

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

DATE: FRIDAY, MARCH 28, 2008
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HI 96813

Chairperson Laura Thielen called the meeting of the Board of Land and Natural Resources to order at 9:11 a.m. The following were in attendance:

MEMBERS

Laura Thielen
Ron Agor
Taryn Schuman

Rob Pacheco
Jerry Edlao

STAFF

Morris Atta, Land
Eric Hirano, Engineering
David Gaud, DOCARE
Molly Schmidt, DOFAW

Sam Lemmo, OCCL
Dan Polhemus, DAR
Scott Fretz, DOFAW

OTHERS

Bill Wynhoff, Deputy Attorney General
Reb Bellinger, D-10
Greg Rowland, D-10
Ian Lind, D-10
G.O. Palermo, D-10
Dr. J. Anthony, D-10
Janice Palma-Glenne, D-8
Harry Yada, D-8
Stephen Nakai, K-1
Sidney Snyder, K-2
Debra Fitzsimmons, D-7
Felicia Cantu, D-5
Keisha Ross, D-5
Marina Kelly, D-5
Curt Trafeca, F-4

Eric Leong, DOT-HAR
Nancy Morgan, D-10
Julie Savrey, D-10
Patrick Kasey, D-10
Guillermo Geldermann, D-10
Bret Pruitt, D-10
Paul Maddox, D-8
Mike Dixon, D-8
Ben Tsukazaki, K-2
James McCully, K-2
John Thatcher, D-5
Ciara Robinson, D-5
Jeanette Salfen, D-5
Shandon Pestano, D-5
Marti Townsend, F-4 & F-5

{Note: language for deletion is [bracketed], new/added is underlined}

Item A-1 Amended December 13, 2007 Briefing Minutes.

Item A-2 Amended December 14, 2007 Minutes, Item F-3, pg 31, paragraph 6.

Unanimously approved as amended (Pacheco, Edlao)

Item A-3 January 25, 2008 Minutes.

Item A-4 February 8, 2008 Minutes.

Item A-5 February 22, 2008 Minutes.

Item A-6 March 14, 2008 Minutes.

Deferred. (Pacheco, Edlao) Not ready.

Item D-10 Re-submittal Report on Kaaawa Community Association and the Koolauloa Neighborhood Board Position Statements of Lease to Windward Retreat Center for Religious, Social (Community), and Charitable Eleemosynary Purposes, Kaaawa, Koolauloa, Oahu, Tax Map Keys: (1) 5-1-14: Por. 47 and 5-1-11: Por. 55.

Numerous written testimonies were received.

Morris Atta, Administrator for Land Division, reported on submittal background. He noted a lease was issued and that this is an informational report, non-action item to the Board. Windward Retreat Center (WRC) needs to obtain permits.

Member Edlao inquired if public input is needed and stated the lease might not go through if county denies permit.

Mr. Atta replied public input is yet to come.

Chair Thielen asked why the urgency to approve this lease.

Member Agor responded that there was conflicting testimony.

Reb Bellinger, President Ka'a'awa Neighborhood Board, testified that the Board did the community a disservice. WRC has not done what was planned these past 14 years. WRC's only objective is to obtain the land and there are questionable motives. He noted in January the Ka'a'awa Board voted 3-2 against approving this which the neighborhood board members supported. He had met with 3 of the Oahu Land Board members.

Nancy Morgan, resident of Ka'a'awa and member of the Ka'a'awa Neighborhood Board, informed the Land Board that WRC had support and related the history for and against WRC. She is for the lease because WRC is a valuable community asset.

Greg Rowland, resident of Ka'a'awa and Vice-President of the Ka'a'awa Neighborhood Board, feels that the property could be of better use to the community. He is against this.

Julie Sadleir, resident and treasurer of the Ka'a'awa Community Association, explained she first supported approval, but because WRC was not forthcoming with information she changed her mind. WRC never approached the neighborhood and she thinks it's unfair to allow them this lease.

Ian Lind, resident, reiterated Ka'a'awa Board vote and noted this board originally voted in favor. He resides adjacent to the property and has spoken to WRC who are willing to change to comply with community's wishes. He is glad lease was issued.

Patrick Casey representing the president of WRC, Robert Stauffer, read Mr. Stauffer's written testimony where WRC has filed all requirements to execute the lease. He thanked the Board.

G.O. Palermo, resident on the same street as WRC, read his written testimony. He is opposed because WRC has no record of public service or of holding meetings and he felt this was a land grab. The community at large does not benefit.

Guillermo Geldermann, a resident adjacent to the property, reiterated previous testimony that there is more people on the property than allowed on the lease, it's a land grab and gave history from 2001. He is against this lease.

A woman testified that there is no tsunami evacuation zone or shelter in the area. Please take that into consideration.

Dr. J. Anthony announced that he gave notice for a contested case hearing. He felt that this is a conflict of interest for the Land Board because the Chairperson signed the lease. He suggested deferring because Member Tim Johns, who is familiar with this case, is not present. In 2006, the Board made it clear with staff to write a letter within 60 days which they did not. Land Board then said to wait and nothing happened until after January 2007. January 2008 the Chairperson signed the lease without the Neighborhood Board responses. He opposed and asked to not proceed.

Chair Thielen informed Dr. Anthony that he needs to submit his contested case paperwork within 10 days.

Bret Pruitt, supporter of WRC, testified that if this is a land grab it is the world's slowest. WRC did not talk to all 1400 residents which is difficult to do. He noted the original lease was granted in 1995 and 3 DLNR chairpersons granted approval since then. There were execution delays. WRC is not a drug rehab. center. He referred to the

Neighborhood Board vote and the creation of the sub-committee. DLNR wants 2 buildings and that is what WRC will do. The City & County will decide next and the community will have an opportunity to testify then.

Chair Thielen summarized and stated if what the chair does is a conflict of interest then it would conflict everything off of the Board.

Received and accepted as submitted. Report only. No Board action.

9:56 am *Chair Thielen departed.*

Item D-8 **Approval In-Principle, Right-of-Entry and Authorization to Apply for Re-Classification, Rezoning and other Land Use Approvals of the State Land in Connection with Proposed Kona Motorsport Park, County of Hawaii, Mahaiula and Kaulana, North Kona, Hawaii, Tax Map Key: (3) 7-2-5: Portion of 8.**

Numerous written testimonies were received.

Morris Atta of Land Division informed the Board that staff recognized the need for such a facility in Hawaii County and described background. The County of Hawaii has 3 years to comply with studies, surveys, HRS and other activities in connection with the various land use approvals required.

Janice Palma-Glenne representing Hawaii Sierra Club distributed color maps and testified she is against this because Kekaha Kai is part of an ahupua'a conservation wilderness which should be preserved. A drag strip could impact the wilderness with air, light and noise pollution. It would affect the homes up hill. She suggested using the area for hiking, biking and horse trails. The Sierra Club opposes the location, not the sport. She recommended completing an EIS first and reported OCCL noted problems in wording. Ms. Palma-Glenne appreciated the time to testify.

Member Pacheco clarified that the Governor is not approving the site.

Paul Maddox representing Hawaii Racing Association/Kona Motorsport Park (KMP) provided revised maps of page 8, exhibit A and stated that they are working with the West Hawaii community. DLNR had suggested the location next to the airport and pointed it out on the new map. KMP would like to proceed with an EIS. He noted that he represents thousands on the Big Island who want this.

Harry Yada representing County of Hawaii acknowledged there is a need, but he is not sure if it's the right location. The County will solicit the community to obtain funds. He would like the Board's support to take to an EIS, the County will address concerns and they wished to move forward.

Member Pacheco moved to approve noting a need to address community concerns.

Member Edlao second.

Unanimously approved as submitted (Pacheco, Edlao)

Item D-4 Set Aside to County of Hawaii for Park, Recreational, and Ancillary Purposes; and Cancellation of Revocable Permit No. S-7165; Waiakea, South Hilo, Hawaii, Tax Map Key: (3) 2-1-5:28

Morris Atta representing Land Division reported that the County of Hawaii wants to obtain the property to put in safety features for the quality of the bay. There is an existing revocable permit.

Member Pacheco asked did the County already have an interest.

Mr. Atta replied part of it. It is a hotel zone which had no interest by other parties.

Member Edlao inquired if the County will maintain the property.

Mr. Yada replied affirmatively.

Unanimously approved as submitted (Pacheco, Schuman)

Item D-11 Issuance of Two Term Non-Exclusive Easements for Seawall and Loose Rock Wall for Landscaping Purposes to the Zerme Family Trusts B, Zerme Family Trusts C, Holawa C LLC, and Michael M. Dixon, Grantees; Paumalu, Koolauloa, Oahu; TMK (1) 5-9-1:027, 5-9-1:110-0003 & 5-9-1:110-0004 seaward; and Cancellation of Grant of Non-Exclusive Easement No. 5163.

Morris Atta, Administrator for Land Division, informed on the background. He noted that the applicant wants to amend to 2 different easements which staff didn't have a problem with. Mr. Atta didn't have the precise location.

Mike Dixon explained he is putting one lot up for sale and that is why the amendment. He asked to defer to allow him time to do the paperwork if the Board decides not to amend. He provided a map.

Mr. Atta queried whether to defer the submittal or the easement.

Mr. Dixon replied he doesn't want to come back again.

The Board didn't have a problem with amending it.

The Board:

Amended staff's recommendation by changing the number of easements granted to Michael M. Dixon from one to two subject to determination by staff of the appropriate area, boundaries and prorated rental amounts for each easement based on the valuation methodology recommended in the submittal. Otherwise, the Land Board approved staff's recommendations as submitted.

Unanimously approved as amended (Schuman, Edlao)

Item M-1 Issuance of a Revocable Permit to Maui Mortgage Professionals Incorporated, Old Kahului Railroad Building, Kahului Harbor, Maui

Eric Leong, Property Manager of Department of Transportation Harbors Division, presented submittal.

Unanimously approved as submitted (Edlao, Schuman)

Item L-2 Authorization to Enter Into a Cooperative Agreement - Locally Led Contracting Between the State of Hawaii, Department of Land and Natural Resources and the United States Department of Agriculture, Natural Resources Conservation Service Regarding the Makaua Stream Restoration and Debris Removal Project

Eric Hirano, Chief Engineer for Engineering Division, described background. This is for the construction of walls, repair and mitigation from the 2005 flood. Staff recommends approving. There are representatives from NRCS here to answer questions. Staff is obtaining right-of-entry to clear access way.

Unanimously approved as submitted (Schuman, Pacheco)

Item L-1 Permission to Hire a Consultant to Develop Standards and Procedures for Inspection, Maintenance and Operations of the Kawai Nui Marsh Levee Project and Develop Grading and Engineering Plans for Marsh Habitat Improvements

Item L-3 Appointment of Hamakua Soil and Water Conservation District Director

Eric Hirano of Engineering Division reported on submittals background.

Unanimously approved as submitted (Pacheco, Schuman)

Item K-1 Conservation District Use Application (CDUA) OA-3446 for the Chan Single Family Residence located at Tantalus, Honolulu, Oahu, TMK (1) 2-5-018:032

Sam Lemmo, Administrator for Office of Conservation & Coastal Lands (OCCL), gave background and recommended the Board approve submittal.

Stephen Nakai representing the Chan's approved.

Unanimously approved as submitted (Schuman, Edlao)

Item K-2 Conservation District Use Application (CDUA) HA-3445 for the McCully Single Family Residence located at Wailea, South Hilo, Hawaii, TMK (3) 2-9-003:029

Sam Lemmo of OCCL informed the Board on the background and that the recommendation stands.

Ben Tsukazaki, attorney representing the applicant, noted inconsistencies of standards applied. He was informed of this variation during consultation with OCCL staff. But once submitted by OCCL it was countered and troubling from what was said in their meeting. Page 9, Exhibit 4 is against the interpretation of a floor or roof structure referring to HAR § 13-15-41.

Member Agor inquired whether there is a discrepancy to the courtyard.

Mr. Tsukazaki replied there is no roof over the courtyard.

Member Agor asked how staff came up with 200 sq. ft.

Mr. Lemmo responded by referring to Exhibit 7. All the blue areas are covered.

Mr. Tsukazaki introduced architect, Sidney Snyder and presented Mr. Snyder's drawings. They determined what is and is not a roof.

Discussions regarding what is covered and not enclosed with sides.

Mr. Lemmo stated suppose to include all decks in excess of 4 feet.

Discussion about lower grade to fit into the slope.

Discussion whether or not entry is a carport.

Mr. Tsukazaki spoke to applicant on reducing garden area and lanai. Applicant was willing to reduce the size if it is the only way to grant it.

Member Agor suggested taking the element of a porte cochere out [and reduce] by reducing the width (of entry lanai) which the Board shall determine.

Discussion on what are eaves over the gardens which should be included in the MDA.

Mr. Lemmo noted conceptual plans have changed.

James McCully, owner, stated he is flexible on the plan to meet the Board's recommendations.

Member Edlao suggested passing this and having the parties meet to correct. Need to meet MDA and stay within 5000 sq. ft.

Mr. Tsukazaki explained that staff is imposing their position because they don't want to violate standards.

11:12 am *Chair Thielen returns.*

Member Schuman made a motion to exclude entire courtyards, reduce makai lanai by 50 ft., reduce entry by ½ and reduce enclosed wall by 4-1/2 ft. to bring within 5000 sq. ft. Member Edlao second.

Member Agor added and to include the lanai's 50 sq. ft. because it's 5050 sq. ft.

Mr. Tsukazaki noted that Mr. McCully agrees.

Member Pacheco summarized they are asking to reduce the entry by ½ to 12 ft., the makai lanai reduce by 50 sq. ft. and garden walls reduce to 4-1/2 ft.

Member Schuman mentioned the makai lanai footnote says closer to 400 sq. ft. to reduce by 50 ft.

Member Pacheco stated the entry lanai looks like a porte cochere.

Mr. McCully replied it was never intended to.

Discussion on recommendations #4 and #6 because owner is not in non-compliance.

Mr. Tsukazaki didn't think staff's recommendation 4 was correct. His client is not in non-compliance. He distributed his revised written language to the Board.

Chair Thielen stated the Board needs to approve recommendations.

Member Pacheco inquired what is the difference between #6 and #4?

Bill Wynhoff, Deputy Attorney General, explained what it is.

Chair Thielen explained take out #4 and move everything down one.

The Board:

Made a motion to exclude entire courtyards, reduce entry by ½ to 12 feet, makai lanai reduced by 50 sq. ft., garden walls reduced to 4-1/2 feet.

Unanimously approved as amended (Schuman, Edlao)

The Board:

Amended staff's submittal by:

Deleting recommendation #4 and moving all numbers down one.

Unanimously approved as amended (Pacheco, Agor)

Item D-7 Amend Prior Board Action of April 8, 2004 (D-14), Rescind Prior Land Board Approval and Issuance of Direct Lease to the University of Hawaii for Marine Research and Educational Purposes, Lalamilo, Tax Map Key: (3) 6-9-1: portion of 1.

Morris Atta representing Land Division requested to amend and rescind prior Board action and explained submittal.

Dr. Debra Fitzsimmons, Vice-Chancellor to U.H. Hilo, testified that her staff is securing funding for a consultant and she named the contractor. The deadline is in April. She explained what happened at the community meetings and asked for 2 years. This is high priority.

Unanimously approved as submitted (Pacheco, Edlao)

Item D-5 Approval in Principle of Direct Lease to Connections New Century Public Charter School for School Purposes, Kaumana, Hawaii, Tax Map Key: (3) 2-5-6:141.

Morris Atta of Land Division explained property is vacant agriculture land. Staff recommends approval to move forward.

John Thatcher, Principal of Connections New Century Public Charter School, describe the school's uses. The size of the land will support the students' sustainability studies. A 20 acre farm will support a family in the future. Part of the lot will be used for habitat education.

Felicia Cantu gave introduction and school's background history.

Ciara Robinson & Keisha Ross reported on students' plans and described the Kauai plan.

Jeanette Salfen spoke on the activities.

Marina Kelley described self sufficiency use.

Shawn Pestano presented the development of the property itself.
Keisha Ross thanked the Board.

Chair Thielen reported on school's background and suggested the school work with DOFAW and other divisions.

Unanimously approved as submitted (Pacheco, Edlao)

Item F-1 Request for Approval to Provide Additional Funds and Extend through FY09 Two (2) DLNR/University of Hawaii Contracts: Contract No. 47471--Hawaii Fish Aggregating Device System (\$330,000) and Contract No. 47261--Improvement of Bottomfish Stocks (\$398,000)

Dan Polhemus, Administrator for Aquatic Resources (DAR), presented submittal.

Unanimously approved as submitted (Schuman, Pacheco)

Item F-2 Request for Approval to Provide Additional Funds and Extend through FY09 Seven (7) Project Agreements with the Research Corporation of the University of Hawaii: Contract No. 49090--Coral Reef Initiative (\$160,492), Contract No. 49820--Coastal Stock Enhancement (\$150,000), Contract No. 51059--Stream/Estuarine Studies (\$283,690), Contract No. 51058--Marine Population Survey (\$91,068), Contract No. 52851--Ulua Tagging (\$50,000), Contract No. 52994--Finfish Broodstock and Larvae Culture (\$45,000), and Contract No. 48518--Hawaii Marine Recreational Fishing Survey (\$560,000)

Dan Polhemus of Aquatic Resources reported on background.

Unanimously approved as submitted (Pacheco, Edlao)

Item F-3 Requesting for Final Approval of Temporary Closure to Bottomfishing (Approximately 5 Months) for All State Marine Waters Surrounding Existing Bottomfish Restricted Fishing Areas Within the Main Hawaiian Islands

Dan Polhemus representing DAR informed the Board on the background.

Chair Thielen stated this is a reauthorization of the Stevens Act and there are a couple bills before the legislature to co-manage fisheries.

Mr. Polhemus added for all State waters. This will not be the last.

Unanimously approved as submitted (Edlao, Schuman)

Item F-4 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Commanding Officer Jon Swallow, National Oceanic and Atmospheric Administration (NOAA) Ship HI'IALAKAI, for Access to State Waters to Conduct Shipboard Support Activities.

Dan Polhemus of Aquatic Resources described background.

Curt Trafeca representing Commanding Officer Jon Swallow stated he doesn't have a problem with the special conditions.

Marti Townsend representing KAHEA noted her concerns cover Items F-4 and F-5 which were presented in her distributed written testimony.

Unanimously approved as submitted (Pacheco, Schuman)

Item F-5 Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Joyce Miller, National Oceanic and Atmospheric Administration (NOAA) Pacific Islands Fisheries Science Center, for Access to State Waters to Conduct Mapping Activities.

Unanimously approved as submitted (Pacheco, Edlao)

Item B-1 Request Board Approval to Enter Into a Memorandum of Agreement between the Department of Land and Natural Resources, Division of Conservation and Resources Enforcement, and the Department of Justice, Drug Enforcement Administration

Unanimously approved as submitted (Edlao, Pacheco)

Item C-1 Subject: Request for approval to Enter into Four Grant Agreements to Disburse Fiscal Year 2007 Legacy Land Conservation Program Awards and Request for Approval to Implement Policy Regarding Non-Profit Applicants

Unanimously approved as submitted. (Pacheco, Edlao)

Item D-6 Set aside to the Department of Land and Natural Resources, Division of Forestry and Wildlife for Addition to Hilo Forest Reserve and Issuance of a Management Right-of-Entry at Laupāhoehoe, Hawaii, Tax Map Key: (3) 3-6-6: 46.

Morris Atta of Land Division requested to add in recommendation. After Hilo Forest Reserve.

The Board:

Amended staff's recommendation by adding the phrase "for addition to the Hilo Forest Reserve" after the phrase "Forestry and Wildlife" in line 4 of Recommendation No. 1. Otherwise, the Land Board approved staff's recommendations as submitted.

Unanimously approved as amended (Pacheco, Schuman)

Item D-1 Issuance of Right-of-Entry Permit to Department of Agriculture on State Encumbered Lands, Waters and Water Distribution Systems in the Drainage Basins of Hanamaulu, North Wailua and Kapaa, Kauai; Tax Map Keys: (4) 3-9-1: 2; 3-9-2: 1, 9, 20; 4-2-1: 4; 4-6-7: 11; 4-6-5: 6, 20; and 4-6-7: 12.

Item D-2 Re-submittal Cancellation of Revocable Permit No. S-7190 to Gary Rodrigues and Issuance of Revocable Permit to Gary W. Rodrigues and Tani Olaso Rodrigues for Conservation Management Purposes, Kapaa Homesteads, 1st and 3rd Series, Kawaihau, Kauai; Tax Map Key: (4) 4-6-8: 23 & 24.

Item D-3 Amend Prior Board Action of February 8, 2008, Agenda Item D-3, Encroachment on State Unencumbered Public Lands by Robert C. McKnight; Accreted Lands of Kapaahu, Puna, Hawaii, Tax Map Key: Unassigned Lands, Makai of (3) 1-2-1.

Morris Atta of Land Division informed they could revisit for sufficient access.

Member Pacheco reported that the property is surrounded by lava flow.

Item D-9 Reconsideration of Rent under General Lease No. S-5209 to West Maui Veterans Club, Inc., Lessee, for Clubhouse and Allied Purposes, Lahaina, Maui, Tax Map Key: (2) 4-5-14: 51.

Item D-12 Issuance of Direct Lease to Coalition for Specialized Housing for Low-Income Rental Housing and Related Purposes, Waimano, Oahu, Tax Map Key: (1) 9-7-19: 35.

Item D-13 Grant of Term, Non-Exclusive Easement to Pearl City Business Plaza Associates for Access Purposes, Waimano, Oahu, Tax Map Key: (1) 9-7-19: Portion 35.

Unanimously approved as submitted (Pacheco, Schuman)

Adjourned. (Agor, Pacheco)

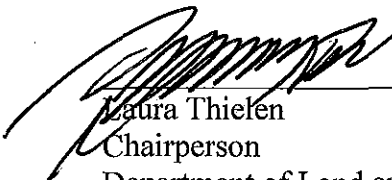
There being no further business, Chairperson Thielen adjourned the meeting at 12:25 p.m. Recordings of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Adaline Cummings
Land Board Secretary

Approved for submittal:



Laura Thielen
Chairperson
Department of Land and Natural Resources