

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

DATE: WEDNESDAY, SEPTEMBER 22, 2010
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 9:03 a.m. The following were in attendance:

MEMBERS

Laura Thielen
Rob Pacheco
John Morgan
David Goode

Ron Agor
Jerry Edlao
Dr. Sam Gon

STAFF

Morris Atta/LAND
Michael Constantinides/DOFAW

Sam Lemmo/OCCL
Scott Fretz/DOFAW

OTHERS

Randy Ishikawa, Deputy Attorney General
Heidi Meeker, D-3
Stan Fujimoto, K-1

Barbara Long, D-2
Janice Takahashi, D-3
Glen Toyama, K-1

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

Item D-2 Amend Governor's Executive Order No. 4117 to the County of Maui Purpose From Social Service Programs to Social Services, Education, Agriculture and Related Support Purposes; Makawao, Maui, Tax Map Key: (2) 2-5-004:014.

Morris Atta, Land Division Administrator conveyed that this item is a request to amend an existing Governor's set aside to the County of Maui currently designated for Social Services purposes, but the County is requesting to expand that request to include education, agriculture and other related services. Staff is in agreement and in support.

Member Edlao pointed out that that there is a new planning director.

Barbara Long representing Friends of Old Maui High School distributed a hand out to the Board members and testified asking for approval of Item D-2. It was approved by the previous planning director and is supported by the current planning director. Ms. Long related some history regarding the property and asked for support.

Member Gon asked whether Ms. Long was fine with all the recommendations and Ms. Long said she was.

Member Edlao moved to approve as submitted. Member Gon seconded it.

Unanimously approved as submitted (Edlao, Gon)

Item D-3 RESUBMITTAL: Special Acquisition of Private Lands and Set Aside to Department of Education for Educational Purposes, Honouliuli, Ewa, Island of Oahu, City and County of Honolulu, Tax Map Key: (1) 9-1-069:027, from Item M-4 of the September 9, 2010 Land Board meeting.

Mr. Atta reminded the Board that they approved this item at the last Board meeting, but certain exhibits were missing from the submittal and was not incorporated into the action. This resubmittal is to incorporate those exhibits in the approval.

Heidi Meeker and Janice Takahashi were present.

A motion to approve was made by Member Morgan and seconded by Member Gon.

Unanimously approved as submitted (Morgan, Gon)

Item K-1 Conservation District Use Application (CDUA) HA-3549 by the Hawaii Housing Finance and Development Corporation for the Keopu Well, Reservoir, and Transmission Line at Hienaloli, Lanihau, North Kona, Hawaii, TMK (3) 7-5-013:022

Sam Lemmo representing Office of Conservation and Coastal Lands (OCCL) reported that the current land owner is DOFAW (Division of Forestry and Wildlife) and HHFDC (Hawaii Housing Finance and Development Corporation) proposes to develop a well on the property which he gave details on along with some history. This will increase water sources in the area. Development involves installing a submersible pump, building a big reservoir, upgrading the access road, fencing, drainage well, landscaping, etc. There is an

analysis in the report where the system will produce 10 million gallons per day with the potential of 16-18 million gallons per day based on projected use. HHFDC plans to turn this over to the Department of Water Supply which means the site will have to be withdrawn from the Forest Reserve and possibly setting aside a new EO to the Department of Water Supply. DOFAW contacted Mr. Lemmo with concerns in maintaining access to the area having some oversight on how the actual well system and access areas are being developed and how these areas are handled and turned over to those parties. DOFAW staff is proposing some language that relieves them of any future concerns with access to the area or control of the area. Staff recommends moving forward with this project with additional amended language from DOFAW. This language was forwarded to the Housing Authority.

Chair Thielen asked for clarification on who the land is EOed to? Mr. Lemmo said the land is Executive Ordered to Forestry and Wildlife, the whole TMK. The Chair asked whether HHFDC has an easement for the well area. Mr. Lemmo said he didn't know what instrument they had for the exploratory well.

Member Gon wondered whether this is the only access route to the Forest Reserve for management. Member Pacheco said there is no public access. Member Gon asked which Forest Reserve this was. Michael Constantinides (DOFAW) said Honuaula. Staff doesn't have proper management access and this property was set aside for that purpose.

Stan Fujimoto representing HHFDC testified that he did receive the amended language and understands the concern for access. They did send the sub-division layout to Forestry which is in Exhibit 2. There was some discussion on where the overall road and parcel is referring to Exhibit 2, 4 and 5 which looks like around the 1700 foot elevation. Chair Thielen asked whether HHFDC had an easement and Mr. Fujimoto said they don't have any property interest. The Chair asked whether this is for affordable housing units for the County and Mr. Fujimoto acknowledged that.

Member Goode asked whether HHFDC did the exploratory well and was there a right of entry? Mr. Fujimoto confirmed and acknowledged that there was consent. Member Goode said now you are looking for the permanent well and the reservoir will be up mauka. Mr. Fujimoto acknowledged that this will help DOFAW's access to the area, too.

Chair Thielen asked whether the proposed language of the condition was acceptable? Mr. Fujimoto acknowledged that they understand the consequences and concerns. The Chair asked whether it would be feasible to have access pass by there to get up to the Forest Reserve. Mr. Fujimoto said he can't say it will not be feasible and will work with the Board and Forestry. There was some discussion about getting a key, but this is for open access and a key to secure the Board of Water Supply facilities.

Glen Toyama, consultant for HHFDC testified that there will be an access road that comes up to the well site and continue to the reservoir where at that time they thought an easement would be adequate to serve that access. A well site and reservoir site would have its own parcel with a chain link fence where you wouldn't need a gate down at the

highway. He suggested that DOFAW's access could come off that road somewhere. Chair Thielen noted that they may need to go through a conservation district process as well. Mr. Lemmo said they will have to come back a couple times on this one.

Member Goode asked about the 12 foot wide road. Mr. Toyama said it's for periodic maintenance where there will not be much traffic. If DOFAW plans to use it for public access then they will have to work out something. The Chair suggested DOFAW give HHFDC a point of contact after the meeting.

Mr. Toyama noted one of the conditions says to begin within one year of approval and asked if maybe two or three years would give them breathing room because of negotiations. Mr. Lemmo said he doesn't think they (HHFDC) will make the one year and he doesn't want it to automatically expire and suggested giving three years to initiate and five years to complete. Chair Thielen said to change condition #5 "...within three years...completed within five years..."

Mr. Toyama also noted they are not doing residence. The Chair said to delete out of #5 "of the residence".

Member Goode asked whether the proposed conditions for DOFAW are potentially open ended. The purpose of all this is a large affordable housing project. He thinks the work they are committed to needs to be done, but any additional work should be born by whomever they are going to work with. Perhaps widen the road or build a parking facility at the mauka end of the road, but it shouldn't be put on the backs of the affordable housing project. Mr. Constantinides said the parcel is approximately 500 feet in width and the reservoir is 150 feet diameter. Staff doesn't expect the applicant to bear any unreasonable costs and widening the width of the road to 15 feet is reasonable. Member Goode agreed with Mr. Constantinides that negotiations will be in good faith and it's a win-win for everyone. He didn't want it to be an opportunity for one agency to pick on another agency.

Member Pacheco made a motion to approve as amended. Member Goode seconded it.

The Board:

Amended staff's recommendation #5 by deleting [one year] and adding three years, deleting [of the residence], deleting [three] and adding five and adding a new condition #16 as written by DOFAW. The new recommendation #5 will read as:

5. Any work or construction to be done on the land shall be initiated within three years of the approval of such use, in accordance with construction plans that have been approved by the Department; further, all work and construction of the residence and infrastructure must be completed within five years of the approval.

The new #16 will read as:

16. The DLNR Division of Forestry and Wildlife (DOFAW) plans to develop a public access road from Mamalahoa Highway to the mauka boundary of

TMK (3) 7-5-013:022, which passes through or adjacent to the areas requested by the applicant for water development. The applicant shall consult and negotiate with DLNR DOFAW to develop mutually agreeable terms relating to access and road requirements, well and reservoir construction, including: Specific ground locations for these items: responsibilities of various parties in development, construction, and maintenance of said infrastructure, and; defining the final "limit of well site" land area and the potential need for surveys, subdivisions, set-asides or easements.

Unanimously approved as amended (Pacheco, Goode)

Item C-1 Request for Approval of Three Forest Reserve Management Plans: 1) Lihu'e-Koloa Forest Reserve, Lihu'e and Koloa, Kauai, 2) Halele'a Forest Reserve, Hanalei, Kauai, and 3) Waihou Spring Forest Reserve, Makawao, Maui

Michael Constantinides representing DOFAW said Item C-1 stands as submitted.

Member Gon commented that this item is nice to see and lays the ground work for continued management for those resources. Mr. Constantinides thanked the Board.

Unanimously approved as submitted (Gon, Morgan)

Item C-2 Request for Approval to Enter into a Contract with Glad's Tree-Trimming and Landscaping Inc. to Cut and Chip 60 Acres of Non-Native Trees in Kanaha Pond Wildlife Sanctuary, Maui, for the Division of Forestry and Wildlife

Mr. Constantinides conveyed this is a request to clear 60 acres of kiawe trees and he noted that their environmental compliance section was absent in the document which he wanted to add and distributed it.

Scott Fretz representing DOFAW staff testified that under the new rules there is real specific restrictions on when it's open and when parts are open from August to April during the non-breeding season and restricted to trails and roads only. Other than that it's open. Member Pacheco asked whether they can do birding there. Mr. Fretz says they can that there are commercial permits to do that to.

Member Goode said that this is a special management area by the County of Maui and there are special exemption classes for that. It is his understanding it might be exempted and that you need to get a national exemption application. Kanaha is on the main drag and everyone will see this work. Mr. Fretz said he contacted the County administrators of the long range and short term planning where under their definitions this is not required and to confirm or delete. They haven't gotten back to staff yet. It's still going through the process.

The Board decided to add the recommendation to the submittal.

Mr. Fretz said the restriction is between September through March.

Member Goode moved to approve as amended. Member Agor seconded it.

The Board:

Moved to amend staff's submittal by adding the following:

In Accordance with the "Exemption List for the Division of Forestry and Wildlife of The Department of Land and Natural Resources, Reviewed and concurred Upon by the Environmental Council on June 12, 2008, " the proposed activities are exempt from the preparation of an environmental assessment. Specifically, the proposed activities fall under Exemption Class 4, "Minor alteration in the conditions of stands form impenetrable cover. Division analysis of the proposed action concluded it will provide a positive environmental benefit and will be done in a manner to have no negative impact on the conditions that define the area. Furthermore, the cumulative impact of those and similar actions over the duration of the contract from October 1, 2010 through June 30, 2012 will not have a significant adverse impact and will have minimal or no significant effect on the environment and are exempt from the need to prepare an environmental assessment.

Unanimously approved as amended (Goode, Agor)

Item D-1 Issuance of a Right-of-Entry Permit to the Department of Accounting and General Services on State Encumbered Lands, Dams and Reservoirs on Kauai; Dam Maintenance and Remediation Improvements for Aahoaka, Hanamaulu Field 21, Wailua, Upper Kapahi and Lower Kapahi Dams and Reservoirs, in Wailua, Kapaia, and Kapahi, Kauai; Tax Map Keys: (4) 3-9-2:1, 20; 4-2-1:4, 5, 8; 4-6-7:11; 4-4-4:4; 4-6-6:7; 4-6-32:22.

Mr. Atta noted that this submittal was drafted for a term of two years, but because this is issued under 171-55 these permits are limited to one year and can be renewable. Staff's recommendation is to amend to a one year permit that is renewable annually.

The Board:

Amended the submittal by: changing the term of the right-of-entry permit from two (2) years to one (1) year, renewable annually as needed. Otherwise, the Land Board approved staff's recommendations as submitted.

Unanimously approved as amended (Agor, Pacheco)

- Item L-1 Request Authorization to Select and Retain a Consultant to Develop a General Operations and Maintenance Manual Template for Dam Owners and Related Dam Safety Technical Guidelines and Authorize the Chairperson to Negotiate and Execute Agreements as Necessary as Authorized under Chapter 179D HRS, Entitled the Dam and Reservoir Safety Act of 2007**
- Item L-2 Certification of Election of Mauna Kea Soil and Water Conservation District Directors**
- Item L-3 Approval for Award of Construction Contract for: Job No. F46C602C, Kokee State Park, Kokee Road Improvements, Waimea, Kauai, Hawaii**
- Item L-4 Removal of Dam Structure from Regulated Status E-13 Reservoir (HI-0027) Island of Hawaii**

Unanimously approved as submitted (Morgan, Edlao)

Adjourned (Pacheco, Gon)

There being no further business, Chairperson Thielen adjourned the meeting at 9:43 a.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