

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

DATE: FRIDAY, FEBRUARY 28, 2014
TIME: 9:30 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson William Aila called the meeting of the Board of Land and Natural Resources to order at 9:41 a.m. The following were in attendance:

MEMBERS

William J. Aila, Jr.
Dr. Sam Gon
James Gomes

Robert Pacheco
Reed Kishinami

STAFF

Russell Tsuji/LAND
Maria Carnevale/DAR
Dan Quinn/PARKS
Ed Underwood/DOBOR

Sam Lemmo/OCCL
Alan Downer/ SHPD
Steve Soares/PARKS

OTHER

Attorney General/Colin Lau
Sandy Gillis/DOT-AIR: M-1-M-9& M-13
Chris Kelley: F-1
Steven Sico: D-1
Ed Bushor: D-15
Mr. Mattos: D-3
Tom Yim: D-5

Roy Ireda: D-13
Earl Matsukawa: K-1
Scot Muraoka: D-12
Francis Silva: D-4
Dan Purcel: D-15

Item A-1 Approval of December 13, 2013 Minutes

Unanimously approved as submitted (Gon, Gomes)

Item A-2 Approval of January 10, 2014 Minutes

Unanimously approved as submitted (Gomes, Gon)

Item A-3 Approval of January 24, 2014 Minutes

Chair Aila differed item A-3.

- Item M-1 Issuance of a Concession Agreement for the Management and Operation of the Automobile Parking Facilities; Kona International Airport at Keahole; Tax Map Key: (3) 7-5-3: Portion of 71.**
- Item M-2 Issuance of a Revocable Permit to U.S. General Services Administration for Transportation Security Administration, Kona International Airport at Keahole; Tax Map Key: (3) 7-3-46: Portion of 40.**
- Item M-3 Consent to Assignment of State Lease No. DOT-A-98-006; Douglas Aircraft, Inc. to Guardian Flight, Inc.; Waimea Kohala Airport; Tax Map Key: (3) 6-7-001: Portion of 08.**
- Item M-4 Issuance of a Revocable Permit to Kiewit Building Group, Inc.; Diamond Head Concourse, Honolulu International Airport; Tax Map Key: (1) 1-1-003:001 (Portion).**
- Item M-5 Issuance of a Revocable Permit to Guardian Flight, Inc.; Kona International Airport at Keahole; Tax Map Key: (3) 7-3-43: Portion of 03.**
- Item M-6 Issuance of a Revocable Permit to Hawaii Island Air, Inc.; Lihue Airport; Tax Map Key: (4) 3-5-01: Portion of 135.**
- Item M-7 Issuance of a Revocable Permit for Parking to Mokulele Flight Service, Inc.; Kahului Airport; Tax Map Key; (2) 3-8-01: Portion of 19.**
- Item M-8 Issuance of a Revocable Permit to United Parcel Service Co.; Kahului Airport; Tax Map Key: (2) 3-8-01: Portion of 19.**
- Item M-9 Issuance of a Revocable Permit for Parking to Howard Haymore; Hilo International Airport; Tax Map Key: (3) 2-1-12: Portion of 90.**
- Item M-13 Amendment No. 2 of State Lease No. DOT-A-98-0006 Douglas Aircraft Inc., Waimea Kohala Airport; Tax Map Key: (3) 6-7-001: Portion of 08.**

Sandy Gillis representing the Department of Transportation Airports Division (DOT-AIR) had no changes to items M-1 through M-9 or M-13.

Unanimously approved as submitted (Gon, Gomes)

Item D-13 Acquisition of Private Lands and Set Aside to Department of Education for New Elementary School Campus, Honouliuli, Ewa, Oahu; TMK (1) 9-1-160:024 and (1) 9-1-158:062.

Russell Tsuji, Administrator for Land Division reviewed item D-13 and called Department of Education (DOE) staff up to answer any questions.

Roy Ireda from the DOE Facilities Development Branch Planning Section explained that this was an acquisition of a school site on Fort Barrett Road across Kapolei High School. Ireda announced that there were other DOE staff present in support that could answer questions in regards to different aspects of the project if anyone had questions. Representatives from the Attorney Generals office were present as well to answer any questions about due diligence. Ireda reaffirmed that they are asking for final approval, they were before the Board before for approval in principle in 2012. They are also asking for an issuance for a right of entry and an issuance of an Executive Order in favor DOE.

Ireda confirmed with Member Gomes that he and DOE are okay with staff's recommendations and had nothing further to add.

Unanimously approved as submitted (Kishinami, Gon)

Item K-1 Conservation District Use Application (CDUA) OA-3670 regarding the proposed City and County of Honolulu – Department of Design and Construction Wastewater Gravity Flow Tunnel Project, located in the Ko'olaupoko District, Island of O'ahu, on Tax Map Keys: (1) 4-2-015:009; (1) 4-2-017:001.016, 018, 021; (1) 4-4-011:013; (1) 4-5-101:037; (1) 4-4-012:001, 064, 065; (1) 4-5-031:076 and (1) 4-5-032:001.

Sam Lemmo Administrator for the Office of Conservation and Coastal Lands (OCCL) briefed the Board on item K-1 explaining that this as a 3 mile long gravity flow tunnel from Kaneohe waste water plant to the Kailua waste water plant. This is all done underground which will only affect the surface of the conservation district in one spot where they have to build a shaft in one spot. That shaft will then be used to boar out the tunnel. The concept is that this is the best way to convey waste water and this can handle storm water in addition to waste. Staff is recommending the approval of the project along with conditions.

Earl Matsukawa, the agent for this CDUA added more background on top of what Lemmo reported. Matsukawa said this is the only force main that connects Kaneohe to Kailua.

Member Gomes questioned the 80ft shaft. Matsukawa said that 80ft shaft will be dug at the Kailua treatment plant. This is the downstream end of the tunnel and is that big because it's going to be put into a pump station so that it can be treated, then a starter tunnel is to assemble the tunnel rock boring machine.

Member Gomes then asked where the material that comes out of the rock boring machine would go. Matsukawa said that it's up to the contractor, but it is good quality basalt that can be crushed more than it is when it comes out of the tunnel then sold. Matsukawa said that there was no plan to store this basalt on state property.

Member Gomes asked there was any preventive measure that would take care of the water from not going into the bay in the event of a flood during construction. Matsukawa said that it could be pumped out.

Unanimously approved as submitted (Kishinami, Gon)

Item F-1 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Research Permit to Dr. Christopher Kelley, University of Hawai'i, Hawai'i Undersea Research Laboratory, for Access to State Waters Within the Northwestern Hawaiian Islands to Conduct Bathymetric Mapping Activities.

Maria Carnevale representing the Division of Aquatic Resources (DAR) presented item F-1. The activities are to occur March 1-February 28 2015. Section 7 was not completed at the time the submittal was written, but has now been completed with conditions. The conditions include observers and ship crew would be watching for invasive species 24 hours a day, the ship would stop 200 meters from protected species 24 hours a day, and the sock start mode could be use 24 hours and would only be used after the vessel had stopped.

Member Gon asked about the protection of endangered species. The applicant Chris Kelley explained that there would be 3 types of instruments that would be used 1) a multi-beam sonar; a fish finder that gives depth and floor texture information 2) the gravimeter; measures gravity, stays inside the ship, does not emit anything and poses no danger to any animal. 3) Magnetometer measures magnetic fields, towed about 75 meters behind the ship, and doesn't emit anything. Kelley explained that there was only one incident that multi-beam could have been a president involving danger to an endangered species (whales) and that was not proven. Kelley provided more background on the multi-beam sonar.

Member Gomes asked how long ago the first mapping was done. Kelley said 2001 was when the first mapping was done in Hawaiian waters. Multi-beam sonar and other systems were used to determine the frequencies. Gomes the questioned if the data gathered from 2001 would change from this research. Kelley said that the initial data is still good, so they are not going to change that. They are currently targeting 50-4,000 meter range or the 150-15,000 foot depth range in the monument in 75 days.

Kelley explained that their priorities are to first get up to the northern end of the monument, seamounts, and gardener pinnacle platforms.

Unanimously approved as submitted (Gon, Gomes)

D-12 Issuance of Right-of-Entry Permit to the City and County of Honolulu, by its Board of Water Supply for Boundary and Topographic Surveys Purposes on Lands Encumbered by Revocable Permit No. 7402, Honouliuli, Ewa, Oahu, Tax Map Key: (1) 9-1-018:por.008.

Russell Tsuji, Administrator for Land Division reviewed item D-12 and explained that this tank is needed to have development at this location.

Scot Muraoka representing the Board of Water Supply explained that this is important reservoir, right now there is not elevated storage on the recycled water system; it's an on demand system so it's not efficient. This would be used for recycled water from Honouliuli and would benefit state lands in the area.

Unanimously approved as submitted (Kishinami, Gon)

Item D-1 Reaffirm Board Action of January 13, 2012, Item D-5, Forfeiture of General Lease No. S-5563, Stephen Sico, Lessee; Assess Additional Rent and Late Charges of \$10,210 Against Stephen Sico, Portion of Lot 173, Kapaa Homesteads, 3rd Series, Kapaa, Kawaihau, Kauai, Tax Map Key: (4) 4-6-008:001.

Written testimony was submitted by Adam Klausner, Esq.

Russell Tsuji explained that this item is a re affirmation of a forfeiture of a lease was done a couple years ago. When the file was reviewed it was noted that there were errors made by staff. The lessee Mr. Sico has retained possession of the property, without paying rent. Sico's back rent totals about \$16,000.

Member Gomes asked staff if there was any restitution about this mistake being made. Tsuji said that they have talked to staff, explained that Kauai has had some issues and now only have one land agent for the entire island of Kauai.

Steven Sico explained that he never got notice of the default until December 13th and didn't realize he was that far back in rent. Sico said that he has 15 years invested in this land and his goal is to start sustainable agriculture and turn it into a learning center for young people. He said that he has friends that can help him come up with money, but they can't help him while he's in default. Sico said he has no one he can talk to on Kauai, that he is more in communication with Oahu land agents. He asked the Board for three months to have this cleared up. Sico said that emails were sent to Chair Aila supporting him.

Chair Aila asked Sico when he was last current on this payments, Sico said the last time he was current was 2-3 years ago. He said his insurance has been current this whole time.

Member Gon said he didn't understand the series of arguments Sico was giving right now, because he should know when his payments are. Sico explained that he is poor and that everyone gets backed up, he's just asking for 3 more months to catch up with his payments.

Member Gomes asked Sico how he was going to move on from there. Sico said that if has it in a non-profit association then he will have help all the time, because there will be investors.

Member Gon asked Sico to pull up the emails that were sent to Chair Aila on his phone.

Tsuji addressed a comment Sico made about Wesley Matsunaga a Hawaii Land agent that was assisting, and said that Matsunaga was present to tell his side. Sico said that since it cost him \$10,000 to get rid of old cars left on his property, he claimed Matsunaga said that they would take off a couple of years rent in exchange for the cost of the cars. Wesley Matsunaga, Hawaii Land agent testified that he said something could've been negotiated at that time.

Chair Aila told Matsunaga that normally when a lease is issued it's as is and the lessee has to do come due diligence. Matsunaga confirmed. Matsunaga also confirmed that Sico's land was well maintained.

Sico said that if the Board said gives him three months then he will have his rent paid up through the end of December.

Member Gomes asked Matsunaga if he feels like Sico's farm would be feasible. Matsunaga said he couldn't answer because he hasn't been there in 3 years, at that time the trees were young.

Chair Aila asked Sico if \$19,000 was what he was proposing in 3 months. Sico asked to please give him until May.

Member Gomes said that he would like to give Sico 3 months extension to come current on his payment, and if comes before the Board again, then it's a complete forfeiture.

Member Gon recommended going with staff's recommendation, but not act on it until 3 months' period, during which time if it's not cured then it automatically goes into effect. The amount will be \$16,000 plus the next payment. It was also noted that a letter will be drafted that Sico has 3 months to cure his payment and come current. Member Gomes seconded.

Approved as submitted but deferred the forfeiture of the Lease for three (3) months until end of May 2014, to allow him to come up with \$18,520 by way of cash or certified check (which includes the \$16,130 owed through February 2014, plus late fees from March 2014 through May 2014 and the full rental payment coming due in June 2014). If the tenant does timely pay the Kauai District Land Office as aforesaid, then staff should bring the matter back for reinstatement of the lease (subject to resolving other compliance issues such as the performance bond), otherwise the Lease shall automatically be forfeited.

Unanimously approved as submitted but deferred (Gon, Gomes)

D-4 Grant of Perpetual, Non-Exclusive Easement to Henry Joseph Silva Jr. and Frances Kamalapua Kama-Silva, for Access and Utility Purposes, Kaohe 2nd, Hamakua, Hawaii, Tax Map Key: (3) 4-3-010: portion of 002.

Russell Tsuji had nothing to add to item D-4.

Francis Silva said they were okay with the recommendation, but questioned the re-aligning of rights of entries. She understands that the original does not stay in place.

Tsuji understands that this is just a re-alignment.

Member Gon asked Tsuji if the language; the previous easement is to be determined. Tsuji said that the way it was written is not an easement; it's an existing road right of way. The idea is that this would mean, Silva is realigning and obtaining an easement on the realigning. Tsuji will look into the details, but will bring it back to the Board for the termination if required. Silva isn't interested in the old easement; she wants a new easement on the side.

Unanimously approved as submitted but deferred (Gomes, Gon)

Item D-15 Presentation on Status of Naniloa Hotel by new Lessee Edward Bushor of Tower Development, Inc., General Lease No. S-5844, Banyan Drive, Hilo, Island of Hawaii; TMK no. (3) 2-1-1:12, 2-1-5:13, 16, 17, 27, 32 &46.

Attachments were submitted by Ed Bushor.

Ed Bushor President of Tower Development reviewed the packet he submitted to the Board members. In summary Bushor explained that his goal is to have the Naniloa up and open by December 31, 2014. He hopes to have a site meeting with the Hilo staff, Oahu DLNR staff, and the County to review the violations of the prior ownership. Bushor feels like the communication of what he should do or should not do is important so that during the next nine things get started on the right foot.

Chair Aila agreed that it was reasonable to have a meeting on site with the county and go through the violations; however the county is the primary enforcer and the decision maker. Bushor wants this meeting before the next time he meets with the Land Board. Tsuji suggested that Bushor get what in writing exactly what it is that he negotiates with the County. Tsuji didn't feel like we DLNR needed to be there because the County issues the violation. Bushor's main concern is that he wants everyone to be on the same page. Chair Aila told him to go ahead and ask the County for a meeting and someone from DLNR staff would be present; after the meeting then they will see how things line up.

Bushor said the goal is to attempt to do a contemporary/Hawaiian museum in the sense of presenting culture of Hilo, the culture of the Hawaii Island and marine life in the Hotel. Another goal is to bring back music on the water. Willie K and Bushor make a deal to bring Willie K's gig back. The golf course has also been re-opened.

Dan Purcel commented that it's nice to see the work being done to Banyan Drive.

Nonaction item.

Item D-3 Consent to Sublease of General Lease No. S-3619 Mattos Electric, LLC, Lessee to PTSH, Inc. and Will Kill Termites & Pests LLC, sublessees; Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-2-049:013.

Russell Tsuji had nothing to add. Mr. Mattos agreed with staff's recommendation.

Unanimously approved as submitted (Gomes, Gon)

Item D-5 Amend Prior Board Actions of June 8, 2007, Item D-2, Grant of Four (4) Perpetual, Non-Exclusive Easements to Kaloko Heights Associates, LLC, for Access and Utility Purposes at Kaloko and Kohanaiki, North Kona, Hawaii, Tax Map Key: 3rd/ 7-3-009: portions of 032, 057, 058, 059, 061 and 062.

The Amendment Seeks the Board's Authorization to Change the Grantee to RCFC Kaloko Heights, LLC.

Russell Tsuji had nothing to add. Tom Yim representing the Kaloko Heights Associates, LLC agreed with staff's recommendations.

Unanimously approved as submitted (Gon, Gomes)

Item D-14 Authorization to Hire a Consultant for Remediation Action for Environmental Cleanup at a Former Pumphouse in Aiea, Ewa, Oahu; TMK (1) 9-9-003:035.

Russell Tsuji made an amendment to recommendation No. 1.

The Board amended the submittal by replacing Recommendation No. 1 with: "Declare that, after considering the potential effects of the proposed request as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment pursuant to the exemption notification attached as Exhibit 2."

Unanimously approved as amended (Kishinami, Gon)

Item D-2 Rescind Prior Board Action of August 28, 2009, Item D-6, Consent to Assignment of General Lease No. S-5434, Stephen N. Santos, Assignor, to Oleander K. Csisko, Assignee, Kikala-Keokea, Puna, Hawaii, Tax Map Key: (3) 1-2-043:034. And

Consent to Assignment of General Lease No. S-5434, Stephen N. Santos, Assignor, to Sandra Haunani Apele-Kipapa, Assignee, Kikala-Keokea, Puna, Hawaii, Tax Map Key: (3) 1-2-043:034.

- Item D-6** Issuance of Right-of-Entry Permit to Jeanine Thomason (Event Manager) for The Maui Film Festival at Wailea, 2014 Event, at Wailea Beach, Maui, Hawaii: Tax Map Key:(2) 2-1-023: seaward of 007.
- Item D-7** Issuance of Immediate Right-of-Entry to the County of Maui, Department of Public Works, Highways Division for Temporary Construction / Laydown Area Purposes, Kahakuloa, Maui, Tax Map Key: (2) 3-1-002: Portion of 016.
- Item D-8** Issuance of Right-of-Entry Permit to Envisions Entertainment & Productions, Inc., Hawaii Representative for Pyro Spectaculars, Inc. for Aerial Fireworks Display Purposes at Honolulu, Lahaina, Maui, Tax Map Key:(2) 4-2-004: seaward of 015 and 016.
- Item D-9** Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach on March 2 and 8, 2014, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:021 (Portion).
- Item D-10** Issuance of Right-of-Entry Permit to Waikiki Beach Activities, Ltd. for Beach Activities Purposes on April 4, 2014, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:Portion of 021.
- Item D-11** Issuance of Right-of-Entry Permit to Waikiki Community Center for Beach Activities Purposes to be held on April 12 and 13, 2014 at Duke Kahanamoku Beach, Honolulu, Oahu, Tax Map Key: (1) 2-3-37: portion of 21.

Russell Tsuji had no changes to items D-2, D-6, D-7, D-8, D-9, D-10 and D-11.

Unanimously approved as submitted (Gon, Gomes)

Chair Aila introduced Alan Downer as the new Administrator for the State Preservation Division.

- Item I-1** Request Approval to Proceed with the Financial Audit of The State Historic Preservation Division (SHPD) for the Fiscal Years Ending June 30, 2011, 2012 and 2013, Respectively.

Alan Downer Administrator for the State Historic Preservation Division made an amendment starting with fiscal year 2010 not 2011. The audit will go from 2010-2013.

Unanimously approved as amended (Gon, Kishinami)

Item E-1 Amend Prior Board Action of July 27, 2012, Item E-2, Request for Approval for the Sale and Independent Award of Eight (8) Concession or Mobile Concession Agreements by Means of Sealed Bid Auctions for the Purposes Indicated and Delegation to the Chairperson to Issue the Information for Bidders (IFB), Award Each Bid and Give Notice to Proceed for the Following State Parks on O'ahu, Kaua'i, Maui and Hawai'i: Diamond Head State Monument (O'ahu) TMK: (1) 3-1-042:006(por.), (Including a Mobile Concession Agreement and a Beverage Vending Agreement), Kōke'e State Park (Kaua'i) TMK: (4) 1-4-001:013 (por.) (Including a Concession Lease for the Kōke'e Lodge and Cabins); Waimea Canyon State Park (Kaua'i) TMK: (4)1-2-001:004 (por.) (Including a Mobile Concession Agreement for Waimea Canyon Lookout), Wailua River State Park, (Kaua'i) TMK: (4) 3-9-004:010 (por.)(Including a Concession Lease for an Existing Restaurant Space), Wailua River State Park (Kaua'i) TMK: (4) 4-2-004:002 (por.) (Including a Proposed Mobile Concession), Hāpuna Beach State Recreation Area (Hawai'i) TMK: (3) 6-6-002:035 (por.) (Including a Concession Lease for Existing Food Concession Space), and Makena State Park (Maui) TMK: (2) 2-1-006:030 (por.) (Including a Mobile Concession Agreement). The Purpose of the Amendment is to Revise the Term of the Proposed Hāpuna Beach State Recreation Area Concession Lease from a Period of Five Years to Three Years and to Waive the Requirement for a Phase I Environmental Assessment.

Dan Quinn Administrator for State Parks presented Item E-1 explaining that it only relates to the Hapuna section building. They felt it was wise to put the entire title on the agenda because they are amending the Board's previous action.

Member Gomes asked if changing Hapuna from 5 to 3 would be enough to capitalize. Quinn said they would have to buy equipment and State Parks is working on the building. The previous occupant was non-compliant. Steve Soares representing State Parks explained that there is no construction investment; the new occupant would just have to bring in their fixtures and equipment.

Member Gomes asked if Wailua had a 15 year lease because it has a restaurant. Quinn said that the tenant has been there for longer than that. It was but out to bid, but got no takers, so the current tenant is on an extension. Quinn explained that the investment in part determines the lease; Parks determined the tenant would have to put in about 10 million dollars.

Quinn explained that the capital level investments are what the state pays, the lessee is responsible for the routine maintenance of the structure. Most state leases all have the provision that the lessee takes care of the building. Chair said this is an interim arrangement, but there will be long term arrangements made after.

Gomes asked if Makena State Park would ever expand. Quinn explained that a restroom is going to be installed; water is eventually going to get put in and possibly parking.

Unanimously approved as amended (Kishinami, Gon)

Item J-1 Request to Board for Approval to go out to Public Hearing on a Proposed Amendment to Section 13-256-16, Hawaii Administrative Rules (Exhibit A), Which Would Clarify that, for Purposes of Operating Thrill Craft, All Persons Holding or Receiving a Certificate of Completion for the Education Requirement of Section 13-256-16 on the Operation of Thrill Craft are Exempt from the Education Requirement of Section 13-244-15.5, Hawaii Administrative Rules, on the Operation of Power Driven Vessels.

Written testimony was submitted by Glenn Shiroma.

Ed Underwood Administrator for Boating presented item J-1 explaining that if someone has taken a thrill craft education, then that will count as the education, however if want to run a boat you will have to take the other course as well. They are eventually looking to merging all these certifications as one.

Unanimously approved as amended (Kishinami, Gon)

Item M-10 Issuance of Revocable Permit to Atlantis Submarines Hawaii, LLC, Kaholaoa, Kauluwela & Kaliu, Honolulu, Oahu; Tax Map Key: 1st/ 1-5-38:55 (Portion).

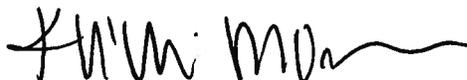
Item M-11 Issuance of Revocable Permit to Bertelmann, Inc. Situated at Kawaihae Harbor, Kawaihae 1st, South Kohala, Island of Hawaii; Tax Map Key No. 3rd/ 6-1-03: 26 (Portion).

Item M-12 Issuance of a Revocable Permit to Carnor Sumida, Situated at Kawaihae Harbor, Kawaihae 1st, South Kohala, Island of Hawaii; Tax Map Key No. 3rd/ 6-1-03: 34 (Portion).

Unanimously approved as amended (Gon, Kishinami)

There being no further business, Chairman William Aila adjourned the meeting at 11:28 am. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Ku'ulei Moses
Land Board Secretary

Approved for submittal:



William J. Aila, Jr.
Chairperson
Department of Land and Natural Resources