

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

DATE: FRIDAY, AUGUST 14, 2009
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

A. MINUTES

1. July 22, 2009 Minutes

H. ADMINISTRATION

1. STAFF PRESENTATION AND BOARD APPROVAL OF RECREATIONAL RENAISSANCE “PLAN B” AS FOLLOWS:

1. STATE PARKS

- a. Appoint Staff to be Hearing Officers for purposes of Conducting Public Hearings related to Proposed Amendments to Certain Sections of Chapter 13-146, HAR for the State Parks System to allow for Overnight Accommodations to be reserved via the Internet, Payment by Credit Card and to Charge a Service Fee, and make other substantive and technical amendments relating to clarifying management action and regulatory powers;
- b. Establish parking fees at certain State Parks, Monuments, Recreation Areas, and Waysides and Authorize the Chairperson to issue and Invitation for Bids, Concession, Agreement or Other Public Process as Allowed by Law, such as a Request for Proposals, and to Award a Contract Related to Parking;
- c. Increase Fees for Overnight Accommodations at State Parks;
- d. Establish Commercial Filming Fees for State Parks;

2. DOBOR

- e. Preliminary Approval to Amend Portions of DOBOR’s Hawaii Administrative Rules, Title 13, sub-title 11, Chapters 230 et. seq., Parts I, II, and III, and Conduct Public Hearings related to the Proposed Amendments to the Administrative Rules;
- f. Authorize the issuance of Contracts, Concessions, Leases and Other Agreements as Allowed by Law on Lands, Including Submerged Lands Under DOBOR’s Management Jurisdiction for Income Production;
- g. Delegation of Authority to the Chairperson to Select the Appropriate Processes for Offering and Disposing of Long-term Parking Agreements as allowed by law for the Generation of Parking Revenues at the Ala Wai Small Boat Harbor and the Kailua-Kona Pier;

- h. Delegation of Authority to the Chairperson to Select the Appropriate Processes to Offering and Disposing of a Long-term Agreement for the Operation of the Heeia Kea Small Boat Harbor Fuel Dock, Convenience Store, and Snack Shop for DOBOR's Income Production, whether by Lease, Concession or other agreement as allowed by law;
3. DOFAW
- i. Approve Updated fees for camping, and other recreational uses in forest reserves;
 - j. Approval to Conduct Public Hearings to Repeal Hawaii Administrative Rules (HAR) Chapter 13, §13-125, "RULES REGULATING WILDLIFE SANCTUARIES," and Adopt Chapter 13, §13-126, "RULES REGULATING WILDLIFE SANCTUARIES";
 - k. Set aside to DLNR, Division of Forestry and Wildlife for Wildlife Sanctuary Purposes and Issuance of a Management Right-of-Entry, Eighteen (18) Wildlife Sanctuaries Previously Designated by the Board and Identified in Chapter 13-125, HAR;
 - l. Set aside to DLNR, Division of Forestry and Wildlife for Wildlife Sanctuary Purposes and Issuance of a Management Right-of-Entry, Pālā'au, Moloka'i, Tax Map Keys: (2)5-1-1:2, 4, 5, and the Unencumbered Lands Seaward of (2)5-1-1:2, 4 AND (2) 5-2-11:4;
 - m. Authorize the Chairperson of DLNR to Develop and Operate Public Shooting Ranges Via Cooperative Agreement, Concession, or Lease;
 - n. To Conduct Public Hearings to Amend Chapter 13, §13-121, "RULES REGULATING THE HUNTING OF WILDLIFE ON PUBLIC LANDS AND OTHER LANDS" to Establish Rules Regulating the Use of Public Shooting Ranges;
 - o. Set Aside to DLNR, DOFAW for Na Ala Hele Trail and Off Highway Vehicle Park Purposes and Issuance of a Management Right-of-Entry, Wahikuli, Maui, Tax Map Key: (2)4-5-21:4;
4. ENGINEERING (Asset Management)
- p. Permission to Hire a Consultant to Develop Pilot Asset Management System for Selected DLNR Facilities.
5. LAND (Revenue Enhancement)
- q. Designation of certain Revenue Generating Properties as income-producing assets and reserve these properties to DLNR for the purpose of generating revenues to fund Plan B of the Recreational Renaissance, and ultimately upon receiving the necessary legislation, to also repay bonds issued for DLNR's original or any approved Recreational Renaissance plan.
 - r. Subject to Federal Aviation Administration prior approval, approve of and recommend to the Governor the issuance of executive orders: (1) withdrawing lands currently set aside to Department of Transportation for airport purposes, identified above as Ualena Street Industrial Properties and Kona Airport Industrial Lands, and resetting aside those lands to DLNR Land Division for income production purposes; and (2) setting aside lands identified above as Kanoelehua Industrial-Commercial Lot to Department of Transportation for airport purposes.

- s. Authorization to issue long-term leases for the Revenue Generating Properties via public auction, requests for proposals, or any other process authorized under Chapter 171, Hawaii Revised Statutes, as amended (“HRS”).
- t. Delegation of authority to the Chairperson of the Board of Land and Natural Resources (the “Chairperson”) to: (a) determine the appropriate process for offering and disposing of leases for each of the Revenue Generating Properties; and (b) determine the terms and conditions of each lease, provided, however, that all process, terms and conditions determined by the Chairperson shall comply with the provisions of HRS Chapter 171.
- u. Delegation of authority to the Chairperson to amend the terms and conditions of any lease, sale of a lease, public auction, request for proposal, or any other disposition previously approved/authorized by the Board, including, but not be limited to, amending the method of disposition, amending the terms and conditions of a lease to be offered for sale, adjusting the upset lease rent for leases to be sold at public auction, and amending the procedures of a request for proposal to authorize the Chairperson to select the successful applicant, negotiate the terms of any development agreement or lease, and execute any documents that are necessary or appropriate to effectuate the intent of the disposition; provided, however, that any amended terms and conditions shall comply with the provisions of HRS Chapter 171 and be subject to review and approval by the Department of the Attorney General.
- v. Authorize the revenues generated from leases of the Revenue Generating Properties to be held separately in a special fund or account to fund Plan B of the Recreational Renaissance, and ultimately upon receiving the necessary legislation, to also repay bonds issued for DLNR’s original or any approved Recreational Renaissance plan.
- w. Authorize the hiring of an independent real estate consultant to review DLNR’s land inventory, identify properties with development and revenue-generating potential, and provide recommendations on the disposition of leases for those properties; and delegate to the Chairperson the authority to determine the scope of work of the consultant’s contract, select the parcels to be reviewed under the contract, enter into supplemental contracts to address unforeseen conditions, and sign the necessary documents pertaining to the project.

** On any of the above items, the Board of Land and Natural Resources may convene an executive meeting pursuant to sections 92-4 and 92-5(a) of the Hawaii Revised Statutes to consult with the Board’s attorney on issues pertaining to the Board’s powers, duties, privileges, immunities and liabilities or as otherwise allowed by law.

ALL MATERIALS LISTED ON THIS AGENDA ARE AVAILABLE FOR REVIEW IN THE DLNR CHAIRPERSON’S OFFICE OR ON THE DEPARTMENT WEBSITE THE WEEK OF THE MEETING AT: <http://hawaii.gov/dlnr/chair/meeting/index.html>

INDIVIDUALS REQUIRING SPECIAL ASSISTANCE OR ACCOMMODATIONS ARE ASKED TO CONTACT THE CHAIRPERSON’S OFFICE AT (808) 587-0400 AT LEAST THREE DAYS IN ADVANCE OF THE MEETING.

SUMMARY OF RECOMMENDATIONS

STATE PARKS sub-items a-d:

1. Approve the Chairperson to appoint staff to be hearing officers for purposes of conducting public hearings related to proposed amendments to certain sections of Chapter 13-146 as proposed in the attached draft of amendments to Chapter 13-146 HAR, pending review and approval by the Office of the Attorney General.
2. Approve the amount of the proposed parking fees and to charge such fees as described above at the identified State Park areas and to authorize the Chairperson to conduct an Invitation for Bids, Concession Agreement or other public process as allowed by law, such as a Request for Proposals, and to award and enter an appropriate Agreement for parking fees collection and remittance to the Department for the purpose of generating revenues to fund Plan B of the Recreational Renaissance, and ultimately upon receiving the necessary legislation, to also assist with repaying bonds issued for DLNR's *original or any approved* Recreational Renaissance plan.
3. Approve the increase in lodging and camping fees at State Parks as described above for the purpose of generating revenues to fund Plan B of the Recreational Renaissance, and ultimately upon receiving the necessary legislation, to also repay bonds issued for DLNR's *original or any approved Recreational Renaissance* plan.
4. Approve the filming fee of \$100.00 per day and delegate to the Chairperson the authority to renegotiate the MOA with the Hawaii Film Office of DBEDT.

DOBOR sub-items e-h:

1. Preliminarily approve amendments to selected portions of DOBOR's Hawaii Administrative Rules, Title 13, Sub-title 11, Chapter 230 et. seq., Parts I, II, and III, more particularly detailed in Exhibits A and B attached hereto, and delegation of authority to the Chairperson to appoint staff to be hearing officers to conduct public hearings related to the proposed amendments to DOBOR's Hawaii Administrative Rules, Parts I, II, and III.
2. Authorize the issuance of contracts, concessions, leases and other Agreements as allowed by law on lands, including submerged lands under DOBOR's management jurisdiction for income production.
3. Delegate to the Chairperson the authority to: (a) select the appropriate processes for offering and disposing of long-term parking agreements for the generation of parking revenues at the Ala Wai Small Boat Harbor and Kailua-Kona Pier; and (b) determine the terms and conditions of each agreement, provided however, all processes selected and terms and conditions in the agreements shall comply with law, such as Chapters 102, 171 or 200 of the Hawaii Revised Statutes.

4. Delegate to the Chairperson the authority to: (a) select the appropriate processes for offering and disposing of a long-term agreement for the operation of the Heeia Kea Small Boat Harbor Fuel Dock, Convenience Store and Snack Shop for DOBOR's income production, whether by lease, concession or other agreement as allowed by law; and (b) determine the terms and conditions of each agreement, provided however, all processes selected and terms and conditions in the agreements shall comply with law, such as Chapters 102, 171, or 200 of the Hawaii Revised Statutes.
5. Authorize the Chairperson to cancel at the appropriate time as determined by the Chairperson the Revocable Permit, BO-07-31, issued to the Deli Corporation for operation of the fuel dock, convenience store and snack bar concession at Heeia Kea SBH.
6. All legal instruments such as contracts, leases, concessions and other agreements, and public solicitation documents shall be subject to the following:
 - a. Review and approval by the Department of the Attorney General; and
 - b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

DOFAW sub-items i-o:

1. Pursuant to the authority granted to the Board by HRS Chapter 183 and HAR Chapter 104, and HRS Chapter 198D and HAR Chapter 13-130-42, approve updated fees for Forest Reserve and Na Ala Hele system camping permits, with fees to be deposited into the respective program special funds.
2. Pursuant to the authority granted to the Board by HRS Chapter 183 and HAR Chapter 104, approve updated fees for Forest Reserve system commercial permits as discussed above and detailed in Attachment C. 1. 2., with the fees collected to be deposited into the Forest Stewardship special fund and used for future maintenance and operation of the recreational facilities.
3. Approve that the Division of Forestry and Wildlife proceed with revisions to the wildlife sanctuary rules and consult with affected communities on access issues in the development of the draft rule.
4. Approve that the Division of Forestry and Wildlife conduct public hearings to repeal chapter 13-125 and adopt chapter 13-126, Hawaii Administrative Rules, subject to review and approval by the Chairperson and the Office of the Attorney General.
5. Authorize the Chairperson to set dates and times for public hearings, and appoint corresponding hearings officers.

6. Authorize any fees collected pursuant to the permitting of commercial activities in wildlife sanctuaries be deposited in the Endangered Species Trust Fund, pursuant to chapter 195D-31.

That the Board, subject to Applicant fulfilling the Applicant Requirements above in sub-item k:

7. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Department of Land and Natural Resources, Division of Forestry and Wildlife under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - a. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - b. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - c. Review and approval by the Department of the Attorney General; and
 - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
8. Authorize the issuance of a management right-of-entry to Division of Forestry and Wildlife covering the subject area, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current right-of-entry document form, as may be amended from time to time; and
 - b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

That the Board, subject to Applicant fulfilling the Applicant Requirements above in sub-item l:

9. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Department of Land and Natural Resources, Division of Forestry and Wildlife under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - a. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - b. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - c. Review and approval by the Department of the Attorney General; and

- d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
10. Authorize the issuance of a management right-of-entry to Division of Forestry and Wildlife covering the subject area, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current right-of-entry document form, as may be amended from time to time; and
 - b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
 11. Authorize the Chairperson to proceed with development of public shooting ranges as described above and to negotiate and enter into cooperative agreements, concessions, or leases pursuant to Chapters 171-56 and/or Chapter 102, Hawaii Revised Statutes, for the operation and management of public shooting ranges, subject to review and approval by the Office of the Attorney General.
 12. Authorize the Division of Forestry and Wildlife to conduct public hearings to amend Hawaii Administrative Rules Chapter 13-121 to establish rules regulating the use of public shooting ranges, subject to review and approval by the Office of the Attorney General.
 13. Authorize the Chairperson to set dates and times for public hearings, and appoint corresponding hearings officers.

That the Board, subject to Applicant fulfilling the Applicant Requirements above in sub-item o:

14. Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to Department of Land and Natural Resources, Division of Forestry and Wildlife under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - a. Reservation for future withdrawal of lands covering tmk: 4-5-21:portion 4 (toe), south of Hanakea Gulch along the boundary of the Land Use Commission Urban Classification boundary or other boundary acceptable to the Hawaii Housing Finance and Development Corporation (HHFDC) and DLNR for the Villages of Leiali'i project;
 - b. Reservation for designation of easements for potable water wells 5 and 6 located on tmk: 4-5-21:4, transmission lines, facilities and improvements and access thereto for the Villages of Leiali'i project;
 - c. Access to the subject property, TMK 4-5-21: 4, over TMK 4-5-21: 3 and 22 shall be by temporary rights-of-entry in forms and content acceptable to HHFDC and the Department of Land and Natural Resources, respectively;

- d. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - e. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - f. Review and approval by the Department of the Attorney General; and
 - g. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
15. Authorize the issuance of a management right-of-entry to Housing Finance and Development Corporation for tmk: 4-5-21:22 and portion of 4 (toe), and Division of Forestry and Wildlife for tmk: 4-5-21:portion of 4, which are by this reference incorporated herein and further subject to the following:
- a. The standard terms and conditions of the most current right-of-entry document form, as may be amended from time to time; and
 - b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

ENGINEERING (ASSET MANAGEMENT) sub-item p

- 1. That the Board of Land and Natural Resources authorize the hiring of a consultant for the project indicated and authorize the Chairperson to sign the necessary documents pertaining to the project, subject to review and approval by the Attorney General and Governor's approval.
- 2. Recommend that the Board authorize the Chairperson, subject to review and approval by the Attorney General, to enter into supplemental contracts to address unforeseen conditions and sign the necessary documents to implement the additional work.

LAND DIVISION (REVENUE ENHANCEMENT) sub-items q-v

- 1. Designate the Revenue Generating Properties identified above as income-producing assets and reserve these properties to DLNR for the purpose of generating revenues to fund Plan B of the Recreational Renaissance, and ultimately upon receiving the necessary legislation, to also repay bonds issued for DLNR's *original* or any approved Recreational Renaissance plan.
- 2. Subject to Federal Aviation Administration prior approval, approve of and recommend to the Governor the issuance of executive orders: (1) withdrawing lands currently set aside to Department of Transportation for airport purposes, identified above as Ualena Street Industrial Properties and Kona Airport Industrial Lands, and

resetting aside those lands to DLNR Land Division for income production purposes; and (2) setting aside lands identified above as Kanoelehua Industrial-Commercial Lot to Department of Transportation for airport purposes, under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:

- A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize issuance of long-term leases for the Revenue Generating Properties via public auction, requests for proposals, or any other process authorized under Chapter 171, Hawaii Revised Statutes, as amended (“HRS”).
 4. Delegate to the Chairperson of the Board of Land and Natural Resources (the “Chairperson”) the authority to: (a) determine the appropriate process for offering and disposing of leases for each of the Revenue Generating Properties; and (b) determine the terms and conditions of each lease, provided, however, that all process, terms and conditions determined by the Chairperson shall comply with the provisions of HRS Chapter 171.
 5. Delegate to the Chairperson the authority to amend the terms and conditions of any lease, sale of a lease, public auction, request for proposal, or any other disposition previously approved/authorized by the Board, including, but not be limited to, amending the method of disposition, amending the terms and conditions of a lease to be offered for sale, adjusting the upset lease rent for leases to be sold at public auction, and amending the procedures of a request for proposal to authorize the Chairperson to select the successful applicant, negotiate the terms of any development agreement or lease, and execute any documents that are necessary or appropriate to effectuate the intent of the disposition; provided, however, that any amended terms and conditions shall comply with the provisions of HRS Chapter 171 and be subject to review and approval by the Department of the Attorney General.
 6. Authorize the revenues generated from leases of the Revenue Generating Properties to be held separately in a special fund or account to fund Plan B of the Recreational Renaissance, and ultimately upon receiving the necessary legislation, to also repay bonds issued for DLNR’s *original* or any approved Recreational Renaissance plan.

7. Authorize the hiring of an independent real estate consultant to review DLNR's land inventory, identify properties with development and revenue-generating potential, and provide recommendations on the disposition of leases for those properties; and delegate to the Chairperson the authority to determine the scope of work of the consultant's contract, select the parcels to be reviewed under the contract, enter into supplemental contracts to address unforeseen conditions, and sign the necessary documents pertaining to the project, subject to review and approval by the Department of the Attorney General and approval by the Governor.

Respectfully submitted,

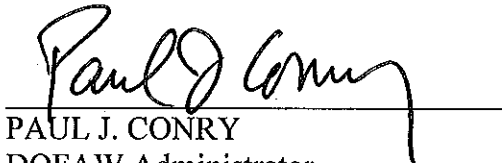
RECREATIONAL RENAISSANCE TEAM



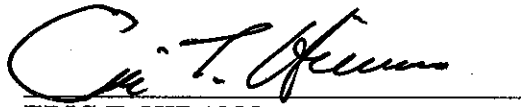
DAN S. QUINN
State Parks Administrator



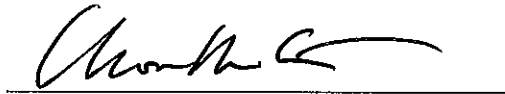
ED R. UNDERWOOD
DOBOR Administrator



PAUL J. CONRY
DOFAW Administrator




ERIC T. HIRANO
Chief Engineer, Administrator



MORRIS M. ATTA
Land Division Administrator

Approved for Submittal:



LAURA H. THIELEN, Chairperson
Board of Land and Natural Resources