

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

DATE: THURSDAY, MARCH 10, 2011
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HI 96813

Chairperson William Aila called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

MEMBERS

William Aila, Jr.
David Goode
Jerry Edlao

Ron Agor
John Morgan

STAFF

Russell Tsuji/LAND
Alton Miyasaka/DAR
Dan Quinn/PARKS

Dr. Bob Nishimoto/DAR
Carty Chang/ENG
Denise Manuel/ENG

OTHERS

Bill Wynhoff, Deputy Attorney General
Bob Hamilton, D-5
Randy Vitousek, D-2

Terry LeGrange, D-5
Sebastien Bash Nola, D-4

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

A number of written testimonies was received and distributed.

Item A-4 February 11, 2011 Minutes

Approved as submitted (Morgan, Edlao)

Item A-1 December 9, 2010 Amended Minutes

Item A-2 January 13, 2011 Amended Minutes

Item A-3 January 27, 2011

Approved as submitted (Morgan, Goode)

Item D-5 Issuance of Revocable Permit to Hilton Hawaiian Village LLC for Purposes of Beach Activities to be held on March 27, 2011 at Duke Kahanamoku Beach, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:portion of 021.

Russell Tsuji representing Land Division said not to confuse this item with the other concession at Duke Kahanamoku Beach. Land Division had a concession agreement for as long as five years at Duke Kahanamoku Beach previously, went out to public process and the original winner of the sealed bid process was Clyde Aikau who subsequently filed for bankruptcy and that concession agreement was acquired by Hilton. Since that time it expired and staff went out for the second one. Hilton is in a law suit between DLNR and the other bidder which is not related to this beach concession activity.

Terry Le Grange, Assistant Director of Events for Hilton Hawaiian Village testified that this is a one day event for a convention luau and they wanted the stage on the beach which will go over the sidewalk where half is Hilton's land and half is the State's. They are cautious to do footers under the stage because of the membrane under the sand. It will go up in the morning, have the event in the evening and will be taken down that night.

Bob Hampton, President of Waikiki Beach Activities, a partner introduced himself and was in support.

Out of curiosity, Member Edlao asked how staff came up with the \$600 figure. Mr. Tsuji said it was based on the square footage being used and the time.

A motion to approve was made by Member Morgan and seconded by Member Goode. All voted in favor.

Unanimously approved as submitted (Morgan, Goode)

Item D-4 RE-SUBMITTAL. Cancellation of Revocable Permits Nos. S-5834 and S-5835 issued to the Hale Pau Hana Homeowners Association and Issuance of a Term, Non-Exclusive Easement to the Association of Apartment Owners of Hale Pau Hana for Rubble Rock Retention Wall, Concrete Stairways, Landscaping and Maintenance Purposes, Kamaole Beach Lots, Kamaole, Kula, Maui, Tax Map Key (2) 3-9-005: Portion of 001.

Mr. Tsuji reminded the Board that this was a submittal from the last Board meeting requesting the Board to approve the issuance of a long term easement that the abutting private property owner is a condominium, Hale Pau Hana Homeowners Association, and was previously on a 30 day revocable permit that could be annually renewed for landscaping, a seawall, trees, ground cover maintenance and that they will handle the maintenance of this particular area. The applicant is concerned with what the rent will be, as explained in the submittal, its standard and statutorily that staff has to appraise the value to come up with the rent and the applicant will need to make a deposit for the cost of the appraiser then staff will procure that and get it done. If the applicant is not able to make the payment at the time, another option suggested by staff is to possibly offer an installment plan paid over time and interest will be incurred on that.

It was asked by Member Edlao whether it will be independent or staff appraisal where Mr. Tsuji said it will be independent.

Member Goode asked whether it's a one time fee for these types and Mr. Tsuji confirmed that saying Land Division was trying to get out of those annual payments because it's more work for staff and this is one way of shortcutting it. In the event the owner doesn't come up with the full one-time rent payment then an installment plan is an option. It may not go as long as the term of easement.

Sebastian Bash Nola, President of the Association of Apartment Owners at Hale Pau Hana distributed his written testimony and testified relating some background history on the condominium. The association is supportive of staff's proposal of the long term lease and Mr. Nola related details of that lease. The AOA does have a concern regarding the timely determination of the assessed value of the landscape and revetment area which would translate into a one time lease payment. The AOA is willing to work with DLNR and its appointed appraiser to determine the fair appraisal on the state property.

Member Edlao asked whether Mr. Nola was in agreement of the recommendation. Mr. Nola acknowledged that, but the concern is the timing of the process and that they would like to work with staff to set up a schedule. As for the one time payment versus an installment payment that would have to be determined upon the fair market value or the estimate that comes up and they want to participate in that process.

Chairperson Aila noted from Mr. Nola's written testimony for consideration that they will continue to keep this property open to the public. Mr. Nola said absolutely, which was pointed out in the report.

Member Edlao asked since this will be open to the public is there any kind of discount in the appraisal for that. Would the appraisers take that into account? Mr. Tsuji said that we have a number of non-exclusive easements open to the public and what he cannot say is whether it would be a significant discount giving the example of the Kaneohe Bay piers which is non-exclusive. He knows it will be taken into account, but can't guarantee a significant discount.

Member Edlao asked if an installment payment has to be made would it have to come back to the Board. Mr. Tsuji said if we want to keep that option open we may want to add a recommendation to allow and delegate authority to the Chairperson. Member Edlao agreed and asked where he would put that. Mr. Tsuji said to add a condition #3. G. The Chairperson is authorized to negotiate an installment agreement to the extent it becomes necessary. Mr. Nola agreed to that.

Member Goode asked on the appraisal process part of the agenda, the concerns are how to value an appraisal like this which is sometimes harder on the science. Is there a process if they (the owner) disagree with the appraisal? Can they hire another appraiser or use another appraisal process? Mr. Tsuji confirmed that is an option. If the owner disagrees they have the option of obtaining their own appraiser. If the two cannot agree they will have to proceed in arbitration and submit a third, but that is a costly way. Member Goode asked whether that was through a rule process. Mr. Tsuji said it is statute.

Mr. Nola noted that they do have an existing revocable permit which they pay a monthly fee on that they got a benchmark from which to work from.

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

The Board:

Approved as amended. Paragraph 3 of the Recommendations Section was amended by adding a new subparagraph G:

G. The Chairperson is authorized to negotiate an installment agreement for the one-payment for the easement to be paid over time, with interest, as may be necessary or appropriate.

Unanimously approved as amended (Edlao, Agor)

Item F-1 Amend Prior Board Action of October 28, 2010, Item F-3: Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Commanding Officer Anita Lopez, National Oceanic and Atmospheric Administration (NOAA) Ship OSCAR ELTON SETTE, for Access to State Waters to Conduct Shipboard Support Activities; Due to Personnel Change

Dr. Bob Nishimoto representing Division of Aquatic Resources testified that he will be doing Items F-1 and F-2 and conveyed (for Item F-1) that Commanding Officer Anita Lopez will be replaced by Lieutenant Commander Frank Dreflak and all aspects of the submittal will not change only the sections replacing the commanding officer. DAR and the Marine Management Board (MMB) were consulted and they suggested this request be approved and staff recommends approving this amendment to the permit.

Member Morgan moved to approve as submitted. Member Agor seconded it. All voted in favor.

Unanimously approved as submitted (Morgan, Agor)

Item F-2 Amend Prior Board Action of October 28, 2010, Item F-2: Request for Authorization and Approval to Issue a Papahānaumokuākea Marine National Monument Conservation and Management Permit to Commanding Officer John Caskey, National Oceanic and Atmospheric Administration (NOAA) Ship HI'IALAKAI, for Access to State Waters to Conduct Shipboard Support Activities; Due to Personnel Change

Dr. Nishimoto related that this is an identical request (as Item F-1), but for the NOAA ship Hi'ialakai. This is to add Commander Michael Ellis and the amendment is to include both Caskey and Ellis to be the applicants for this permit. Both DAR and the MMB support this amendment and staff requests the Board recommends their suggestion.

It was moved to approve by Member Morgan and seconded by Member Agor. All voted in favor.

Unanimously approved as submitted (Morgan, Agor)

Item F-3 Request for Approval of Special Activity Permit 2011-14 for Dr. David Ziemann, The Nature Conservancy Hawaii, to Conduct Alien Marine Algae Removal and Native Marine Algae Replanting in Maunalua and Kaneohe Bay, Oahu

Written testimony was received from Malama Maunalua.

Alton Miyasaka representing DAR conveyed on the background of the item that there is interest to remove alien marine algae from these areas. The reason is when the rule was first adopted it included all Gracilaria species at the time. Since then this alien species was introduced and was inadvertently included in the regulation and that is why the need for this permit to remove this alien species.

Member Morgan disclosed that Moli'i Fishpond is one possible site and they (Kualoa Ranch) are the owner of that fishpond.

It was asked by Member Edlao what is done with the alien algae when it's taken away. Dr. David Ziemann representing The Nature Conservancy said it's going to local farmers for composting which is part of the larger ARRA project at Maunalua Bay.

Member Morgan asked it says only disposed of at Hawaiian Earth Products. Wouldn't you want to give it to any farmer? Dr. Ziemann agreed to that. Mr. Miyasaka explained that there is composting at two sites and the farmers can pick-up from there.

Member Morgan made a motion to approve as submitted. Member Edlao seconded it. All voted in favor.

Unanimously approved as submitted (Morgan, Edlao)

Item L-2 Application for a DLNR Dam Safety Construction/Alteration Permit, Permit No. 39 - Omao Reservoir (HI00113) Dam Removal, Omao, Kauai, Hawaii

Carty Chang representing Engineering Division briefed the Board on this item's background. The removal process involves excavating the channel within the embankment to bring the levels down. Chapter 343 analyses deemed this is entirely on privately owned land and there is no trigger or EA requirement. Staff requests the Board's approval to issue the permit as well as removal of the dam from regulatory oversight from the Board's jurisdiction.

Member Agor commented that he liked the 343 analysis.

Bill Ruddiman representing ARCADIS was here for any questions.

Member Agor made a motion to approve as submitted. Member Goode seconded it. All voted in favor.

Unanimously approved as submitted (Agor, Goode)

Item D-2 Re-Submittal: Rescind Prior Board Action of November 9, 1990, Item F-2; Conveyance of Remnants to County of Hawaii; Issuance of Immediate Management Right-of-Entry to the County of Hawaii, Holualoa 1st and 2nd Partition, North Kona, Hawaii, Tax Map Key: (3) 7-6-16:13 and Road Remnant A.

Mr. Tsuji reminded the Board that this is a re-submittal from the last Board meeting because of a call from Mr. Sandusky to postpone and because the County did not show up postponing this item to today to give Mr. Sandusky time to present testimony probably in opposition to the staff submittal. Mr. Tsuji related some background history to sell the remnant parcel to either Mr. Sandusky or his predecessor which was approved by the Board. Subsequent to that, the County and the public became aware of it and asked DLNR to hold on to the property hoping to transfer over to the County who had plans for the area for a flood control project. The Board approved that request and indicated in better economic times would acquire Mr. Sandusky's property. There has been no money to do such an acquisition. This is staff's clean-up of a file for the Board to approve the conveyance of the property remnant over to the County. Mr. Tsuji is sure that the County will proceed with all the required permitting and environmental reviews. This is exempt from Chapter 343 which is continuing the property in its current location. Staff requests to add this to the recommendation.

Randy Vitousek from Cades Schutte representing Mr. Sandusky distributed written testimony referring to the map that Mr. Sandusky is the current owner of parcel 32 which includes the area that is green and yellow on the letter he had handed out. That parcel abuts with parcel 13 which is the State owned remnant and Ali'i Drive is mauka of that. North of that is Hale Halawai O Holualoa which is a historic church general leased to the Hawaii Conference Foundation on State owned land. What they understood was back in 1989 the Board approved sale of parcel 13 to Mr. Sandusky's predecessor in title which he applied a sale of road remnant to the abutting owner which was approved by the Board and was done in January of 1989. The County objected to that, after the fact, and there were some discussions. In October of 1989, the Board rescinded the action of January 1989 and voted to acquire parcel 32 with the idea of combining it with the road remnant to do a public park. With money issues, the State never proceeded with the acquisition and down the road Mr. Sandusky acquired the property and applied for a sale of the pink or purple portion of the remnant to him. Back in 1989 when the previous owner applied to acquire the remnant they discovered that the house built on parcel 32 encroached into the road remnant and at that time the Board fined the owner for the encroachment and they proceeded with approving the sale. The issue is complicated. Mr. Sandusky applied to the State to acquire the part outlined in pink, a portion of the road remnant to cure the encroachment and preserve his access to Ali'i Drive. Instead of putting that application before the Board, what staff has done was put before the Board a recommendation that the road remnant be given to the County. The idea is rather than consider Mr. Sandusky's application to acquire that portion of the easement to preserve his access, which looks to Mr. Vitousek as a punt, and he completely understands it because there are road issues that have been a problem to both the State and County on all islands. But, what their position is Chapter 171-52 is specific, I think, and there is a quote from this chapter in the letter where it says in dealing with sales of remnants in the event when one abutting landowner lacks access to the street and such access can be secured by disposition of the remnant such remnant shall be offered first to the abutting landowner or subdivided so as to protect all abutting landowners. It looks to me what staff is saying was that 171-95 on selling State lands to a government agency can trump 52, but I don't think it can trump that provision because what it says is if there is going to be a disposition of a remnant that is going to impact on a private landowner's access to a public street you have to make an accommodation for that as part of the disposition. So what were asking for is that the matter be deferred and the action do two things. One is put the County, the State and the landowner in a room and try to resolve this issue because as you'll notice Mr. Sandusky owns this entire parcel here looking at the map staff gave you. The parcel the State owns is leased by Hawaii Conference Center and Mr. Sandusky also owns parcel 12 which is makai of that parcel and that parcel has been substantially eroded. What should happen is some sort of agreement worked out where a public entity either acquires all of Mr. Sandusky's property or some agreement is made where this parcel 32 and that portion of the remnant get combined so he has access to the highway and the encroachment is resolved and the rest gets acquired for public purposes. Our first request is the matter be deferred and an opportunity to resolve those issues. Our second request is if it's not, then they request a contested case hearing. Under Chapter 91-81.5, the Board has the authority to refer matters to mediation. What really makes sense for the public, the agencies, and Mr. Sandusky is the problem - that it's hard

to get these things done because there is no deadline on it and because people don't have funds. It's hard to get everybody in the same room motivated to reach a result and that is what he would like to see try to happen to get the State, County and Mr. Sandusky put together with the idea to try to get a resolution here whether the State or County acquiring all of it or acquiring parts of it and protects his (Mr. Sandusky's) rights under the law and that is our request.

Member Goode asked whether Mr. Vitousek's client has seen what the County's plans are. Mr. Vitousek confirmed that and he believes the County's plan is to do a park and to do a parking area. It doesn't show on any of these maps, but a portion of the shoreline has eroded to the point where he believes the shoreline touches the road remnant. Member Morgan asked whether that was the skinniest part of the bow tie area and Mr. Vitousek confirmed that. Mr. Sandusky understands that this is not a buildable portion of the lot and is comfortable with the idea of selling it all to the State or County depending on what they offer which is a necessary consideration. Mr. Sandusky is not opposed to selling the portion makai of the church. He is not opposed to selling the house. What's been happening is this is one of those situations where because no one has the money to proceed with the condemnation there may be some effort to prevent him from getting something of economic value so it won't increase the value they have to pay later. I think he (Mr. Sandusky) is entitled under the law to access. We don't want to see his access get cut off and they turn around and say you are encroaching you have no access and your property has no value. Member Morgan said it was approved in 1989 and he was fined after all these years. Mr. Vitousek said it would be better to find a vehicle. One way is to grant a contested case rather than deferring, either way it's your call. The best mechanism is to try to get everybody in the same room to try to figure is there a way to resolve it or not and if it doesn't then everyone does what they have to do.

Member Goode stated it will cost the State money and the applicant money. Mr. Vitousek agreed and said it's not an ideal situation, but land owners and lawyers would sometimes work better if there are deadlines opposed to being completely open ended.

Member Morgan asked whether he knew from a legal stand point if a consolidation re-subdivision is possible to get that portion in the purple and 32 in the green. Mr. Vitousek said he understands it would be possible and he thought the County would be motivated to do it as a result of it giving the example of the yellow part was consolidated into whatever the County or State ended up owning as a remnant. I think it's quite a doable situation. People need the motivation to get it done.

Mr. Tsuji said it was his understanding that this case is not entitled for a contested case under SHARMA which says land is positioned by the Board are not subject to a contested case. Here it might have been a Land Board meeting approval where there was no document executed that gives them any contested rights and that was his understanding. On the issue of a road access, what I don't understand from Mr. Vitousek's comments is what would prevent the County from providing Mr. Sandusky road access. I would not want to see this matter delayed and still remain in the hands of this Department and the Land Division who is strapped financially right now. The

County is willing to take it right now and he doesn't see any reason for delaying that. There is nothing preventing Mr. Sandusky from seeking some kind of access right from the County and going through that process. On the statutory reference that Mr. Vitousek mentioned and the abutting property owners, it was his understanding that first section is dealing with a situation where you have multiple abutting private property owners and it says if there is more than one interest you should offer it to the most abutting and not just stick to one. Here we have a different scenario where we have a County which is a government agency involved who wishes to purchase these lands; it could be done in several ways. A remnant and a deed conveyance is one way, but nothing would prevent the Board from granting a Governor's Executive Order for the exact same land to the County which is authorized. And again, none of those necessarily preclude the County from or Mr. Sandusky requesting from the County some form of access to his parcel.

Member Goode asked whether there were existing easement over these remnants to Mr. Sandusky. Mr. Tsuji said not that he knew of. It would be noted if there was. He was sure there is none. Member Goode asked how long has the house been there. Mr. Vitousek said since 1966. Member Goode asked perhaps there is some prescriptive right. Mr. Vitousek said not against the State or County. Member Goode said but it was the old road before they realigned these properties. Mr. Vitousek said there maybe some even by implication. Unfortunately, you don't get to run prescriptive rights with the State or County.

Member Morgan said it does sound like a punt that we have dealt with this long enough and to give the whole thing to the County and they can deal with it. He asked is there missing urgency on the State's part too. They have been hanging fire for quite a long time here. Is there a reason why we can't get everybody into a room and craft an agreement where there's a consolidation re-subdivision – the State gets the best of everything, the County gets a park and Mr. Sandusky gets a contiguous lot with access to Ali'i Drive. Mr. Tsuji said this is the first he has seen when the submittal came in and asked has Mr. Sandusky gone to the County to request for the road. Mr. Vitousek said he can't since the State owns the road. The County is another abutting land owner and it's hard to say there's another abutting landowner is something entirely different. The County has approached Mr. Sandusky about acquiring this property and that's true, but again the County has a limited pool of funds available under the open space fund and right now doesn't have the funds to acquire anything and that's on hold. The problem is the property owner is caught in limbo and needs to take some action to make sure the decision gets decided. The idea to punt this to the County is definitely not going to work because the Land owner is going to pursue this whether or not they are going to contested case. They can through litigation and they can challenge the 343 exemption which seems to be quite questionable given the fact that it's a disposition of State lands. We really want to force the issue in order to get everybody to the table.

Member Morgan asked the issue is how big a piece of the pie Mr. Sandusky ends up with. Mr. Vitousek said I think the issue is one, there would be a consolidation resulting in the County getting a lot of what it wants and Mr. Sandusky getting a lot with access to the road. Or, if the County wants to pursue condemnation of all of it, that's open. That is

an open discussion. Member Morgan said what he is saying is Mr. Sandusky sees a threat of ending up with the green portion. Mr. Vitousek said exactly, he sees it as a threat where the County is pursuing to get this remnant in order to have more leverage against Mr. Sandusky in its condemnation discussion because they will turn around and say you don't have access. You're encroaching, take the house down and you're out of here. Partly, fair is fair, and the County and the State has the right to condemn and exercise eminent domain power. There is a lot of constitutional protection to land owners to make sure that be done by due process and just compensation be paid. This part of what we feel is avoiding any unfair advantage being given to a party that is trying to acquire the property by eminent domain.

Mr. Tsuji said unfortunately, there is no representative from the County here and they would be better to respond about this allegation that this whole thing is about a strategy to fine him in violation of the house. Member Morgan said in light of that he supports deferring that to get some discussion on what the County's position might be and their intent might be.

Member Morgan made a motion to approve as submitted. Member Goode seconded it saying that he supports the motion although we need all the parties together to figure it out. Ultimately, he is not inclined to give all the remnants to the County or all the remnants to Mr. Vitousek's client. He thinks it's fair and there seems to be a split somewhere that makes sense and how the conversation works is to be determined.

Member Edlao agreed with that since we're missing a third party and in all fairness. We need to put a timetable on this because scheduling things could go on and on and asked if we could put a timetable of 90 days or something. Mr. Vitousek said great.

Member Morgan amended his motion to come back to the Board in 90 days and acknowledged that Mr. Vitousek referenced Mr. Sandusky's ownership of parcel 12 and showed an inclination for some kind of settlement that is equitable to all parties. He amended his motion to defer with a request that you come back in 90 days with a representation from the County.

Mr. Tsuji clarified the extent the Land Division rules might be playing in this and asked whether Mr. Vitousek should approach the County to work something out. Member Morgan acknowledged that the State doesn't have control over the County realizing nobody does, but it's what we should do and come back in 90 days. Member Goode seconded the motion as amended. The Board voted in approval.

Deferred for up to ninety (90) days. (Morgan, Goode)

Item D-6 Issuance of Revocable Permit to Hawaii Explosives and Pyrotechnics, Inc. for Aerial Fireworks Display to be held on March 28, 2011 at Duke Kahanamoku Beach, Waikiki, Honolulu, Oahu, Tax Map Key:(1) 2-3-037:021 portion.

Mr. Tsuji asked to withdraw this item because the event was cancelled.

Withdrawn; event cancelled. (Morgan, Agor)

Item D-1 Request to Write-Off Uncollectible Accounts: Ralph Adamson owing \$4,395.53 on the Island of Kauai; Miles Conley owing \$2,366.70 and George Dela Cerna owing \$408.90 on the Island of Oahu.

Item D-3 Issuance of Revocable Permit to the Pacific Whale Foundation to Utilize State Lands for a Coral Reef Naturalist Information Station at Ulua Beach, Paeahu, Honuaula, Makawao, Wailea, Maui, Hawaii, Tax Map Key: (2) 2-1-008: Seaward of 088.

Mr. Tsuji had no changes.

Unanimously approved as submitted (Morgan, Edlao)

Item E-1 Request for a Special Use Permit from the World Triathlon Corporation to Use the Hapuna Beach State Recreation Area to South Kohala, Hawaii for the 2011 Rohto Ironman 70.3 Hawaii

Dan Quinn representing State Parks conveyed the background of this request and event. He disclosed his daughter will be a competitor in this event and that he recommended approval for several years prior to her being a participant. Staff finds that the action is exempt from Chapter 343 under our State Parks exemption class 1 and would also ask that the Board find that this activity have no significant impact on the environment in our recommendations. This recommendation includes a request to delegate to the Chairperson approval of future events. The applicant has a blanket approval from here on out. Staff's preference is to still have something to review on a regular basis, but to delegate from the Board to the Chair.

Member Edlao asked how staff came up with the \$100 per day citing other events as examples. Mr. Quinn explained to his best recollection it was set by the Board years ago as a nominal fee to help with the additional administrative effort and the use of the State Park for this kind of big event. He doesn't think there was anything cast in concrete. And he doesn't think even through their Recreational Renaissance Program that we established that as a hard fast number. Mr. Quinn said he could look back to see what fees were approved by the Board for the Recreational Renaissance, but doesn't recall it establishing a \$100 fee as a fee that's standard. To his recollection it was more something the Board has the authority to adjust. To shorten it he wants to make sure we have the authority to adjust on a permit by permit basis and he thinks we probably do. State Parks fees are set by the Board whether permit by permit basis and you have the authority to do so that he couldn't be positive, but probably so.

Member Edlao said he doesn't want to hold up anything and that staff should go back and look at future events in regards to the fee because a hundred dollars doesn't seem appropriate in his mind.

Member Morgan agreed that they (his business) are in the business of hosting these describing the Xterra Run and triathlons where they charge a per person fee. Maybe either or a minimum of "X" plus that they need to recover costs and he supports that.

Member Edlao said maybe five bucks or something that the Xterra Run is there for a few hours where this event is there for several days and there will be an impact to the environment with a whole bunch of people here. We need to re-evaluate these fees so staff can take care of the parks. Mr. Quinn said we certainly will. Many of the events approved by the Board or delegated to the Chair are community gatherings that may have to be looked at by square footage. Most are community non-profit gatherings. Member Morgan noted this is a for profit venture and Mr. Quinn acknowledged that. Member Morgan said presumably all organized sports events like this are. Hopefully the money can stay within the Department. Chair Aila said that we could work on an analysis for a more appropriate fee schedule. Mr. Quinn said we can work with Land Division not that we would necessarily be going at the same level, but as a basis.

Member Edlao said that staff has to reassess fees and has started that. This is something for profit, televised all over the world, and these guys are going to make money. He would like to change the fee, but at this point he didn't want to hold it up. Mr. Quinn said not to speak for the applicant and based on the size of the event if there was an increase in the amount it's not going to be a deal killer for them and suggested they could double it which isn't significant, but would help cover...

Member Morgan asked how many participants did they say. Mr. Quinn said they max out at 1800. Member Morgan said we should go to \$500 which is a tiny amount to at least give the applicant notice and they can blame us.

Member Morgan made a motion to approve staff's recommendation to increase the fee from \$100 to \$500 dollars. Member Edlao seconded that.

Mr. Quinn asked per day because it is a three day use of the park. Member Morgan said it is still less than \$1 per person. Their entry fee has got to be \$70-\$80 or something like that. Mr. Quinn said that if there is a problem we could revisit this with the Board and if we contradicted somehow on an earlier approval. The Board should have the authority to adjust the amount. Member Morgan noted with this motion it delegates to the Chair and if there are any problems they could come back to the Chair.

Mr. Quinn said he requested an amendment to find there was no significant impact to the environment by the Board as one of your findings. Member Morgan said so amended. The Board approved as amended.

The Board:

Amended the amount of \$100 per day to \$500 per day and to add an amendment "To find there was no significant impact to the environment by the Board." Otherwise, the submittal was approved as submitted.

Item L-1 Application for a DLNR Dam Safety Construction/Alteration Permit, Permit No. 50- Hawi No. 3 Reservoir (HA-0050) Dam Alteration/Removal, Hawi, Hawaii

Carty Chang representing Engineering Division briefly described Hawi No. 3 as a high hazard dam, the work to lower the water level, the alteration/removal and Chapter 343.

Member Goode asked who is paying for this. Mr. Chang said it's joint that DLNR Land Division got some CIP money and they also got some private funds from Kamehameha.

Member Goode asked whether the Maui dams were included in that package. Denise Manuel representing Dam Safety said that Land Division received \$14 million dollars to either remove, remediate all of their facilities, and this was included in one of those. Mr. Carty said that the CIP appropriation was \$14-1/2 billion and was for all of Land Division's dams. There are a couple dams that are joint which includes this one.

Member Morgan asked who uses the water. Ms. Manuel said that there is a dairy farmer who uses it for his animals and he has a lease with the State. The farmer is not happy with the eventual size because it's a lot smaller than what he desires. There will be on-going fees to both the owners and the lessee. It does allow for agriculture.

Member Goode made a motion to approve and was seconded by Member Morgan. All voted in favor.

Unanimously approved as submitted (Goode, Morgan)

Item M-1 Issuance of Revocable Permit Ground Transport, Inc. for Inconsistent Use Ualena Street, Honolulu International Airport

Item M-2 Consent to Sublease for Lease No. DOT-A-05-0007 Air Molokai, Inc. to Blue Hawaiian Helicopters Honolulu International Airport

Item M-3 Issuance of a Personal Hangar Facilities Lease Taylor, Alexander R. Kalaeloa Airport, Island of Oahu, State of Hawaii

Unanimously approved as submitted (Morgan, Goode)

Adjourned (Edlao, Goode)

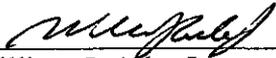
There being no further business, Chairperson Aila adjourned the meeting at 10:11 a.m. Recordings of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Adaline Cummings
Land Board Secretary

Approved for submittal:



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