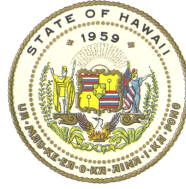


DAVID Y. IGE
GOVERNOR OF HAWAII



**APPROVED AT ITS
BOARD MEETING
HELD ON
JANUARY 13, 2023**

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
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

DATE: SEPTEMBER 23, 2022
TIME: 9:15 AM.
LOCATION: In person at 1151 Punchbowl St. Room 132 (Kalanimoku Building), online via ZOOM, livestream via YouTube

MEMBERS

Suzanne Case
Vernon Char
Kaiwi Yoon
Doreen Canto

Aimee Barnes (absent)
Karen Ono
Riley Smith

STAFF

Russell Tsuji-Land
David Smith-DOFAW
Gina Belleau-ENG
Lanie Berry-DOFAW
Ed Underwood-DOBOR

Carty Chang-ENG
Edwin Matsuda-ENG
Michael Cain-OCCL
Richard Howard-DOBOR

OTHERS

Melissa Golden/AG
Morris Atta (DOA)/D3
Olivia Pham/DOT HAR
John Howitz/L1
Walter Nakoa/K1
Ron Kim/D2
Kemano Ho/DOT HWYS

Abby Lareau/DOT AIR
Mark J. Hashem/D5
Greg Krugel/L1
Mauna Kea Trask/K1
Lillie Makaila/K2
Marie Aguilar/J1
Iliia Gionson/J1

ITEM A-1

09.23.2022/00:10:28

Chair Case called the meeting to order and explained the reason for the special meeting that the Board members and public are joining via Zoom. The Kalanimoku Boardroom is open to the public

who want to testify in person. Those who requested to provide oral and written testimony have done so in advance of the meeting and provided information on how to request to testify via phone or Zoom. Noted that Item C-1 and M-12 have been withdrawn from the agenda.

09.23.2022/00:12:10

Member Canto read the standard Contested Case statement

09.23.2022/00:13:27

Chair Case proceeded to conduct roll call of the Members present in the Boardroom, Member Barnes is not present today and explained the process of the how the meeting will be conducted.

09.23.2022/00:14:41

ITEM A -1 Approval of the Summary Minutes for the meeting held on June 24, 2022.

Board Discussion-None

Public Testimony-None

09.23.2022/00:15:06

MOTION

Approved as submitted (Canto, Ono) 5-Ayes, 1-Abstain (Smith)

09.23.2022/00:15:35

ITEM D-5 Sale of Remnant to Hocking Building LP, Honolulu, Oahu, Tax Map Key: (1) 1-7-003: portion of 082.

Russell Tsuji, Land Division presented the submittal.

Board Discussion

The existing building was constructed before the encroachment occurred when they widened King Street.

Public Testimony

Mark J. Hashem representing the applicant

09.23.2022/00:18:34

MOTION

Approved as submitted (Char, Yoon) unanimously.

09.23.2022/00:19:20

ITEM D-3 Amend Governor's Executive Order No. 4553 to Include the Operation of a Well Site and Irrigation Water Distribution System, Opihipau, North Kohala, Hawaii, Tax Map Key: (3) 5-5-006: portion of 002.

The Amendment will Allow the Department of Agriculture to Operate and Maintain a Well, Pump Station and Holding Tank Site for the Distribution of Irrigation Water to Local Ranch and Farm Operations.

Russell Tsuji, Land Division presented the submittal. Carty Chang (ENG) and Morris Atta (DOA) present to answer any questions.

Board Discussion

Current condition of the well, not portable water, public purpose and operation of the well was addressed.

Public Testimony

Carty Chang, DLNR Engineering supported the project. Morris Atta, DOA provided information on the project.

09.23.2022/00:32:07

MOTION

Approved as submitted (Smith, Ono) unanimously.

- ITEM M-1** Issuance of a Revocable Permit for Two Tour Service Counters, Hankook Hawaii, Inc., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 195.
- ITEM M-2** Issuance of a Revocable Permit for Office and Employee Breakroom Spaces to Provide Aviation Contract Services to Various Airlines, Unifi Aviation, LLC, Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-003: Portion of 058.
- ITEM M-3** Issuance of a Revocable Permit for Aircraft Parking, Aaron Fulbright, Kawaihapai Airfield, Tax Map Key: (1) 6-008-014: 001.
- ITEM M-4** Issuance of a Revocable Permit for Aircraft Parking, Phillip Wilson, Kalaeloa Airport, Tax Map Key: (1) 9-1-013: Portion of 032.
- ITEM M-5** Issuance of a Revocable Permit for Commercial Use of a T-Hangar for Storage of Aircraft and a Maintenance Hangar and an End Room for an Office, Helicopter Consultants of Maui, LLC, dba Blue Hawaiian Helicopters, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.
- ITEM M-6** Issuance of a Revocable Permit for Ramp Space for a Vehicle Maintenance Area, Bradley Pacific Aviation, LLC, Lihue Airport, Tax Map Key: (4) 3-5-001: Portion of 158 .
- ITEM M-7** Issuance of a Revocable Permit for Office and Ticket Counter Space in the Commuter Terminal to Support Fixed-Base Operations, Bradley Pacific Aviation, LLC, Lihue Airport, Tax Map Key: (4) 3-5-001: Portion of 147.
- ITEM M-8** Issuance of a Revocable Permit for Commercial Use of a T-Hangar for Storage of an Aircraft and a Maintenance Hangar, Aris, Inc., Kahului Airport, Tax Map Key: (2) 3-8-001: Portion of 212.

ITEM M-9 Issuance of a Revocable Permit for Ramp Space to Stage Fueling Vehicles for Aircraft Fueling Operations, FSM Group, LLC, Ellison Onizuka Kona International Airport at Keahole, Tax Map Key: (3) 7-3-043: Portion of 003.

ITEM M-10 Issuance of a Revocable Permit for Staging and Storage of Construction Material and Equipment to Access the Rail Project's Guideway to Conduct Electrical Work on the Elevated Tracks, Mass. Electric Construction Co., Daniel K. Inouye International Airport, Tax Map Key: (1) 1-1-004: Portion of 007 and 087.

Abby Lareau, DOT Airports verbally amended Items M-1 through M-10.

Board Discussion-None

Public Testimony- None

Amendment:

Based on the testimony presented today, and provided in the Land Board submittals, the DOT Airports Division recommends that the Board find that approving the Revocable Permits including conditions and rents will serve the best interest of the State.

09.23.2022/00:33:10

MOTION

Approved as amended Items M-1, M-2, M-3, M-4, M-5, M-6, M-7, M-8, M-9 & M-10 (Yoon, Smith) unanimously.

09.23.2022/00:35:47

ITEM L-1 Dam Safety Enforcement Action on Mauka Dam (KA-0119) for Failure to Comply with Notice of Deficiency Issued September 14, 2021, and to make a finding of violations sufficient to support a specified fine on the owners. Koloa, Kauai, Tax Map Keys (4) 2-7-002:001.

Carty Chang, Engineering presented the submittal. Edwin Masuda and Gina Belleau (Engineering) available for questions.

Amendment

To the background fiction. We do mention there was a water imposed level of 5-1/2 feet and the submittal incorrectly said it was on October 28, 2017, that it should read as October 28, 2016.

Board Discussion

Criteria for the dam, hazards should the dam fail, potential risks, spillway capacity, Lessee involvement, purpose of the reservoir,

Public Testimony

Greg Krugel representing the Owner, and John Horwitz presented testimony. Krugel then requested a Contested Case Hearing.

09.23.2022/00:57:58

MOTION

Grant request for a Contested Case (Yoon, Char) unanimously.

09.23.2022/00:58:54

ITEM M-11 Request to Amend Prior Board Action of August 12, 2022, Agenda Item M-18, based upon revision of previously approved request for Approval of Public Auction 65-Year Lease for use of the Maritime Center and Surrounding Area, Situated at Pier 7, Honolulu Harbor, Oahu, Tax Map Key Nos: (1) 2-1-001: Portion of 057 and (1) 2-1-001: Portion of 058. Executive Order No. 3542.

Olivia Pham, DOT Harbors present to answer questions.

Board Discussion-None

Public Testimony- None

09.23.2022/01:00:22

MOTION

Approved as submitted (Char, Yoon) unanimously.

09.23.2022/01:00:38

ITEM M-13 Authorizing the Department of Transportation (DOT) to Accept via Dedication of Lots 15606, 15607, 13046, 13090-A-2 and 1344-B-2, Route H-1 Makakilo Interchange, Federal Aid Project No. I-H1-1(198), Makakilo Drive Widening at Honouliuli, Ewa, Oahu, Hawaii. Tax Map Key: (1) 9-1-016: Road

Kemamo Ho, DOT Highways presented the submittal.

Board Discussion-None

Public Testimony-None

09.23.2022/01:01:17

MOTION

Approved as submitted (Yoon, Char) unanimously.

BREAK: 09.23.2022/01:01:36

09.23.2022/01:11:57

Chair Case noted that she needed to amend the Motion for Item L-1 to approve the Contested Case and add the delegation to the Chair to select a Hearing Officer.

09.23.2022/01:12:04

MOTION

Approve as amended (Yoon, Char) unanimously

09.23.2022/01:12:10

ITEM K-1 Conservation District Use Application (CDUA) HA-3894 for a Single-Family Residence and Accessory Structure Kuleana Application by Walter Kaleo O Kalani Nakoa located at Keauhou-Kainaliu Beach Road/Old Government Beach Road (Alanui Aupuni) Por. Honalo, Kawanui, North Kona, Hawaii Tax Map Key: (3) 7-9-005:012.

Michael Cain, Office of Conservation and Coastal Lands presented the submittal. Trevor Fitzpatrick (OCCL) present to answer questions.

Board Discussion

Kuleana Lands, Archeological monitoring, post and pier design, setback requirements, variances, were discussed. Member Smith disclosed that he has met Mr. Nakoa, and this does not impact his ability to weigh in on this request.

Amendment:

Condition 9: The permittee shall have an archaeological monitor during [~~construction~~] ground disturbance activities.

Condition 13: Strike all. Replace with: The State Conservation District setback shall be set at eight feet.

Public Testimony

Mauna Kea Trask presented testimony on behalf of the applicant Walter Kaleo O Kalani Nakoa and provided a supplement to their testimony.

09.23.2022/01:34:10

MOTION

Approve as amended (Smith, Canto) unanimously.

09.23.2022/01:36:39

ITEM K-2 Conservation District Use Application (CDUA) OA-3893 for a Single-Family Residence, Landscaping, and Related Improvements by 'Ōhulehule Forest Conservancy's Executive Director Paul Zweng located at 48-479 Waiāhole Valley North Branch Road, Waikāne, Ko'olaupoko, O'ahu Lot 1 Consisting of two (2) Tax Map Keys: (1) 4-8-006:001 and (1) 4-8-014:005

Michael Cain, Office of Conservation and Coastal Lands presented the submittal. Lillie Makaila representing the applicant present to answer questions

Board Discussion

Size of previous home, proposed home, use of the home, agricultural land

Public Testimony

Lillie Makaila, (Townscape) representing the applicant provided information on the project.

09.23.2022/01:45:05

MOTION

Approved as submitted (Yoon, Ono) unanimously.

09.23.2022/01:45:42

ITEM D-1 Amend Prior Board Action of January 14, 2022, Item D-12, *Grant of Term, Non-Exclusive Easement to Duke's Canoe Club, LLC dba Duke's Kauai for Access, Landscaping, Maintenance, Signage and Beautification Purposes, Nawiliwili, Lihue, Kauai, Tax Map Key: (4) 3-2-004: portions of 047.*

Issuance of Right-of-Entry Permit to Duke's Canoe Club, LLC dba Duke's Kauai for Temporary Access, Landscaping, Maintenance, Signage and Beautification Purposes, Nawiliwili, Lihue, Kauai, Tax Map Key: (4) 3-2-004: portions of 047.

The purposes of the amendment are to: (i) correct the character of use of the easement to "Access, Landscaping, Maintenance, Signage and Beautification Purposes; to Provide Signage; and to Provide a Theme-Entry to Tax Map Key; (4) 3-5-002:002"; (ii) correct the termination date of the right-of-entry permit approved by the Board to May 8, 2023, subject to an extension of up to an additional year at the Chairperson's discretion for good cause shown; (iii) delete Recommendation 2 of the January 14, 2022 action authorizing the subject requests to apply in the event of a change of the ownership of the abutting parcel described as Tax Map Key: (4) 3-2-004: portions of 047; and (iv) include Exhibit C, which is an inspection report of the easement area that was inadvertently omitted from the prior Board action, in this amended action.

Russell Tsuji, Land Division presented the submittal.

Board Discussion-None

Public Testimony-None

09.23.2022/01:47:42

MOTION

Approved as submitted (Ono, Canto) unanimously.

09.23.2022/01:49:23

ITEM C-2 Approve the use of a Request for Interest for Federal grants with the U.S. Department of Agriculture, Forest Service Community Wildfire Defense Grant Program; and

Delegate to the Chairperson the Authority to Negotiate, Award, Execute and Extend Agreements with Successful Providers, and to Issue Future RFI's and Awards on an annual basis for the Community Wildfire Defense Grant Program.

Lanie Berry, Division of Forestry and Wildlife presented the submittal.

Board Discussion-None

Public Testimony-None

09.23.2022/01:50:54

MOTION

Approved as submitted (Yoon, Smith) unanimously.

09.23.2022/01:51:53

ITEM D-4 Annual Renewal of Revocable Permits on the Islands of the County of Maui. See Exhibit 2 for the list of Revocable Permits.

Russell Tsuji, Land Division presented the submittal. Daniel Ornellas and Michael Ferreira (Land) available to answer questions

Amendment:

The Board amended the submittal by adding a new Recommendation 2 (and renumber recommendations 2 & 3 to 3 & 4) to read as follows:

2. "Based on the testimony and facts presented, the Board finds that approving the renewal of the revocable permits under the conditions and rents set forth herein will serve the best interests of the State."

Board Discussion

Transfer to DOA and DOFAW timelines,

Public Testimony-None

09.23.2022/02:02:13

MOTION

Approved as amended (Canto, Ono) unanimously.

BREAK: 09.23.2022/02:09:22

09.23.2022/02:02:31

ITEM D-2 Amend Prior Board Action of February 11, 2022, Item D-2, Approved as Amended, *Consent to Sublease General Lease No. S-3624, 69 Railroad, LLC, Lessee, to Self Storage Hilo LLC, Covan World-Wide Moving, Incorporated, C.A.R.S.S. LLC, Provision Solar, Inc., Tracey Gapol, Charles Wagner & Erin Wagner, Hawaii Behavioral Health, LLC, Whitney & Arnessa Iranon, Mr. & Mrs. Charles and Erin Wagner, McCully Works, Inc., and Lamar Pacheco, Sublessees, Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-012:026.*

Authorize the Chairperson to Approve and Execute a Development Agreement for a 30-Year Extension of Lease Term and to Execute the Lease Extension Document, General Lease No. S-3624, 69 Railroad, LLC, Lessee; Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2 -1-012: 026.

Approve Mediated Settlement of Rent Reopening Dispute Pursuant to Mediation Agreement for the Periods of 2026-2046, General Lease No. S-3624, 69 Railroad, LLC, Lessee; Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2 -1-012: 026.

The purposes of the amendments are to: (a) provide for the updating of certain lease extension terms and the development agreement for the 30-year extended lease term,

and (b) extend the time for completion of improvements required under development agreement and lease extension from approximately 10 ½ months after the Board approval of February 11, 2022, to 18 months after the execution of the development agreement.

Russell Tsuji, Land Division presented the submittal. Ron Kim and Mr. Shoemaker representing applicant present to answer questions.

Board Discussion

Appraisal of ground lease, reconsideration of base rent, assignment of lease, sublease update form possibilities, improvements amortization, sublease participation, three amendments being proposed, fair rent, existing building, Act 49 provisions

Public Testimony

Ron Kim requests the Board deny the approval of the submittal and stands by its written testimony. Mr. Shoemaker provided his perspective regarding the lease changes.

09.23.2022/02:59:03

Chair Case made a motion to go into Executive Session, seconded by Member Yoon. Unanimously.

Amendment:

The Board approved Staffs' recommendation to update the Terms and Conditions of the Lease and Development Agreement as stated in the submittal but the Board waived participating in the sublease rents as to those subtenants and rents previously consented to in the past, but as to new subtenants or if the rents from subleases increase by 25% or more, then the Board may elect to participate by receiving a portion of the sublease rents in addition to the base ground rent.

09.23.2022/04:35:03

MOTION

Approved as amended (Case, Yoon) unanimously.

Mr. Kim requested a Contested Case Hearing

09.23.2022/04:36:37

MOTION

Deny Request for Contested Case Hearing (Case, Char) unanimously.

09.23.2022/04:38:37 (Member Yoon left the meeting)

ITEM J-1 Issuance of a Revocable Permit to Destination Kona Coast located at Kailua-Kona Pier, North Kona, Island of Hawaii, Hawaii, Tax Map Key: (3) 7-5-006:039 (Portion); and

Declare Project Exempt from requirements of Chapter 343, Hawaii Revised Statutes and Title 11, Chapter 200.1, Hawaii Administrative Rules.

Richard Howard, Division of Boating and Ocean Recreation presented the submittal with an amendment.

Board Discussion

The 501C condition was clarified. Position of DOBOR's view on temporary tents on the Pier.

Public Testimony

Marie Aguilar proceeded to read her testimony and noted that they are working on their 501C status. Iliia Gionson in support of the submittal.

Amendment:

Based on the testimony and facts presented today, and provided in the Land Board submittals, the DOBOR Division recommends that the Board find that approving the Revocable Permits including conditions and rents will serve the best interest of the State.

Reduce the rent to \$210.00 per month, based on DOBOR's actual time of use.

09.23.2022/05:12:52

MOTION

Approved as amended (Smith, Ono) unanimously. 5-Ayes (Case, Char, Canto, Ono, Smith)

09.23.2022/05:13:45

ITEM J-2 Reissuance of Revocable Permit No. 121 to Kaneohe Yacht Club to for the Purpose of Clarifying Recreational Boat Pier Ownership Upon Termination, Kaneohe Bay, Kaneohe, Koolaupoko, Oahu, Seaward of Tax Map Key: (1) 4-4-022:032; and

Request Authorization to Enter into a Memorandum of Agreement with Kaneohe Yacht Club for an Access Easement Through Tax Map Key: (1) 4-4-022:032; and

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

Richard Howard, Division of Boating and Ocean Recreation presented the submittal with an amendment.

Board Discussion-None

Public Testimony-None

Amendment:

Change this to be Recommendation Number 2, based on the testimony and facts presented, that the Board find that approving the Revocable Permits including conditions and rents will serve the best interest of the State. Recommendation Number 2 as stated in the submittal becomes Recommendation Number 3.

09.23.2022/05:16:50

MOTION

Approved as amended (Char, Ono) unanimously.

09.23.2022/05:17:13

ITEM J-3 Amend Prior Board Action of January 8, 2021, Item J-2, *Sale of Lease at Public Auction of Submerged Lands for Recreational Boat Pier Purposes Subject to Concurrent*

Resolution from the Hawaii State Legislature, Kaneohe Bay, Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-4-022:032-A (Seaward of Parcel).

The purpose of the amendment is to replace “access to the submerged lands is either from the ocean or from Tax Map Key: (1) 4-4-022:032” to “access to the submerged lands from the ocean only”.

Richard Howard, Division of Boating and Ocean Recreation presented the submittal.

Board Discussion-None

Public Testimony-None

09.23.2022/05:17:58

MOTION

Approved as submitted (Char, Ono) unanimously.

09.23.2022/05:18:40

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 were taken out of sequence to accommodate applicants or interest parties present.

Respectfully Submitted:

Darlene S. Ferreira

Darlene S. Ferreira
Land Board Secretary

Approved for Submittal:



Dawn N.S. Chang, Chairperson
Board of Land and Natural Resources
Department of Land and Natural Resources