

DAVID Y. IGE
GOVERNOR OF HAWAII



**APPROVED AS SUBMITTED
AT ITS BOARD MEETING
DECEMBER 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: OCTOBER 23, 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
Barry Cheung-Land
David Smith-DOFAW
Mike Millay-DOFAW
Andrew Taylor-DOFAW
Aaron Lowe-DOFAW
Alan Carpenter-Parks
Ed Underwood-DOBOR
Carty Chang-Engineering
Russell Kumabe-Engineering

Kevin Moore-Land
Wesley Matsunaga-Land
Candance Martin-Land
Gordon Heit-Land
Emma Yuen-DOFAW
Marigold Zoll-DOFAW
Curt Cottrell-Parks
Sang Kim-Parks
Sam Lemmo-OCCL
John Datiles-Engineering

OTHERS

Cindy Young/AG
David Frankel/D5
Joe Ibarra/D5
Tyler Ralston/D5
Terry Galpin/D8
Hosanna/D8
David Tanoue/D9
Lauren Chun/J2
Francis Oda/K1
Kathy Raether/K1

Bill Wynhoff/AG
Jennifer Lim/D5
Pualani Fernandez/D5
Dotty Kelly-Paddock/D5
Nani Galeng/D8
Rodney Funakoshi/D8
Christina Ohira/D10
J. George Hetherington/K1
Barrie Morgan/K1

ITEM A-1

10.23.2020/00:00:27

Chair Case called the meeting to order and noted that due to Covid-19 pandemic, the meeting is held via Zoom. Those who requested to provide oral and written testimony have done so in advance of the meeting.

Member Gon read the standard contested case statement.

10.23.2020/00:02:14

ITEM A-1 Request approval of the August 28, 2020 Board of Land Natural Resources meeting minutes.

Board Discussion

There were minor spelling edits made.

Public Testimony-None

MOTION

Approved as amended (Gon, Gomes) unanimous.

10.23.2020/00:04:18

ITEM C-1 Request to Conduct a Public Hearing regarding a Set Aside of Approximately 1,260 acres as the Waiea Natural Area Reserve, Tax Map Key: (3) 8-6-001:003, South Kona, Hawai'i

Emma Yuen and Mike Millay, Division of Forestry and Wildlife, presented the submittal.

Board Discussion

Comments included that Waiea is strategic for access.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Gon) unanimous.

10.23.2020/00:06:30

ITEM D-1 Amend Prior Board Action of March 13, 2020, Item D-1, *Amend Prior Board Actions of October 14, 2016, Item D-2, Grant of Perpetual, Non-Exclusive Easement to Kauai Island Utility Cooperative for Utility Purposes; Grant of Immediate Management and Construction Right-f-Entry, Kekaha, Waimea, Kauai, Tax Map Keys: (4) 1-2-002: portions of 001, 009 and 040. The purpose of the amendment was to change the consideration for the easement from a one-time payment of fair market rent to nominal consideration of \$500.*

The purpose of this amendment is to delete all references to Tax Map Key: (4) 1-2-002: portion of 001 and to update/correct supplemental information pertaining to the encumbrances on the parcels referenced in the "Current Use Status" relating to the easement area.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gon) unanimous.

10.23.2020/00:07:30

ITEM D-2 Amend Prior Board Action of August 23, 2020 Item D-2, Authorization of Sale of Lease at Public Auction for Business and/or Commercial Purposes, Hanapepe Town Lots, Waimea, Kauai, Tax Map Key: (4) 1-9-005:007

The purpose of the amendment is to clarify that the minimum upset annual rent for the lease should be based on land and improvements.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gon) unanimous.

10.23.2020/00:08:07

ITEM D-3 Amend Prior Board Action of October 12, 2001, Item D-4, Sale of Lease at Public Auction for Business/Commercial Purposes, Hanapepe Town Lots, 1st Series, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-9-005:049.

The purpose of the amendment is to: change the lease term from 10 to 30 years; clarify that the appraisal for the upset rent will be conducted by an independent appraiser procured by the State instead of a staff appraiser; provide for the upset rent appraisal to set rent for the first 10 years of the term with a known step-up for the second 10 years; and provide that the lease rent shall be reopened at the end of the 20th year of the lease term.

Russell Tsuji, Land Division, presented the submittal.

Board Discussion

Are improvements on the property and is it included in the appraisal? Tsuji, replied yes. Questions regarding the lease were further discussed.

Public Testimony-None

MOTION

Approved as submitted (Oi, Gomes) unanimous.

10.23.2020/00:16:20

ITEM D-4 Issuance of Revocable Permit to Bank of Hawaii, for Business Purposes, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-049:022.

Russell Tsuji, Land Division, presented the submittal. Candance Martin, Hawaii Land Agent, present to answer questions.

Board Discussion

An RP for this year is fine, due to the current economic situation, but look forward to a long-term lease.

Public Testimony-None

MOTION

Approved as submitted (Yuen, Yoon) unanimous.

10.23.2020/00:20:10

ITEM D-5 Annual Renewal of Revocable Permit No. 7915; Resorttrust Hawaii, LLC, Permittee; Waialae, Honolulu, Oahu, Tax Map Key: (1) 3-5-023:041.

Russell Tsuji, Land Division, presented the submittal. Jennifer Lim, representing Resorttrust, Joe Ibarra and Pualani Fernandez are present. Lim, provided background on the parcels use and concurs with the Staff submittal. Joe Ibarra, Resort General Manager, conveyed that the Resort welcomes the public to use the RP parcel.

Board Discussion

The subject of public access was extensively discussed.

Public Testimony

David Frankel, provided testimony opposing the RP. Tyler Ralston, provided testimony opposing the submittal.

Amendment:

*The Board added Condition 5 in the Recommendation Section of the submittal as follow:
Staff and the Hotel with Chairperson approval, to work together to, (i) delineate the Mauka boundary of the State parcel that abuts the Hotel Property; and (ii) assure appropriate Signage indicating the Public is welcome on the reclaimed portion of the State parcel (i.e., grassy area) Mauka of the shoreline.*

MOTION

Approved as amended (Char, Gomes) unanimous.

10.23.2020/01:56:44

ITEM D-7 Cancellation of Governor's Executive Order No. 4323 to City and County of Honolulu for Public Park Purposes; Issuance of Right-of-Entry Permit to Hui O Hauula for Due Diligence and Site Maintenance Purposes, Hauula, Koolauloa, Oahu, Tax Map Key: (1) 5-4-014:003.

MOTION

Approved as submitted (Gon, Oi) unanimous.

10.23.2020/01:56:44

ITEM D-8 Annual Renewal of Revocable Permit 7570 with Amendments or Cancellation of Revocable Permit No. 7570 and Reissuance of New Revocable Permit to Hawaii Motorsports Association Inc., Permittee; to Include Additional Conditions, Kahuku, Koolauloa, Oahu, Tax Map Key: (1) 5-8-002:002.

Russell Tsuji, Land Division, presented the submittal. Barry Cheung, Land Division Agent, went over the conditions of the submittal. Marigold Zow, Aaron Lowe, Mike Millay, DOFAW, provided additional information on the condition of the site.

Board Discussion

Erosion control, non-native species and the topographical aspects of the parcel, as well as the standard conditions of the RP, monthly rent, were discussed at length. It is also noted that this parcel is on a long-term lease with the Army which uses it for training.

Public Testimony

Terry Galpin, Nani Galeng, Hossana Falcan provided additional information and testified in support of the submittal.

MOTION

Approved as submittal (Gon, Oi) unanimous.

10.23.2020/02:28:14

ITEM D-9 Approval of the Department's Draft East Kapolei Strategic Master Development Plan for the State-Owned Parcels Identified as Tax Map Keys: (1) 9-1-016:008, 9-1-017:097, 9-1-018:008 & 014, Situated at Honouliuli, 'Ewa, O'ahu; and

Authorize the Chairperson to Execute a Contract for an Environmental Impact Statement for the Development of the Subject Parcels in Accordance with the Department's East Kapolei Strategic Master Development Plan.

Ian Hirokawa, Land Division, presented the submittal. David Tanoue (RM Towill), and Rodney Funakoshi (State Department of Planning) present to answer any questions.

Board Discussion

Affordable Housing was discussed. The land exchange was addressed at length. Funikoshi added that the State Planning office has been working with Land Division for two years. Tanoue addressed questions regarding the master plan.

Public Testimony-None

MOTION

Approved as submitted (Char, Gon) unanimous.

10.23.2020/02:58:30

ITEM D-10 Annual Renewal of Revocable Permits on the Island of Oahu. See Exhibit 2 for list of Revocable Permits.

Barry Cheung, Land Division, presented the submittal.

Board Discussion

RP 7517 (Olomana Golf Course), General Lease 4095, expiration? Cheung, replied not for another 10-years before it can out to auction. Cheung was asked to respond to OHA's comments.

Public Testimony-None

Amendment:

RP 5408 to reflect that the pier/dock was situated seaward of (1) 4-1-001:011.

MOTION

Approved as amended (Gomes, Yoon) unanimous. Char recuses from RP 7560

10.23.2020/04:23:58

ITEM K-1 Request to Amend the Hawai'i Administrative Rules (HAR) Title 13, Chapter 5 to Re-Designate Land that Lies Within the Conservation District Hawai'i Loa Special Subzone to the Health and Wellness Special Subzone Requested by Castle Medical Center dba Adventist Health Castle (Proposed Rule Amendment OA-19-01) Located at Ka'eleuli, Kāne'ohe, Ko'olau Poko, O'ahu, Tax Map Key: (1) 4-5-035:010.

Sam Lemmo, Office of Conservation and Coastal Lands, presented the submittal. J. George Heatherington (Counsel), Kathy Raethel, Francis Oda, Barrie Morgan (G70 Consultants).

Board Discussion

The Public Hearing notice was held for a "General Sub-zone", and the submittal is asking for a "Special Sub-Zone. Raethel & Morgan conveyed the purpose of the use of the land. After further discussion, the submittal was put on hold for further research on the Public Notice regarding the zoning designation and will take up the matter later in the meeting.

10.23.2020/04:45:40

ITEM E-1 Request approval to Amend Revocable Permit No. 0554, Republic Parking, LLC, Permittee; Hā'ena State Park, Hā'ena, Hanalei, Kaua'i, Hawai'i, Tax Map Key: (4) 1-4-001:007 portion.

The purpose of this amendment is to update the terms of the revocable permit to incorporate the increased fees set in HAR Chapter 13-146, Section 13-146-6 and increase the monthly percentage rent.

ITEM E-2 Request approval to Amend Revocable Permit No.0555, Republic Parking, LLC, Permittee, Kōke'e and Waimea Canyon State Parks, Kona and Na Pali, Kaua'i, Tax Map Keys: (4) 1-4-001:013, 004, 003, and 002 (portion).

The purpose of this amendment is to update the terms of the revocable permit to incorporate the increased fees set in HAR Chapter 13-146, Section 13-146-6 and increase the monthly percentage rent.

- ITEM E-3** Request approval to Amend Revocable Permit No. SP0467, Diamond Parking Services, LLC, Permittee, Mākena State Park, Portions of Maluaka, Mooiki, Mooloa, Moouku, Nau, Honuaula, Makawao, Maui, Hawai'i, Tax Map Key: (2) 2-1-006:030 (portion).

The purpose of this amendment is to update the terms of the revocable permit to incorporate the increased fees set in HAR Chapter 13-146, Section 13-146-6 and increase the monthly percentage rent.

- ITEM E-4** Request approval to Amend Revocable Permit No. SP0545, Diamond Parking Services, LLC, Permittee, Akaka Falls State Park, Kahua, South Hilo, Hawai'i, Tax Map Key: (3) 2-8-011:018 (portion).

The purpose of this amendment is to update the terms of the revocable permit to incorporate the increased fees set in HAR Chapter 13-146, Section 13-146-6 and increase the monthly percentage rent.

- ITEM E-5** Request approval to Amend Revocable Permit No. SP0544, Diamond Parking Services, LLC, Permittee, Nu'uuanu Pali State Wayside, Nu'uuanu, Honolulu, O'ahu, Hawai'i, Tax Map Key: (1) 1-9-007:002 (portion).

The purpose of this amendment is to update the terms of the revocable permit to incorporate the increased fees set in HAR Chapter 13-146, Section 13-146-6 and increase the monthly percentage rent.

- ITEM E-6** Request approval to Amend Revocable Permit No. SP0408, Republic Parking, LLC, Permittee, Hapuna Beach State Recreation Area, Ouli and Lalamilo, Waimea, South Kohala, Hawai'i, Tax Map Keys: (3) 6-6-002:031, 035 portions.

The purpose of this amendment is to update the terms of the revocable permit to incorporate the increased fees set in HAR Chapter 13-146, Section 13-146-6 and increase the monthly percentage rent.

- ITEM E-7** Request approval to Amend Concession Contract No. IFB No. DLNR-SP-2017-01, Pro Park, Inc., Concessionaire, Diamond Head State Monument, Kapahulu, Waikiki, Honolulu, O'ahu, Hawai'i, Tax Map Key: (1) 3-1-042:026.

The purpose of this amendment is to update the terms of the concession contract to incorporate the increased fees set in HAR Chapter 13-146, Section 13-146-6 and increase the monthly percentage rent.

- ITEM E-8** Request approval to Amend Concession Contract IFB No. SP2011IVSM01, Republic Parking, LLC, Concessionaire, for 'Iāo Valley State Monument, Wailuku, Maui, Tax Map Keys: (2) 3-3-003:012 and 013 (portion).

The purpose of this amendment is to update the terms of the revocable permit to incorporate the increased fees set in HAR Chapter 13-146, Section 13-146-6 and increase the monthly percentage rent.

Curt Cottrell, State Parks, presented the submittal for Items E-1, E-2, E-3, E-4, E-5, E-6, E-7 and E-8

Board Discussion

Who bears the expense of the capital improvements? Vendee or the State? Cottrell replied that the State continues to maintain, and the Vendee is responsible for the parking machines and ensuring the outer state visitors pay their fees, which help generate revenue for State Parks to help cover basic operational costs.

Public Testimony-None

MOTION

Approved as submitted Items E-1, E-2, E-3, E-4, E-5, E-6, E-7, E-8 (Gon, Yoon) unanimous

10.23.2020/04:58:30

ITEM J-1 Issuance of a Right-of-Entry Permit to Healy Tibbitts Builders, Inc. for Fast Lands to be Used for Parking Vehicles and Submerged Lands for the Mooring of a Tug Boat and up to Two (2) Skiffs, Situated at Ala Wai Small Boat Harbor, Honolulu, Island of Oahu, Hawaii, Identified by Tax Map Key (1) 1-2-3-037:012 (por.) and (1) 2-6-010:003 (por.);

and

Declare Project Exempt from Requirements of Chapter 343, HRS and Title 11, Chapter 200.1, Hawaii Administrative Rules.

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

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Gomes) unanimous.

10.23.2020/05:00:24

ITEM J-2 Request approval to initiate rule-making proceedings, including public hearings, to amend and compile Title 13, Hawai'i Administrative Rules (HAR), Chapter 241, Numbering of Vessels, for the purpose of implementing vessel titling regulations in accordance with the Uniform Certificate of Title for Vessels Act

The proposed rules can be reviewed in person at a Division of Boating and Ocean Recreation (DOBOR) district office from 8:00 am to 3:30 pm, Monday through Friday, except state Holidays as follows: Hawai'i District: Honokōhau Small Boat Harbor 74-380 Kealakehe Parkway Kailua-Kona, HI 96740; Kaua'i District: Nawiliwili Small Boat Harbor 2494 Niumalu Road Līhu'e, HI 96766; Maui District: Ma'alaia Small Boat Harbor 101 Ma'alaia Boat Harbor Road Wailuku, HI 96793; O'ahu District: Ke'ehi Small Boat Harbor 4 Sand Island Access Road Honolulu, HI 96819.

The proposed rules can be reviewed online at: <http://ltgov.hawaii.gov/the-office/administrative-rules>. The proposed rules can also be viewed online at: <http://dlnr.hawaii.gov/dobor/draft-rules>

Location and contact information for DOBOR offices is available online at: <http://dlnr.hawaii.gov/dobor/contact>

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

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gon) unanimous.

10.23.2020/05:01:15

ITEM J-3 Request approval for the Division of Boating and Ocean Recreation (DOBOR) to enter into a Memorandum of Agreement (MOA) with Hawaii Marine Animal Response (HMAR) pursuant to section 200-19, Hawaii Revised Statutes (HRS), for installation and maintenance of receptacles for used fishing line and fishing tackle at He'eia Kea Small Boat Harbor (SBH), Island of O'ahu; and delegate authority to the Chairperson to enter into future MOAs with HMAR and other Non-Governmental Organizations (NGOs) to install and maintain additional fishing line and fishing tackle receptacles in DOBOR facilities statewide.

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

Board Discussion-None

Have we every had to receive this fishing before? Underwood, yes, Hawaii Marine Animal Response, wants to make effort on controlling this marine debris coming into the harbor.

Public Testimony-None

MOTION

Approve as submitted (Gomes, Yoon) unanimous.

10.23.2020/05:04:49

ITEM L-1 Request Authorization for the Chairperson to Enter into a Use and Occupancy Agreement with the Hawaii Department of Transportation regarding the Construction of Job No. H70C805B, Malaekahana State Recreation Area (SRA), Kahuku Section, Park Improvements – Phase 1, Oahu, Hawaii, Tax Map Key: (1) 5-6-01: Road.

Carty Chang, Engineering Division, presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approve as submitted (Gon, Yoon) unanimous.

10.23.2020/05:07:16

- ITEM M-2** Issuance of a Revocable Permit for Aircraft Parking, Goldenaire, LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-076: Portion of 023.
- ITEM M-3** Issuance of a Revocable Permit for Aircraft Parking, Roosevelt Rastegar and Zsuzsa Rastegar, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-076: Portion of 023.
- ITEM M-4** Issuance of a Revocable Permit for a T-Hangar for Storage and Maintenance of Aircraft, Snowbird Air, LLC, Kalaeloa Airport, Tax Map Key: (1) 9-1-013: Portion of 032.
- ITEM M-5** Issuance of a Revocable Permit for Airline Kiosks and Ramp Space for a Storage Shed, American Airlines, Inc., Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 040.
- ITEM M-6** Issuance of a Revocable Permit for Office Space and Equipment Parking in the Main Terminal, Wing Spirit Inc., Hilo International Airport, Tax Map Key: (3) 2-1-012: Portion of 009.
- ITEM M-7** Request Approval for: 1) Acquisition of Private Lands; 2) Issuance of a Temporary Right-of-Entry Permit to the Department of Transportation for Management Purposes; and 3) Set Aside to the Department of Transportation for addition to Lihue Airport at Hanamaulu, Lihue, Kauai, Tax Map Key: (4) 3-7-002:001 (Portion); and Issuance of a Grant of a Perpetual, Non-Exclusive Easement and Temporary Right-of-Entry to Visionary LLC, a Virginia Limited Liability Company, for Access Purposes at Hanamaulu, Lihue, Kauai, Tax Map Key: (4) 3-5-001:158 (Portion).

Mike Auerbach, DOT-Airports, present to answer any questions on Items M-2, M-3, M-4, M-5, M-6 & M-7.

Board Discussion

Member Oi recused himself from M-7

Public Testimony-None

MOTION

Approved as submitted Items M-2, M-3, M-4, M-5, M-6 & M-7 (Gomes, Yoon).

Noting Member Oi's recusal from M-7, unanimous

10.23.2020/05:10:11

- ITEM M-8** Request Authorization to acquire Land for the Department of Transportation, Highways Division for Highway Purposes, relating to Ala Moana Boulevard Elevated Pedestrian

Walkway Project No. 92A-07-21, at Honolulu, Island of Oahu, Hawaii, Tax Map Key Nos: (1) 2-3-001:127, (1) 2-3-001:128, 129, 130, 131, (1) 2-3-002:059, (1) 2-3-002:106, 107, 108, 109, 110, (1) 2-3-005:001, (1) 2-3-005:004

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gomes, Gon) unanimous.

10.23.2020/05:18:30

BOARD BRIEFING: Homelessness and DLNR Lands

Presented by Pua Aiu (DLNR), Mike Millay (DOFAW), Barry Cheung (Land), Russell Tsuji (Land), Ed Underwood (DOBOR), Meghan Stats (DOBOR), Curt Cottrell (SP), Jason Redulla (DOCARE), Gerard Villalobos (DOCARE)

10.23.2020/06:03:00

Item K-1: Continuation of discussion.

Heatherington, Counsel for Castle Adventist, clarified the procedural process regarding the public hearing and explained how the submittal went from General to Special Sub-Zone.

Member Yuen made the motion to go into Executive Session pursuant to Section 92-5(a) (4), Hawaii Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities. Member Gon seconded the motion. The vote was unanimous.

10.23.2020/06:23:53

Back in session:

Member Yuen made a motion to Defer Item K-1, Member Gon, seconded the motion. The vote was 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