

DAVID Y. IGE
GOVERNOR OF HAWAII



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**

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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

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

DATE: August 28, 2020
TIME: 9:00 A.M.
LOCATION: Online via ZOOM, Livestream via YouTube

MEMBERS

Suzanne Case
Sam Gon
Chris Yuen
Kaiwi Yoon

Jimmy Gomes
Tommy Oi
Vernon Char

STAFF

Russell Tsuji-Land
Ian Hirokawa-Land
Brian Neilson-DAR
Nikki Smith-DAR

David Smith-DOFAW
Kevin Moore-Land
Curt Cottrell-Parks
David Sakoda-DAR

OTHERS

Colin Lau/AG
Lauren Chun/AG
Mike Auerbach/DOT-AIR
Eric Leong/DOT-Harbors
Lezy Normand/F2
Michelle Chi Dickinson/D4, D5
Sandra Pfund/D8

Melissa Goldman/AG
Linda Chow/AG
Abby Lareau/DOT-AIR
Jennifer Tomita/DOT-Harbors
John Mitchell/D3
Randy Endo/D7

08.28.2020/00:00:21

Chair Case, conveyed that due to the pandemic, the meeting is being held via Zoom and live-streaming on YouTube, and noted that written testimony and request for oral testimony have been received in advance.

Member Gon read the standard contested case statement.

08.28.2020/00:03:21 Chair Case noted that Item F-1 was withdrawn

ITEM F-2 Settlement Agreement with Formosa Wealth Management for Stony Coral and Live Rock Damage Resulting from the October 02, 2018 Formosa Anchoring within the Kailua Bay Zone of Kona Coast Fisheries Management Area, Island of Hawai'i.

David Sakoda, Division of Aquatics presented the submittal. Nikki Smith, Brian Neilson, DAR, Linda Chow, Deputy AG, present to answer any questions.

Board Discussion

There was a lengthy discussion on the different types of coral colonies damaged and how the amount of the settlement was decided and where the funds would go.

Public Testimony

Lezy Normand, representing the Formosa Wealth Management, stated they appreciated that Division working with them towards a settlement.

Member Yuen made a motion to go into Executive Session, to discuss legal issues with our legal counsel. Member Gon second the motion

08.28.2020/00:22:31

Back from Executive Session.

Further Board Discussion

What are the legal issues that might be different if we had a Hawaii Resident who did the same thing. Linda Chow, Deputy Attorney General, explained the Maritime Rules/Laws regarding this issue,

MOTION

Approved as submitted (Yuen, Gon) 6 Ayes 1-Opposed (Gomes)

08.28.2020/00:37:40

ITEM D-1 Cancellation of Revocable Permit No. S-7870, Charmaine Manuel, Permittee; Request for Waiver of Requirement for Conducting Phase I Environmental Site Assessment upon Cancellation of Revocable Permit No. S-7870; Issuance of New Revocable Permit to Pedryn Baniaga; for Pasture Use, Kekaha, Waimea (Kona), Kaua'i, Tax Map Key: (4) 1-3-002:030.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gomes) unanimous.

08.28.2020/00:38:49

ITEM D-2 Amend Prior Board Action of August 28, 2009, Item D-1, *Cancellation of Governor's Executive Order No. 3449 to County of Kauai, Department of Water; Reset Aside to Division of Forestry and Wildlife for Remote Automatic Weather Station Site (RAWS); Issuance of Construction and Management Right-of-Entry, Hanapēpē, Waimea, Kaua'i, Tax Map Key: (4) 1-8-012:032.*

The purpose of the amendment is to replace the reset aside to the Division of Forestry and Wildlife for a RAWs with a reset aside to the Kauai County Housing Agency for affordable housing purposes.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion

Is there any consideration back to the State? Tsuji replied, no. The process of the reset-aside was further discussed.

Public Testimony-None

MOTION

Approved as submitted (Oi Gon) unanimous.

08.28.2020/00:41:42

ITEM D-3 Amend Prior Board Action of April 11, 2014, Item D-6, *Approval in Principle of Land Exchange between the State of Hawaii and Parker Ranch, Inc. for State-Owned Land at Waimea, South Kohala, Hawaii Tax Map Key: (3) 6-7-003:020 with Privately-Owned Commercial/Industrial Land of Equal or Greater Value to be identified at a Later Date and Issuance of an Immediate Right-of-Entry to Parker Ranch, Inc. for the Purpose of Conducting an Environmental Assessment on the subject State lands.*

The purpose of the amendment is to obtain approval for an exchange of a portion of the “flagpole” area of the State’s flag lot parcel (TMK: (3) 6-7-003:020) for a portion of the adjacent privately-owned unimproved land (TMK: (3) 6-7-002:062 (por.)) zoned for residential use and contiguous with the “flag” portion of the State’s exchange parcel for the public purposes of facilitating the construction of a United States Post Office and straightening the boundaries of the State’s flag lot.

Russell Tsuji, Land Division, presented the submittal. John Mitchell, Parker Ranch, available to answer any questions.

Board Discussion

Discussion on access to the State property, Parker Ranch is willing to do a land exchange, so the State will have access.

Public Testimony

John Mitchell, noted this is a multi-phase of land exchange for other potential civic uses or development in the future.

MOTION

Approve as submitted (Yuen, Gon) unanimous.

08.28.2020/00:49:18

ITEM D-4 Issuance of Land Patent in Confirmation of Land Commission Award No. 7081 to Kaiwikui, situate at Pua’a 3, Kona, Hawai’i, Tax Map Key: (3) 7-5-018:014.

ITEM D-5 Issuance of Land Patent in Confirmation of a Portion of Land Commission Award No. 10266 to Makai, situate at Pua'a 3, Kona, Hawaii, Tax Map Key: (3) 7-5-018:015.

Russell Tsuji, Land Division, presented Item D-4 and Item D-5 together. Michelle Chi Dickinson (Counselor for applicant Items D-4 & D-5) is present to answer any questions.

Board Discussion

What is the purpose of issuing a land patent. Tsuji conveyed, that it will provide a clear title. There was an informational discussion on issues regarding land patents and deeds.

Public Testimony

Dickinson noted that Title Guaranty did the title report and did have a disclaimer regarding land patents.

MOTION

Approved as submitted Item D-4 and Item D-5 (Yuen Char) unanimous.

08.28.2020/01:01:36

ITEM D-6 Issuance of Right-of-Entry Permit to Goodfellow Bros. LLC for Rough Grading of Existing Firebreak Road and Mowing of Grass Shoulders 30 feet from Edge of Road on Both sides at Kaunohua-Pōhākea Gulch on Lands Encumbered by General Lease No. S-6003, Kaheawa Wind Power II, LLC, Lessee, for Wind Farm Purposes, Wailuku, Maui; Tax Map Key: (2) 3-6-001: Portion of 014.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

08.28.2020/01:03:10

ITEM D-7 Quitclaim of State's Interests, if Any, in a Portion of Pūlehu Road to the County of Maui Pursuant to Act 288 Session Laws of Hawaii 1993, Kahului, Wailuku, Maui, Tax Map Key: (2) 3-8-001 (roadway).

Russell Tsuji, Land Division, presented the submittal. Randy Endo (A&B), present to answer any questions.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Oi) unanimous.

08.28.2020/01:06:56

ITEM D-8 Authorize the Cancellation of the Existing Quitclaim Deed to the City and County of Honolulu for Union Street Mall (formerly Union Street) and Issuance of a Disclaimer and/or Quitclaim Deed of State's Interests, if any, in Union Street Mall to the fee owner City and County of Honolulu, Honolulu, O'ahu, Tax Map Key: (1) 2-1-010: portion of 047.

Russell Tsuji, Land Division, presented the submittal. Sandra Pfund, City and County of Honolulu, present to answer any questions.

Board Discussion

Discussion regarding public use. Model they are trying to achieve is like Tamarim Park and ensure public access. Clearing the title by quit-claim deed from the State.

Public Testimony

Pfund thanked the division for helping with clearing up the discrepancies and look forward to moving forward on options to get the mall in a better place.

MOTION

Approved as submitted (Char, Gon) unanimous.

08.28.2020/01:31:51

ITEM D-9 Second Amendment of Grant of Non-Exclusive Easement under Land Office Deed No. S-28,391 to Hawaiian Electric Company, Inc. (HECO) for Electric Transmission Distribution Lines and Poles Purposes to Expand the Easement Area as Necessitated by the Replacement of Improvements; Issuance of Construction Right-of-Entry Permit to HECO at Wa'ahila Ridge, Manoa, Honolulu, O'ahu; Tax Map Key: (1) 2-9-050: portion of 001 and (1) 3-4-010: portion of 009.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion

Do the replacement improvements include adding footings? Tsuji, was not sure but could include it. There was not a representative from HECO to respond. Discussion regarding adding conditions regarding consultation with DOFAW regarding invasive species within the forest reserve area.

Public Testimony-None

Amendment:

The Board added a condition in the Amendment document to require HECO to consult with the Oahu Invasive Species Committee and the Division of Forestry and Wildlife to minimize the risk of invasive species introduction during the work and the term of the easement.

MOTION

Approved as amended (Gon, Oi) unanimous.

08.28.2020/01:37:58

ITEM D-10 Amend Grant of Non-Exclusive Easement No. S-5669 for Seawall Purposes, Bank of Hawaii as Trustees for the Tsugio Ueyama Revocable Living Trust dated July 10, 2001

and the Jane N Ueyama Revocable Living Trust dated July 10, 2001, and Lynn M. Wong, Grantees, Wailupe, Honolulu, O'ahu, TMK (1) 3-6-003: seaward of 015. The purpose of this amendment is to increase the easement area by 16 square feet. Rescind Prior Actions of June 9, 2006, Item D-8 and October 12, 2007, Item D-5.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gomes) unanimous.

08.28.2020/01:40:32

ITEM M-1 Issuance of a Land Lease for Fixed-Base Operations by Notice of Public Auction, Kalaeloa Airport, Tax Max Key: (1) 9-1-013: Portion of 32.

Board Discussion

Why are we giving a 50% discount in the first 5-years? Lareau replied, the Applicant will have to invest a minimum of 2+million to start development & construction of the facility and other improvements for general aviation. Lareau explained what qualified for general aviation

ITEM M-2 Issuance of a Revocable Permit for Aircraft Parking, William Andrew Womack, Waimea-Kohala Airport, Tax Map Key: (3) 6-7-001: Portion of 08.

ITEM M-3 Issuance of a Revocable Permit for a Field Office and/or Storage of Materials and Equipment, Jas. W. Glover, Ltd., Līhu'e Airport, Tax Map Key: (4) 3-5-001: 008 (Portion).

Board Discussion

It was noted that Grover has had equipment on the runway for over a year, do you know what they plan to do? Auerbach replied, he was not sure.

ITEM M-4 Issuance of a Revocable Permit for a Field Office and/or Storage of Materials and Equipment, Shioi Construction, Inc., Līhu'e Airport, Tax Map Key: (4) 3-5-001: 008 (Portion).

Mike Auerbach, DOT Airports, presented Item M-1, M-2, M-3 and M-4. Abby Lareau, DOT Airports was present to answer any questions.

Public Testimony-None

MOTION

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

08.28.2020/01:46:16

ITEM M-5 Issuance of a Month-to Month Revocable Permit to Alaska Marine Lines, Inc., for Storage of a Stationary Crane, situated at Pier 5, Kalaeloa Barbers Point Harbor, O'ahu, Tax Map Key No: (1) 9-1-014:024 (P), Governor's Executive Order No. 3383.

Jennifer Tomita, DOT Harbors, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gon)

08.28.2020/01:47:10

ITEM M-6 Issuance of Month-to-Month Permit and Issuance of Lease for Fast Lands and Submerged Lands (subject to Legislative Approval) by Direct Negotiation to Paradise Cruise, LTD., for Mooring of the Vessel "Star of Honolulu" Floating Passenger Dock and Utility Easement, situated at Pier 8, Honolulu Harbor, O'ahu, Tax Map Key No: (1) 2-1-001:001 (P), Governor's Executive Order No. 3542.

Eric Leong, DOT Harbors, presented the submittal.

Board Discussion

Regarding the lease which they have had since 1999 to 2008, were they still paying their rent till now? Leong said yes, they were paying rent plus gross receipts. There was further discussion on the monthly rent.

Public Testimony-None

MOTION

Approved as submitted (Char, Gon) unanimous.

There being no further business, Chair Case, adjourned the meeting. Recording(s) of the meeting and all written testimonies submitted at the meeting can be found on-line 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, Chair
Board of Land and Natural Resources
Department of Land and Natural Resources