



APPROVED AS SUBMITTED
BY THE BOARD AT ITS
MEETING HELD ON
OCTOBER 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

STATE OF HAWAII
BOARD OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

MEETING MINUTES
BOARD OF LAND AND NATURAL RESOURCES

DATE: August 14, 2020
TIME: 9:00 A.M.
LOCATION: Online via ZOOM, Livestream via YouTube

MEMBERS

Suzanne Case
Jimmy Gomes
Tommy Oi
Sam Gon

Chis Yuen
Vernon Char
Kaiwi Yoon

STAFF

Russell Tsuji-Land
Alan Carpenter-Parks
Maria Carnevale-DAR
Brian Kanenaka-DAR
Mike Iwanaka-BOC

Gordon Heit-Land
Sang Kim- Parks
David Sakoda-DAR
Leslie Kobata-BOC

OTHERS

Mike Auerbach/DOT-Air
Scott Matsunaga/DOT-Hwy
Ron Kim/D1
Denise Antolini/F2
Jeanmine Rosa/F3
Dolan Eversole/K1

Ethan Tomokiyo/DOT-Air
Bridget Sawai/DAGS
Li'ulā Kotaki/D3
Leilani Pulmano/M6
Allen Tom/F3

(Note: Audio recording began at Item M-1)

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. The Agenda will be taken in order.

Member Gon read the standard contested case statement.

ITEM A-1

ITEM A-1 Request Approval for the meeting minutes for June 12, 2020.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Yoon, Gon) unanimous.

ITEM A-2 Request Approval for the meeting minutes for June 26, 2020.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Oi) unanimous.

08.14.2020/00:00:25

ITEM M-1 Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Bruce and Sheri Yamashita, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-76: Portion of 22.

ITEM M-2 Amend Prior Board Action of January 12, 2018, Agenda Item M-8, Grant of a Term, Non-Exclusive Easement and Issuance of a Temporary Right-of-Entry Permit to Servco Pacific Inc. for Access Purposes, Situate at Mokauea, Kalihi, Honolulu, Oahu, Hawaii, Tax Map Key No: (1) 1-2-025:002 (Portion).

Board Discussion

Was there any value for the easement that coming to the State? \$150,000 will be paid by Servco to DOT.

ITEM M-3 Issuance of a Revocable Permit for Parking and Construction Equipment Storage for the Rail Transit Project, Shimmick/Traylor/Granite, JV, 2919 Ualena Street, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-004: 012.

ITEM M-4 Issuance of a Revocable Permit for Construction Material Storage and Equipment Staging, Watts Constructors, LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-4: 03 (Portion).

Mike Auerbach, DOT- Airports, presented Items M-1, M-2, M-3 and M-4.

Board Discussion

There was no other discussion regarding M-1, M-3 and M-4

Public Testimony-None

MOTION

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

ITEM M-5 Report to the Board on the status of DOT Airports of qualified fixed-base operator ("FBO") leases at Lihue Airport. **(Non-Action Item)**

Ethan Tomokiyo, Lihue-DOT AIR Property Manager presented the report.

Board Discussion

The FOB Leases were discussed in terms of use, qualifications, and conformance. DOT-Air disclosed that they have three current operators at Lihue Airport that were approved as FBO's. They were all supposed to fill out a long document showing how they would qualify as FBO's. DOT does not have this documentation in the file for two of the FBO's. They have the documentation only for Jack Harter Helicopters. DOT-Air said that they did not know if any of the three actually operated as FBO's. DOT-Air said that they were not sure they could make the lessees actually operate as FBO's because the leases did not specifically require it; they only said that they had the right to operate as FBO's. The Board requested the DOT-Air have the AG review the leases to see whether the lessees can be required to operate as FBO's, and to determine whether the three lessees were actually being operated as FBO's, and report back in 90 days. Also, there was one more direct lease that had been approved by the Board and not finalized yet, Airborne Aviation. The Board said that the lease should be written so that it did require that the lessee operate as an FBO. DOT-Air said that future airport leases will be issued through public auction, rather than as direct leases.

08.14.2020/00:2:16

ITEM D-1 Consent to Amend Sublease under General Lease No. S-3742, JH Moku Ola, LLC, Lessee, to Maui Varieties Investments, Inc., Sublessee, Waiakea Industrial Lots, Waiakea, South Hilo, Hawai'i, Tax Map Key: (3) 2-2-058:014.

Russell Tsuji, Land Division, presented the submittal. Gordon Heit, Hawaii Island Land Agent and Ron Kim, representative for the applicant are available to answer questions. Tsuji noted that the submittal would have to be amended. The rent that the sublessee would have to pay to the lessor was fixed only through 2038. Thus, if the sublease rent went up after 2038, the state's participation should be adjusted as well.

Board Discussion

If the subleases change will it come back to the Board. Tsuji, replied yes.

Public Testimony

Ronald Kim, representing the Applicant, conveyed they are agreeable and understand the sub-leases may go up.

Amendment:

The Board amended recommendation 1c. to reflect the sublease rent participation on November 12, 2038 and November 12, 2048 shall be as stated, \$5,776.00 and \$935.40, respectively, or as adjusted upward as may be appropriate at that time.

MOTION

Approved as amended (Yuen, Gon) unanimous.

08.14.02020/00:08:30

ITEM D-2 Grant of a Perpetual Non-Exclusive Utility Easement to Hawaiian Electric Company, Inc. and Issuance of Immediate Right-of-Entry; Honolulu, Oahu, Tax Map Key: (1) 1-1-003: Portion of 004.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Char, Gon) unanimous.

08.14.02020/00:9:5019

TEM D-3 Amend Prior Board Action of May 26, 2017, Item D-7, *Consent to Assign General Lease No. S-4892, from Thomas H. Kaaiai and Joan A. Kaaiai as Assignors to Thomas H. Kaaiai, Joan A. Kaaiai, Guy A. K. Kaaiai, Dale L. Kaaiai, Lane Kaaiai, and Nohl-Dayne H. N. Kaaiai, Joint Tenants, as Assignees; Maunalaha, Honolulu, Oahu, Tax Map Key: (1) 2-5-024:021.*

Mutual Cancellation of General Lease No. S-4906; Guy A. K. Kaaiai, Dale L. Kaaiai, Lessee; Maunalaha, Honolulu, Oahu, Tax Map Key: (1) 2-5-024:022.

The purpose of this amendment is to seek Board's authorization to replace the assignors with Lane Kaaiai, in the capacity of the Personal Representative of the Estate of Thomas H. Kaaiai, aka Thomas Hauola Kaaiai, Sr.

Russell Tsuji, Land Division, presented the submittal. Li'ulā Kotaki (Native Hawaiian Legal Corp.) represented the assignor.

Board Discussion

Requirement for the leases were discussed.

Public Testimony

Kotaki provided background on the assignments.

MOTION

Approved as submitted (Char, Gon) unanimous.

08.14.02020/00:24:44

ITEM E-1 Request Approval for Final Adoption of Proposed Amendments and Compilation of Hawai'i Administrative Rules (HAR) Chapter 13-146, Section 13-146-6 (Fees), for Fee

Increases to State Park Camping, Lodging, and Pavilion Rental Fees, Parking and Entrance Fees for Designated State Park Areas after Public Hearing.

The Proposed Rules Can Be Reviewed in Person at The Division of State Parks, O'ahu District Office, 1151 Punchbowl Street, Room 310, Honolulu, HI 96813 From 8:00 AM To 3:30 PM , Monday Through Friday, Except State Holidays.

The Current and Proposed Versions of HAR Section 13-146-6 can be reviewed online at:
<https://DLNR.Hawaii.Gov/Dsp/Administrative-Rules/>

Via the Lieutenant Governor's Website at:
<http://Ltgov.Hawaii.Gov/The-Office/Administrative-Rules/>

and

[HTTPS://DLNR.HAWAII.GOV/DSP/FILES/2020/01/PARKING-AND-ENTRANCE-FEES-DRAFT-5-RAMSEYER-FORMAT-VRS-SBRRB-JANUARY-2020-EXHIBIT-A.PDF](https://DLNR.HAWAII.GOV/DSP/FILES/2020/01/PARKING-AND-ENTRANCE-FEES-DRAFT-5-RAMSEYER-FORMAT-VRS-SBRRB-JANUARY-2020-EXHIBIT-A.PDF).

<https://Dlnr.Hawaii.Gov/Dsp/Files/2020/01/Parking-And-Entrance-Fees-Draft-5-Ramseyer-Format-Vrs-Sbrrb-January-2020-Exhibit-A.Pdf>

Alan Carpenter, State Parks presented the submittal, Sang Kim available to answer questions.

Board Discussion

Where will the revenues go? Carpenter, into the State Parks Special Fund. It will be free for residents.

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) unanimous.

08.14.02020/00:42:34

ITEM F-1 Request for Authorization to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Mr. Andrew Rocheleau, Sea Engineering, Inc., for Access to State Waters to conduct salvage activities at Lisianski Island.

Maria Carnevale, Division of Aquatic Research, presented to the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approve as submitted (Gon, Char) unanimous

08.14.02020/00:48:24

ITEM F-2 Request for Approval to Hold a Public Meeting and Hearing to Amend and Compile Chapter 13-34, Hawaii Administrative Rules, Pūpūkea Marine Life Conservation District; to Amend: §13-34-1 (Boundaries) to Provide More Accurate GPS Coordinates and Boundary Descriptions; §13-34-1.1 (Definitions) to Clarify and Update Definitions Including “Limu Lipe’epe’e”; §13-34-2 (Prohibited activities) to Prohibit the Feeding of Marine Life; §13-34-3 (Permitted activities) to §13-34-4 (Exceptions; permits) for Grammatical and Technical Amendments; §13-34-5 (Penalty) to Clarify the types of Penalties Authorized by Statute for Violations of this Chapter; to Adopt §13-34-6 (Asset Forfeiture) to Provide Notice of the State’s Authority to Utilize Civil Asset Forfeiture as an Enforcement Tool for Violations of this Chapter; Located at Pūpūkea, Ko’olauloa, O’ahu, Hawai’i

The Rules can be reviewed online at <http://dlnr.hawaii.gov/dar/rules-and-public-notice/> or can be reviewed or obtained in person, by appointment only, at the Division of Aquatic Resources (DAR) office on Oahu at 1151 Punchbowl St. Room 330, Honolulu, Hawaii 96813 from 8:00 am to 3:30 pm, Monday through Friday, except Holidays.

David Sakoda, Division of Aquatic Resources, presented the submittal.

Board Discussion

Is the Public Hearing to be virtual? Sakoda replied yes. Following the normal process of notification to the public,

Public Testimony

Denise Antolini, volunteer President for Malama Pupukea provided background information.

MOTION

Approved as submitted (Gon, Gomes) unanimous.

08.14.02020/00:56:14

ITEM F-3 Informational Briefing on Final Management Plan for the Hawaii Islands Humpback Whale National Marine Sanctuary. **(Non-Decision-Making Item)**

David Sakoda, Jeannine Rosa (Sanctuary co-manager) Allen Tom, provided the presentation.

08.14.02020/01:22:40

ITEM G-1 Request for Approval to Continue “Information Services”. Board approval for the Bureau of Conveyances (BOC) to continue offering “information services” to customers for a fee, develop and offer new services for a fee, and to establish or change fees as appropriate for “information services” in accordance with Hawaii Administrative Rules (HAR) 13-16-32.

Leslie Kubota, Bureau of Conveyances, and Mike Imanaka presented the submittal.

Board Discussion

Is there a Tier fee structure? Kobata replied, public is charged a per page fee, there is a monthly subscription that would be used by (i.e.) Attorneys, Industry (Title Companies) users have a flat rate. There was further discussion on users.

Public Testimony-None

MOTION

Approved as submitted (Gon, Yoon) unanimous.

08.14.02020/02:02:01

ITEM J-1 Amend Prior Board Action of June 12, 2020, Item J-1, Renewal of Revocable Permits on the Island of Oahu, Maui, Hawaii and Kauai. The Purpose of the Amendment is to Change two of the Revocable Permittees Annual Rent on the Board Submittal's Exhibit E, for Keahole Point Fish LLC, (Island of Hawaii) from \$160.00 to \$2,016.00, Cordula Incorporated (Island of Hawaii) from \$46.00 to \$552.00.

Ed Underwood, Division of Boating and Ocean Recreation presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Yuen, Char) unanimous.

08.14.02020/02:02:01

ITEM J-2 Response to Testimony Received by Sylva Rivera at the July 10, 2020 Board Meeting, Item J-4, Alleging That GKM, Inc. Engaged in Illegal Fuel Storage, Fuel Sales, and Caused Fuel Spills Within the Honokohau Small Boat Harbor, Hawaii; Alleged Environmental Crimes Were Committed by GKM, Inc. **(Non-Action Item)**

Ed Underwood, Division of Boating and Ocean Recreation presented the report. Bob Masuda, First Deputy, present to answer any questions and confirmed the report. Note that GKM, Inc., provided their current inspection reports.

08.14.02020/02:017:01

ITEM K-1 Proposed Memorandum of Understanding between the State of Hawaii, Department of Land and Natural Resources, by its Board of Land and Natural Resources and the Waikiki Beach Special Improvement District Association to Help Fund Phase II of the Waikiki Beach Maintenance Project & Amendment to Condition #4 of Conservation District Use Permit OA-3558 for the Waikiki Beach Maintenance Project to Allow up to 20,000 Cubic Yards of Sand Recovery and Placement at Waikiki, Oahu, Hawaii.

Sam Lemmo, Office of Conservation and Coastal Lands, presented the submittal. Made modifications MOU, 1) there was a mistake on the first page, Item C, the amount of sand should be 24,000. The next

paragraph it references 24,000 and should be 20,000. Make a change to the cost from 2 to 3 million dollars to 3 to 4 million dollars.

Board Discussion

There was a lengthy discussion on sea-level rise, sand restoration, different methods, cost, EIS and how these things affect the beaches on the islands.

Public Testimony

Dolan Evensole, provided a summary of how the improvement projects will be funded.

MOTION

Approved as submitted (Char, Gon) 6-Ayes 1-Oppose (Gomes)

08.14.02020/02:53:37

ITEM M-6 Dedication of Land to the Department of Transportation, Highways Division, for Highway Purposes, relating to Haleakala Road Federal Aid Project (FAP) No. 5B, situate at Kehuna, Kula, Maui, Hawaii, Regarding Tax Map Key: (2) 2-2-3-011-132.

Scott Matsumoto, DOT Highways Division, presented the submittal. Leilani Pumano, Consultant is available for questions.

Board Discussion-None

Public Testimony

Leilani Pumano provided information on dedication of the road widening to comply with there subdivision plans

MOTION

Approved as submitted (Gomes, Gon) unanimous.

08.14.02020/02:58:05

ITEM M-7 Request for (1) Temporary Construction Right-of-Entry to the Department of Transportation, Highways Division, for Highway Purposes, relating to Kaumualii Highway, Eleele Pedestrian Overpass Repairs, Project No. 50C-01-19M, at Eleele, Koloa, Island of Kauai, State of Hawaii, Tax Map Key No: (4) 2-1-13: Portions of 023.

Board Discussion

Member Oi provided background information on this project.

Public Testimony-None

MOTION

Approved as submitted (Oi, Gon) unanimous.

08.14.02020/02:59:40

ITEM M-8 Consent to Issuance of a Revocable Permit under Governor's Executive Order No. 4236 to Honolulu Civil Beat Inc. at the State Capitol, 415 S. Beretania Street, Basement (Chamber Level), Honolulu, Hawaii 96813, Tax Map Key: (1) 2-1-024-015 & 016.

Bridget Sawai, DAGS, presented the submittal.

Board Discussion-None

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 written testimonies received by the requested deadline can be found on-line with the submittal and available for review. Certain Items on the agenda may have been 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
State of Hawaii
Board of Land and Natural Resources
Department of Land and Natural Resources