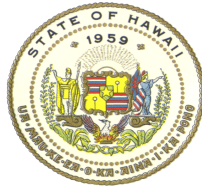


DAVID Y. IGE
GOVERNOR OF HAWAII



**APPROVED BY
THE BOARD
AT ITS MEETING
HELD ON
JANUARY 14, 2022**

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

dar

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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

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

DATE: October 8, 2021, 9:00 A.M.
LOCATION: Online via ZOOM, Livestream via YouTube

MEMBERS

Suzanne Case
Sam Gon (absent)
Chris Yuen
Kaiwi Yoon

Tommy Oi
Vernon Char
Doreen Canto

STAFF

Russell Tsuji-Land
Kevin Moore-Land
Kurt Yasutake-Land
Tiger Mills-OCCL
Candace Martin-Land
Andrew Tellio-Land
David Sakoda-DAR
Megan Statts-DOBOR

Alison Neustein-Land
Seiko Machida-Land
Gordon Heit-Land
Shelly Habel-OCCL
Luke Sarvis-Land
Brian Neilson-DAR
Ed Underwood-DOBOR
Tiger Mills-OCCL

OTHERS

Colin Lau/AG
Micah Gauthier/D5
Kent Kaneko, Jr./D5
Bernie Bays/D8
Shane Louro/D8
Gary Grimmer/D11
Antoinette Nahoopii/D11
Randy Fernley/F1
Jerry Isham/F1
Bruce Carlson/F1
John Fernley/F1
Jim Lynch/F1

Abby Lareau/DOT AIR
Laura Chong/D7
Connie Piek/D5
Sharon Paris/D8
Kai Nishiki/D8
Lowell Nahoopii/D11
Jim Anthony/D/11
Ron Tubbs/F1
Richard Pyle/F1
William Aila/F1
Terry Vanderwalle/F1
Bob Likens/F1

Paul Kimsel/F1
Lelei Kimsel/F1
Kenese Kimsel/F1
Darrel Smith/F1
Malia Awana/F1
Scott Folsom/F1
Timothy Maynard/F1
John Hansen/F1
Mary Tubbs/F1
Red Fong/F1
Dave Ramos/F1
Kealoha Pisciotta/F1
Helene Honda/F1
Jim Lovell/F1

Like Kimsel/F1
Taua Kimsel/F1
Fa'avae Kimsel-Moe/F1
Johnny Isham/F1
Kelly Isham/F1
Richard Townsend/F1
Sean Monahan/F1
John Deponte/F1
Daniel Cottrell/F1
Ryan Rothwell/F1
Eric Moenich/F1
Ted Bohlen/F1
Mike Nakachi/F1
Paul Williams/F1

10.08.2021(1)/00:00:18

Chair Case called the meeting to order and noted that due to Covid-19 pandemic, the meeting is being held via Zoom and live-streamed on YouTube. Those who requested to provide oral and written testimony have done so in advance of the meeting and members of the public may watch the meeting live streaming on YouTube.

10.08.2021(1)/00:01:21

Member Canto read the standard contested case statement. Chair Case noted that they plan to go in order of the agenda.

10.08.2021(1)/00:04:01

ITEM A-1 Request Approval of the August 13, 2021, BLNR Meeting Minutes.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Canto, Gon) unanimous.

10.08.2021(1)/00:06:42

ITEM M-1 Issuance of a Revocable Permit for Office Space for the HNL Baggage Handling System Improvement Project, State Project No. AO1033-23, Bowers + Kubota Consulting, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 055.

ITEM M-2 Issuance of a Revocable Permit for Staging Fueling Vehicles for aircraft fueling operations, FSM Group, LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-072: Portion of 031 and (1) 1-1-072: Portion of 032.

ITEM M-3 Issuance of a Revocable Permit for a Construction Staging Area for equipment, materials and supplies and for the storage of a construction waste bin, Nan, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 001.

Amend Prior Board Action of September 11, 2020, Item M-8, Request for: (1) Acquisition of Lands to the Department of Transportation, Highways Division, for Highway Purposes, Relating to Farrington Highway Project No. STP-0930-1(006); Mokuleia and Kamananui, Waialua, Island of Oahu, State of Hawaii, Tax Map Keys: (1) 6-8-006: Portions of 010,(1) 6-8-007: Portions of 002, and (1) 6-7-001: Portions of 026.

The purpose of this amendment is to request the Board of Land and Natural Resources (Board) to authorize right-of-entry for construction purposes covering the land areas under Tax Map Keys: (1) 6-7-001:026 (Parcel 8 and 9).

Abby Lareau, DOT Airports present to answer questions for Items M-1, M-2 and M-3

Board Discussion-None

Public Testimony- None

MOTION

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

10.08.2021(1)/00:08:15

ITEM M-4 Request Authorization to Acquire Land for the Department of Transportation, Highways Division, for Highway Purposes, Relating to Honoapiilani Highway Rehabilitation of Honolulu Bridge, Federal Aid Project No. BR-030-1(37), Island of Maui, State of Hawaii, Tax Map Key: (2) 4-2-004: 032.

ITEM M-5 Amend prior Board Action of June 12, 2020, Item M-5, Acquisition of Temporary Construction Rights-of-Entry to Land to the Department of Transportation, Highways Division, for Highway Purposes, Relating to Kamehameha Highway, Laieloa 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; (b) (1) 5-5-006: Portion of 038; (c) (1) 5-5-011: 068 and Portion of 070; (d) (1) 5-5-013: Portions of 075, 076, 077, 078, 079, 080 and Puuahi Street; and (e) (1) 5-5-014: Portion of 001.

No Representative from DOT Highways for Items M-4 and M-5.

Board Discussion-None

Public Testimony- None

MOTION

Approved as submitted Item M-4, and M-5 (Oi, Yoon) unanimous.

10.08.2021(1)/00:10:17

ITEM D-1 Resubmittal: Annual Renewal of Revocable Permits on the Island of Kauai for 2022. **See Exhibit 2 (Kauai)** for list of Revocable Permits.

Alison Neustein, Land Division presented the submittal. Russell Tsuji (Land) available for questions.

Board Discussion

Coco Palms RP 7407 & 7444, they are in default for maintenance. Neustein conveyed she would address the issue with the new owners.

Public Testimony-None

MOTION

Approved as submitted (Oi, Yuen) unanimous.

10.08.2021(1)/00:13:52

ITEM D-2 After-the-Fact Consent to Sublease under General Lease No. S-4023, T&Y, LLC, Lessee and Sublessor, to (i) The Kauai Food Bank, Inc., (ii) Sutada Thongkul dba Hesse Flooring and (iii) Eyes Wide Open Productions LLC, Sublessees, Nawiliwili, Lihue, Kauai, Tax Map Key: (4) 3-2-004: Portions of 011.

Consent to Assign General Lease No. S-4023 from T & Y, LLC, Assignor, to The Kauai Food Bank, Inc., Assignee; Nawiliwili, Lihue, Kauai, Tax Map Key: (4) 3-2-004:011.

Consent to Assignment of Sublessor's Interest in Subleases from T & Y, LLC, Assignor, to The Kauai Food Bank, Inc., Assignee, Covering the Subleases to (i) Sutada Thongkul dba Hesse Flooring and (ii) Eyes Wide Open Productions LLC, Sublessees, Nawiliwili, Lihue, Kauai, Tax Map Key: (4) 3-2-004: Portions of 011.

Russell Tsuji, Land Division presented the submittal. Kurt Yasutake (Land) is available to answer questions.

Board Discussion

The Food Bank is paying regular market rent. Consideration regarding the leases were discussed. Tsuji provided information regarding the consideration of the lease rents.

Public Testimony-None

MOTION

Approved as submitted (Oi, Yoon). 6 Ayes and 1 Abstention (Char).

10.08.2021(1)/00:37:38

ITEM K-1 State of Our Island Beaches, a Presentation by Dr. Shellie Habel, Coastal Geologist and University of Hawai'i Sea Grant Extension Agent.
(Non-Action Item)

10.08.2021(1)/01:02:00 Break

10.08.2021(1)/01:11:00

Chair Case noted that there is a request for a contested case hearing.

ITEM J-2 Administrative Enforcement Action Requested for Alleged Violation of Hawaii Administrative Rule Section 13-256-3, Commercial Use Permit or Catamaran Registration Certificate requirements, and Section 13-256-73.1, Kaneohe Bay ocean waters Commercial Use Permits, requested against Thomas P. Bellit for allegedly conducting Commercial Activity without a Commercial Use Permit or prior approval from the Department and loading passengers at the Heeia Kea small boat harbor launch ramp.

Ed Underwood, Division of Boating and Ocean Recreation, gave a brief summary of the violation.

Thomas P. Bellit orally requested a contested case. No further discussion on the matter.

10.08.2021(1)/01:23:22

ITEM D-4 Annual Renewal of Revocable Permits on the Island of Hawaii. **See Exhibit 2 (Hawaii)** for list of Revocable Permits.

Gordon Heit, Land Division presented the submittal.

Board Discussion

Glover has been on RP for 10-years, when will it be put up for public auction? Heit conveyed they are moving towards long-term disposition.

Public Testimony-None

Amendment:

The Board removed Revocable Permit No. S-6931 from the list of permits to be renewed.

MOTION

Approved as amended (Yuen, Gon) unanimous.

10.08.2021(1)/01:34:22

ITEM D-5 Resubmittal - Forfeiture of Revocable Permit No. S-6931, Kent S. Kaneko, Sr. dba Kent's Auto Repair, Permittee, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2- 2-050:080

Russell Tsuji, Land Division presented the submittal. Gordon Heit (Land) and Micah Gauthier, on behalf the Permittee present to answer questions.

Board Discussion

Clarification on what has been paid and what is owed. Heit provided the information. Is Kent's operating currently? Piek replied yes, whatever we can do, business is coming back slowly. Has a repayment plan been discussed? Kaneko replied, they have discussed with Heit, but until business picks up, they have paid what they can.

Public Testimony

Micah Gauthier provided information on the operation and his relationship with the Kaneko's. Connie Piek conveyed that they are unable to get fire or liability insurance due to the building conditions. They are paying what they can as business is starting to come back.

10.08.2021(1)/01:53:41

Member Yuen made the Motion to go into Executive Session, Member Gon seconded the Motion. Unanimous.

10.08.2021(1)/02:18:03

Member Yuen asked for clarification regarding the Permittee, as it is in the father's name. Heit noted that it was not transferred to the current occupant. There was discussion whether the current occupant could be held responsible for the arrears.

Amendment:

The Board removed Recommendation No. 2 for the Phase I ESA and remediation, and allowed the Permittee until November 30, 2021, to vacate the premises.

MOTION

Approved as amended (Yuen, Canto) unanimous (Gon with Reservations).

10.08.2021(1)/02:26:36

ITEM D-6 Issuance of Revocable Permit and an Immediate Management Right-of-Entry Permit to Gray Media Group, Inc., Humuula, North Hilo, Hawaii, Tax Map Key: (3) 3-8-001:020.

Russell Tsuji, Land Division presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Oi, Gon) unanimous.

10.08.2021(1)/02:30:08

ITEM D-7 Grant of Term, Non-Exclusive Quitclaim Easement to Lenore Lincoln, LLC, Elizabeth L. Reis as Trustee for the Lei Clotilda Mathews Living Trust dated October 23, 2008, Frances J. Segundo as Trustee for The Francis and Frances Segundo Trust dated November 1, 2017, Patricia L. Rickard and Jon K. Lincoln, for Access and Utility Purposes, Lanihau 2nd, North Kona, Hawaii, Tax Map Key: (3) 7-5-006:034 (por.).

Russell Tsuji, Land Division presented the submittal. Gordon Heit, Candace Martin (Land), Laura Chong present to answer any questions.

Board Discussion

Would a Quitclaim deed rather than a Quitclaim Easement be appropriate? Tsuji conveyed that unless it's a remnant, it would take a majority of the Legislature of both Houses. Tsuji provided an explanation regarding the road issue. Heit and Martin added further information regarding the County's position.

Public Testimony

Laura Chong noted that the family would like to have access to their property through this approval.

MOTION

Approved as submitted (Yuen, Yoon) 6 ayes and one Abstain (Char).

10.08.2021(1)/02:45:08

ITEM D-8 Approve Evaluation Committee's Recommendation for Selection of Proposal Submitted by Ruby & Sons Hospitality, LLC in Response to Request for Qualifications / Request for Proposals for Lease of Public Lands; Kamaole, Wailuku, Maui, Tax Map Keys: (2) 3-9-004: 149.

Luke Sarvis, Land Division presented the submittal. Bernard Bays representing the Applicant.

Board Discussion

Hotel is on a State lease and needs more parking to operate to comply with County regulations. Tsuji provided background information regarding the site, the development agreement and noted they are working with the County to provide alternatives for parking. There was a lengthy discussion on the parking issue. Bernard Bays provided the background from the Hotel's side of the agreement with the community for beach access.

Public Testimony

Kai Nishiki and Roseland Fernandez provided oral testimony.

Member Canto made a Motion to deny the Staff submittal, Member Yoon second the Motion for discussion.

Member Canto explained her reasons why she felt the submittal should not be approved. Further discussion by the Board.

After further discussion with Board members, Member Canto changed her Motion to allow the submittal to be deferred and Member Yuen second the Motion.

MOTION

Deferred with the condition that Maui County be included in the discussion regarding the parking (Canto, Yuen) unanimous.

10.08.2021(1)/03:38:09

ITEM D-9 Issuance of Revocable Permit to Diamond Resorts International Club, Inc., to Repair Existing Erosion Protection Skirt and Sand Mattress Revetment Fronting the Kaanapali Beach Club, Honokowai, Lahaina, Maui, Tax Map Key: (2) 4-4-001: Seaward of 098.

Russell Tsuji, Land Division presented the submittal.

Board Discussion

There needs to be coordination between OCCL and Land Division regarding these emergency permits that may require a Right-of-Entry.

Public Testimony

Andy Bolander explained what happened to the shoreline when we had an El Nino season and why the applied for an Emergency Erosion permit

MOTION

Approved as submitted (Canto,) unanimous.

10.08.2021(1)/03:45:38

ITEM D-10 First Amendment of General Lease No. S-5999, Honolulu Community Action Program, Inc., Lessee, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-2-005:012.

The purpose of the amendment is to change the rent reopening provision of the lease to provide for the determination of rent based on the Board's prevailing policy on leasing to eleemosynary organizations.

Russell Tsuji, Land Division presented the submittal.

Board Discussion-None

Public Testimony-None

MOTION

Approved as submitted (Gon, Char) unanimous.

10.08.2021(1)/03:45:38

ITEM D-11 Consent to name Lowell K. Nahoopii as lessee of record on Homestead Lease No. 52; Hauula, Koolauloa, Island of Oahu, Tax Map Key: (1) 5-4-007:028.

Russell Tsuji, Land Division presented the submittal. Andrew Tellio (Land), Gary Grimmer, Lowell & Antoinette Nahoopii, John Nahoopii, and Jim Anthony present.

Board Discussion

There was a lengthy discussion regarding issues regarding the tenancy and the possibility of other heirs coming forward and claiming their rights to the homestead lease.

Public Testimony

Gary Grimmer, representing the Nahoopii's would like the submittal to be amended to allow the Lessee to be able to record the lease at the Bureau of Conveyances. Antoinette Nahoopii also provided reasons to amend the submittal to allow the recording of Lowell Nahoopii as lessee of record. Jim Anthony provided testimony in support of the Nahoopii's request to be able to record.

Amendment:

The Board approved recognizing Lowell K. Nahoopii as a Lessee of record on Homestead Lease No. 52; and subject to the Approval of the Department of the Attorney General, the Board also recognized Lowell K. Nahoopii as at least one of the co-tenants, but subject to the claims of other heirs who may also claim to be entitled to a co-tenancy under Homestead Lease No. 52.

MOTION

Approved as amended (Yuen, Char) 5-Ayes, 2- Oppose (Yoon, Oi)

After the Motion was made, Grimmer orally requested a contested case.

10.08.2021(1)/04:38:18 Break

10.08.2021(1)/04:56:10

ITEM F-1 Determination of whether the Final Environmental Impact Statement (FEIS) complies with applicable law and adequately discloses the Environmental Impacts of Proposed Issuance of Commercial Aquarium Permits and Commercial Marine Licenses for the Island of O'ahu, for the purpose of accepting the FEIS; dated August 20, 2021, Applicant Pet Industry Joint Advisory Council (PIJAC); Island of O'ahu, State of Hawai'i.

The Final Environmental Impact Statement is available to the Public online at:

http://oeqc2.doh.hawaii.gov/EA_EIS_Library/2021-09-08-OA-FEIS-Oahu-Commercial-Aquarium-Permits.pdf

Brian Neilson, Division of Aquatic Resources presented the submittal. David Sakoda (DAR) is present to answer questions.

The applicant provided a PowerPoint presentation (Pet Industry Joint Advisory Council).

Board Discussion

Long and extensive discussion regarding the data and the cultural impacts between all parties.

Public Testimony

Randy Fernley, Ron Tubbs, Jerry Isham, Terry VanDeWalle Richard Pyle, Bruce Carlson, William Aila, Loke Kimsel, Lelei Kimsel, Taua Kimsel, Kenese Kimsel, Paul Kimsel, Johnny Ishman, Malia Awana, Kelly Isham, Scott Folsom, Richard Townsend, Timothy Maynard, Darrel Smith, John Deponte, Mary Beth Tubbs, Daniel Cottrell.

10.08.2021(2)/00:00:01 (continuation of public testimony)

Red Fong, Ryan Rothwell, Ted Bohlen, Eric Moennich, Kealoha Pisciotta, Fa'avae Kimsel, Helene Honda, Mike Nakachi, Jim Lovell, Paul Williams, Cory Harden, Kawaikapuokalani Hewitt, Kim Koch, Patricia Sendao, Alohi Nakachi, Siena Schaar, Lee Michael Larson, Mahesh Cleveland, Lisa Bishop, Carol Wilcox, Elena Bryant, Rocky Kaluhiwa, Gail Grabowsky, Andy Walters, Glenn Fukuyuu, Deborah Ward, offered oral testimony.

10.08.2021(2)/01:38:35 Break

10.08.2021(2)/01:42:48:38

Further Board discussion on the FIECS. Deputy AG Goldman provided the standard for rejection of an FEIS. The Board members addressed their reasons they felt the FEIS was inadequate.

MOTION

Deny the Acceptance of the FIECS and delegate to the Chair to provide a letter for the denial (Yoon, Oi) 6-Ayes 1-abstain (Canto)

10.08.2021(2)/02:56:55

Members Yoon and Canto were excused from the meeting.

10.08.2021(2)/02:59:05

ITEM J-1 Denial of Petitions for Contested Case Hearing filed on July 27 and 28, 2021 by Nā Papa'i Wawae 'Ula'Ula, Ka Malu O Kahālāwai, Kekai Keahi, and Kai Nishiki, regarding the Renewal of Commercial Use Permits for Extended Horizons Inc., Kaanapali Beach Watercraft Rentals, Inc., Noio Charters, Inc., and Pacific Jet Sports, Inc. for Mala Launch Ramp, Maui.

Ed Underwood, Division of Boating and Ocean Recreation presented the submittal. Megan Statts (DOBOR), Christina Lizzi, representing the Petitioners.

Board Discussion

It was confirmed that the (4) permittee's are in good standing. Testimony from the Petitioners should be based on the whether they are entitled to a contested case.

Public Testimony

Kai Nishiki provided testimony and read Keahi' s testimony. Archie Kalepa, Erik Stein, Alicia Kalepa also provided testimony.

10.08.2021(2)/03:22:02

Member Yuen made the Motion to go into Executive Session, Member Gon seconded the Motion. Unanimous.

10.08.2021(2)/03:32:20

Motion

Approved as submitted (Yuen, Char) 5 members.

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.

Respectfully Submitted:

Darlene Ferreira

Darlene S. Ferreira
Land Board Secretary

Approved for Submittal:

Suzanne D. Case

Suzanne D. Case, Chairperson
Board of Land and Natural Resources
Department of Land and Natural Resources