpenter, State Parks presented the submittal. Noted a correction to the submittal, that the base rent was 4,800.00 and should be \$4,00000 and going up to \$4,800.00

Board Discussion

Chair case disclosed that she this is in her neighborhood and lives about a mile away from the park. Noted that not all RP's are suited for long term leases.

Public Testimony-None

MOTION

Approved as submitted (Gon, Oi) 5-Ayes unanimous.

06.12.2020 01:03:50

J. DIVISION OF BOATING AND OCEAN RECREATION

ITEM J-1 Renewal of 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 200.1, Hawaii Administrative Rules.

Richard Howard, Division of Boating and Ocean Recreation, presented the submittal. Noted that Exhibit A-6 shows the wrong location for the Kaneohe Cultural Foundation, it is over a little bit on the Exhibit.

Board Discussion

The Board asked to stay focused on the Revocable Permits submittal presented today. Chair Case also noted that written testimony has been received and can be reviewed on the DLNR website.

Public Testimony

Jim Coon and Denver Coon in support of the submittal and are looking forward to a long-term lease.

MOTION

Approved as submitted (Gon, Char) 6-Ayes unanimous.

06.12.2020 01:17:50

ITEM J-2 Approve Mediated Settlement of Rent Reopening Dispute in Harbor Lease No. H-82-4, GKM, Inc., Lessee, Kealakehe, Kailua- Kona, Hawaii, Tax Map Key: (3) 7-4-008:042.

Richard Howard, Division of Boating and Ocean Recreation, presented the submittal. Noted that there was error on the header of the submittal, in lieu of Land Division it should reflect Division of Boating and Recreation.

Board Discussion

Was there recent correspondence with the Applicant regarding settlement amount was appropriate due to the Covid-19 situation and loss of some of their sub-tenants? Ed Underwood, replied, Tina Prettyman, General Manager sent a letter that an increase of rent will be difficult for them with the current lease. They have the ability to ask for rent deferral if they need to.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Char) 6-Ayes unanimous.

K. OFFICE OF CONSERVATION AND COASTAL LANDS

06.12.2020 01:21:30

ITEM K-1 Conservation District Use Application HA-3860 for Mr. Perry and Mr. Gonzalez's Single-Family Residence, Farm, and Associated Improvements Located at 32-2471 Stone Road, Piha, North Hilo, Hawai'i Tax Map Key: (3) 3-2-004:040.

Sam Lemmo, Office of Conservation and Coastal Lands, presented the submittal. James Leonard (Consultant) for Nicholas Perry & Mr. Gonzalez's Applicant.

Board Discussion-None

Public Testimony

Leonard, noted that the applicant agrees with the conditions and grateful to the Staff for working with them.

MOTION

Approved as submitted (Yuen, Gon) 6-Ayes unanimous.

M. OTHERS

06.12.2020 01:27:02

ITEM M-1 Issuance of Revocable Permit for Rental Car Overflow Parking, Avis Budget Car Rental, LLC, Daniel K. Inouye International Airport, Tax Map Key No: (1) 1-1-72: 27.

ITEM M-2 Issuance of a Revocable Permit for an Enclosed Passenger Seating Area, Barbers Point Aviation Services, LLC, Kalaeloa Airport, Tax Map Key No: (1) 9-1-13: Portion of 32.

ITEM M-3 Amendment No. 3 to Revocable Permit No. 5180 Requesting Additional Newsstand Space, Blind Vendors Ohana, Inc., Daniel K. Inouye International Airport, Tax Map Key No: (1) 1-1-003: 001 (Portion).

Mike Auerbach and Gavin Lai, DOT-Airports, presented the submittal.

Board Discussion-None

Note: Reminder that a request to report back regarding the fixed-based leases at Lihue Airport.

Public Testimony-None

MOTION

Approved as submitted (Gon, Oi) 6-Ayes unanimous.

06.12.2020 01:30:35

ITEM M-4 Authorize One-Year Holdover of Harbor Lease No. H-14-58 to VAK Fisheries, LLC and Kim Lu, for Fishing Vessels Agent Office and Storage of Fishing Vessel Related Supplies, portion of Pier 19 Shed, Honolulu, Harbor, Oahu, Tax Map Key No.: (1) 1-5-039:063 (Portion), Governor's Executive Order No. 2903.

ITEM M-7 Request Approval to Issue a Construction Right-of-Entry, Month-to-Month Revocable Permit and Issuance of a Lease for Fast Lands and Submerged Lands (Subject to Legislative Approval) by Direct Negotiation, to PAR Hawaii Refining, LLC, for Storage of SPM-1 Buoy, Situated at Pier 14, Honolulu Harbor, Oahu, Tax Map Key No.: (1) 2-1-001: (P), Governor's Executive Order No.3542.

ITEM M-8 Issuance of Two (2) Month-to-Month Revocable Permits to the Gas Company, LLC, for a Non-Exclusive Subsurface Easement for the distribution Transmission of Electricity to Barges, Situated adjacent to Piers 1-3, Hilo, Hawaii, Tax Map Key No.: (3) 2-1-009:007 (P), Governor's Executive Order No. 3962.

Eric Leong, DOT-Harbors, presented the submittals for Item M-4, Item M-7 and Item M-8.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted Item M-4, M-7 and M-8 (Oi, Gon) 6-Ayes unanimous.

06.12.2020 01:30:35

ITEM M-5 Acquisition of Temporary Construction Rights-of-Entry to the Department of Transportation, Highways Division, for Highway Purposes, relating to Kamehameha Highway, Laielo Stream Bridge Replacement, Federal Aid Project No. BR-083-1(58) at Laie, Koolauloa, Oahu, Hawaii, Re: Tax Map Key Nos.: (a) (1) 5-5-003: Portion of 201; Portions of 075, 076, 077,078,079,080 and Puuahi Street, and € (1) 5-5-014: Portion of 001.

ITEM M-6 Acquisition of: (1) Fee simple parcel to the Department of Transportation, Highways Division, for Highway Purposes, Relating to Kalaniana'ole Highway Improvements in Waimanalo, at Olomana Golf Course to Poalima Street, Federal Aid Project No. NH-072-1(53) Waimanalo, Koolauloko, Oahu, State of Hawaii, Tax Map Key No.: (1) 4-1-22: Portion of 001, together with designation of restriction of vehicular access rights affecting Lot 171-A.

There was no Representative from DOT-Highways. Chair Case asked the Board Members if there were any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved Item M-5 and M-6 as submitted (Oi, Gon) 6-Ayes unanimous.

06.12.2020 01:32:00

ITEM M-9 Consent for Revocable Permit for use of the Hawai'i Youth Correctional Facility, Kailua, Koolauloko, O'ahu Tax Map Key: (1) 4-2-006: portion of 002, with Residential Youth Services and Empowerment, Inc for the purpose of temporary medical isolation center for youth as a response to COVID-19 pandemic.

Mark Patterson, DOH, Hawai'i Youth Correctional Facility, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Char) 6-Ayes unanimous.

06.12.2020 01:35:18

ITEM F-1 Approval of Petitions for Contested Case Hearing by Tyron Terazono, Kacie Terazono, and Wayne Newman Regarding Enforcement Action Against Tyron Terazono, Kacie

Terazono, and Wayne Newman for Unlawful Collection of Aquatic Life for Aquarium Purposes within the West Hawai'i Regional Fishery Management Area, Island of Hawai'i.

Brian Nielson and David Sakoda, Division of Aquatic Resources, presented the submittal.

Board Discussion

There was a discussion whether to have this go to a Hearing Officer or have the proceedings before the Board.

Public Testimony-None

Amendment:

1. Approve request to a Contested Case hearing.
2. The full Board will hear the matter in a Contested Case proceeding.

MOTION

Approve as amended (Yuen, Yoon) 6-Ayes unanimous.

5- minute break

06.12.2020 01:49:14

ITEM C-2 Request for Approval of the Final Environmental Assessment for the Kauai Seabird Habitat Conservation Plan;

and

Request authorization for the Chairperson to issue a Finding of no Significant Impact (FONSI).

David Smith, Division of Forestry and Wildlife, presented the submittal. Sam O'Keefe (A & B), Paul Conry (HDOT), Ella Foley Gannon (DOT), Mahealani M. Kraft, Reginald David (Consultant), Lisa Bail, present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gon) 6-Ayes unanimous.

06.12.2020 01:57:14

ITEM C-3 Request for Approval of Kaua'i Seabird Habitat Conservation Plan; Issuance of Incidental Take Licenses to Alexander & Baldwin, Inc., County of Kaua'i, Hawai'i Department of Transportation, Kaua'i Marriott Resort (Essex House Condominium Corporation), Kaua'i Coffee Company, LLC, Norwegian Cruise Lines (Bahamas) LTD., The Princeville Resort Kaua'i, and Sheraton Kauai Resort (Starwood Resorts)

David Smith, Division of Forestry and Wildlife, presented the submittal. Sam O'Keefe (A & B), Paul Conry (HDOT), Ella Foley Gannon, Mahealani M. Kraft, Reginald David (Consultant), Michelle Bogardus present to answer any questions.

Board Discussion

Who will be monitoring? Smith replied, the applicants will be self-reporting. Smith said that Pacific Rim will put together an annual report.

Public Testimony

Lisa Bail, Reginald David, Ella Foley Gannon, noted that they are fine with the conditions and look forward to working together. Michelle Bogardus from US Fish and Life, confirmed that the license has been approved.

MOTION

Approved as submitted (Oi, Gon) 6-Ayes unanimous.

There being no further business, the meeting was adjourned. 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