

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

DATE: FRIDAY, OCTOBER 11, 2013  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813

Chairperson William Aila called the meeting of the Board of Land and Natural Resources to order at 9:03 a.m. The following were in attendance:

**MEMBERS**

William J. Aila, Jr.  
Rob Pacheco  
David Goode

Reed Kishinami  
Shawn Smith  
Dr. Sam Gon

**STAFF**

Roger Imoto/DOFAW  
Ed Underwood/DOBOR

Russell Tsuji/LAND  
Carty Chang/ENG

**OTHERS**

Colin Lau, Deputy Attorney General  
Shaun Moss: D-3  
Heidi Meeker: D-7

Ross Smith: M-1, M-2, M-3  
Dr. Geoffrey Bannister: D-3  
Linda Wong: D-6

**Chairman Aila withdrew Item F-1.**

**Item A-1      June 28, 2013 Minutes**

**Unanimously approved as submitted (Gon, Kishinami)**

**Item A-2      July 12, 2013 Minutes**

**Unanimously approved as submitted (Pacheco, Smith)**

**Item A-3      July 26, 2013 Minutes**

**Chairman Aila deferred approval of July 26, 2013 Minutes to the next Land Board Meeting.**

**Item A-4 August 9, 2013 Minutes**

**Unanimously approved as submitted (Gon, Smith)**

**Item A-5 August 23, 2013 Minutes**

**Unanimously approved as submitted (Kishinami, Gon)**

**Item M-1 Issuance of a Direct Lease to Exacta Sales, Inc. 2875 Ualena Street, Honolulu International Airport, TMK: (1) 1-1-04:08**

Ross Smith, Property Manager, Airports Division, Department of Transportation (DOT), offered background on Item M-1 and requested the approval of the reissuance of a direct 5 year lease to one of the existing tenants. Deputy Attorney General Colin Lau stated that under HRS 171-59, public interest requires that this direct lease needs to be defined by the Board prior to their taking action on this item.

Mr. Smith explained that this direct lease is part DOT's revenue generation program for the airports, which are self-supporting. He added that DOT has adjusted some of their statutes to allow for issuance of direct leases with the approval of the Board to non-aeronautical entities.

Chairman Aila suggested an amendment to this submittal due to the public interest requirement. Member Pacheco asked for clarity regarding DOT's authority to issue direct leases. Mr. Smith responded by defining revenue generation as an airport activity and that under that criteria the Airports Division is allowed to issue direct leases for non-aeronautical activities and that the number of multiple industrial users on Ualena Street continues to increase.

Member Goode asked if there have been other inquires for this parcel.

Mr. Ross Smith responded that there have not been any other inquires for this particular parcel. The Chairman suggested that this submittal be amended to include that it is in the public interest to approve and issue this direct lease.

Member Goode made a motion that the Board accept staff recommendation with the inclusion with the proposed direct lease meets code according to HRS 171-59, as it relates to meeting the public interest.

**Unanimously approved staff recommendation of an amended submittal (Kishinami,Gon)**

**Item M-2 Issuance of an Advertising Concession Agreement at State Airports Within the state of Hawaii Tax Map Key:**

**1<sup>st</sup> Division - 1-1-03: Portion of 1 (Honolulu)**

**3<sup>rd</sup> Division - 7-3-43: Portion of 1 (Kona at Keahole)**

- 3<sup>rd</sup> Division - 2 -1-12: Portion of 9 (Hilo)**
- 2<sup>nd</sup> Division - 3-8-01: Portion of 19 (Kahului)**
- 2<sup>nd</sup> Division - 2-4-03: Portion of 1 (Kapalua)**
- 2<sup>nd</sup> Division - 4-9-02: Portion of 41 (Lanai)**
- 2<sup>nd</sup> Division - 5-2-04: Portion of 8 (Molokai)**
- 4<sup>th</sup> Division - 3-5-01: Portion of 8 (Lihue).**

This is a statewide contract. It is an untapped revenue source for the airport.

Member Gon expressed his concern about the proliferation of advertisements at our airports. Mr. Smith explained that this advertising display is seen at various airports and that presently the only airport advertising is in the call board section, which is up in the baggage claim areas near the shuttle bus pickup sites. He added that DOT will identify specific locations where advertisements are anticipated to be seen in baggage claim areas because this is where most passengers will congregate and he explained that you may also possibly see advertisements as you are exiting aircraft using the jet bridges. DOT intends to limit that use to a single advertisement because two or three could be a little too busy as Member Gon suggested. DOT will give approval on a case by case basis, upon request and that they will also do ongoing visual impact assessments to determine whether or not the airports are becoming too cluttered or not.

Member Gon asked if any organizations have objected to these types of advertisements and Mr. Smith assured him that these advertisements will be kept within the terminal buildings and noted that DOT will not be touching the advertising law, which states that you cannot have advertising that is visible from a public street, unless it is for your specific premises, which is not the case here.

**Item M-3      Rescission of Prior Board Action of November 9, 2012 Under Item M-5 Consenting to an Assignment of State Lease Nos. DOT-A-96-0029, DOT-A-05-0007, DOT-A-06-0012, and DOT-A-09-0003 from Helicopter Consultants of Maui, Inc. to Branford Castle, Inc. Consent to Assignment of State Lease Nos. DOT-A-96-0029, DOT-A-05-007, DOT-A-06-0012, and DOT-A-09-0003 From Helicopter Consultants of Maui, Inc. to Blue Hawaiian Holdings, LLC. TMK: (2) 3-8-01: Portion of 19 (Maui); TMK: (1) 1-1-72:79 (Oahu); TMK: (4) 3-5-01: Portion of 8 (Kauai).**

M-3 involves the tenant securing an investor who will be investing to hit a 20% number which triggers the assignment clauses in leases. DOT is asking for consent to issue that assignment. The same tenant came to the Board last year with the same proposal but now with a different investor. That previous lease was not consummated and now DOT is asking for the rescission of the Board's prior action of November 9, 2012 under Item M-5 and asking of approval for this item.

**Items M-2 and M-3 Unanimously approved as submitted. (Pacheco, Gon)**

**Item C-2 Request of a Forest Stewardship Agreement with SaivaSiddhanta Church to Participate in the State Forest Stewardship Program, TMK (4) 3-9-002:001, Wailua District, Island of Kauai.**

Roger Imoto, Division of Forestry and Wildlife (DOFAW) Administrator, gave a brief overview of Item C-2, explaining that this is for an approval for the Soviet Church to participate in a stewardship program that DOFAW's Kauai Branch is doing that will put 80 acres into cultivation of hardwood and koa seed production for the Island of Kauai.

Board Member Gon commended the applicants on entering into the program and added that this program has a lot of potential for involving the private sector in reforestation of areas in need and added that he is pleased to see many different communities on all islands involved.

**Unanimously approved as submitted (Smith, Gon)**

**Item D-3 Consent to Merger of Oceanic Institute into Hawaii Pacific University, Mutual Termination of General Lease No. 3709, Oceanic Institute, Lessee; Issuance of Direct Lease to Hawaii Pacific University for Scientific Research and Public Exhibiting Facilities of Marine Life, Waimanalo, Koolaupoko, Oahu, Tax Map Key: (1) 4-1-014:004.**

Russell Tsuji, Administrator for the DLNR Land Division, gave history on the lessee Oceanic Institute which is a nonprofit operation with a for-profit sub lessee, Sea Life Park and Gloria Bridal Services, Inc. They pay market rent and does not benefit from the statute that allows nonprofits to get below market rents. Their lease is expiring in 2027 and cannot be extended. Oceanic is seeking to extend the lease and the Land Division is considering structuring this transaction in the context of a their being a nonprofit. This is being brought to the Board as a back to back mutual cancellation and issuance of a direct lease, based on the nonprofit statute, with the understanding that Land Division will be obtaining the market rent. Oceanic Institute will merge with HPU who will be the emerging entity going forward. Oceanic will honor the sublessees, Sea Life Park and Gloria Bridal Services Inc. throughout the term whether then continue on or not, even after the new direct lease.

Shaun Moss, President of Oceanic Institute shared that their company has been around for 53 years, and has a strong commitment to training and education. The company is excited about the future opportunities in being able to help the state become more sustainable in terms of food security and food safety issues.

Dr. Ban of HPU emphasized how great the partnership is with Oceanic Institute and believes it will only get better in the future he added that there are certain grants HPU cannot pursue unless they have an extended lease, but will only do so in the public interest and with the Board's help and blessing.

Member Gon asks Dr. Ban if he is satisfied with the staff recommendations on this item and asked what his intentions are with the adopted lease of Sea Life Park. Mr. Moss, responded "yes" and added that Sea Life Park has about 15 years left to run on their lease.

**Unanimously approved as submitted (Gon, Kishinami)**

**Item D-7 Set Aside to the Department of Education for a Public School Site and Right-of-Entry Permit for Planning Purposes at East Kapolei, Ewa-Honouliuli, Oahu, Tax Map Key: (1) 9-1-07: 106.**

Russell Tsuji related some information on Item D-7 stating that this submittal involved approximately 18 acres of land in Kapolei, near the Kroc Center and clarified that this should not be confused with the DLNR Kapolei Income lands. He further explained that Heidi Meeker a Planner with the Department of Education (DOE) has received funding for planning for a new middle school in Kapolei. If everything goes as planned, the new middle school could be open by the 2017/2018 school year and could serve the areas of East Kapolei, the Hawaiian Homes Lands and University of Hawaii Lands. This location is approximately halfway between Campbell and Kapolei, adjacent to the Hoopili Project.

**Unanimously approved as submitted (Kishinami, Gon)**

**Item D-6 Grant of Term, Non-Exclusive Easement to Kahaluu Pond, Inc. for Seawall Purposes, Kahaluu, Koolaupoko, Oahu, TMK: (1) 4-7-001: Seaward of 001.**

Russell Tsuji explained that Kahaluu Pond, Inc. is requesting a new grant of an easement for a seawall. Their current easement will expire in February of 2014. Testimony was given by Linda Wong who said that the fishpond has been in her family for the past 60-70 years and that 15 to 20 years ago she and her partner decided that they wanted to preserve this pond. The pond is on the State and National Register of Historical Sites and that they had found a way to generate income without overly commercializing the site. She works with the community to use the pond as a cultural resource and that they need to have the easement available in case there is a break in the ponds wall.

Member Goode asks if the first easement had a term and Ms. Wong said that she believes that it was about 30 years, and states that it expires February 14, 2014. She added that there needs to be a concurrent resolution that needs to be approved by the governor.

**Pursuant to staffs' late recommendation, the Board amended staff's submittal by amending Recommendation number 2 by adding the following:**

**“H.” Pending legislative authorization for the issuance of a new easement, and the documentation and execution of the new easement, a right of entry shall be issued to Kahaluu Pond, Inc. from March 1, 2014 until the new easement is prepared and fully executed, with a legislative authorization.<sup>1</sup>”**

**Unanimously approved as amended (Kishinami, Gon)**

- Item D-1**      **Cancellation of Revocable Permit No. S-7681 to West Maui Center, LLC., and Request for Waiver of Level One (I) Hazardous Waste Evaluation Requirement, Lahaina, Maui, Tax Map Key:(2) 4-5-007:00**
- Item D-2**      **Issuance of Right-of-Entry Permit to Hilton Hawaiian Village LLC for Beach Volleyball Event Purposes from November 15 to 18, 2013, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 2-3-037:021 (Portion).**
- Item D-4**      **Grant of Term, Non-Exclusive Easement to Global Spring Management Hawaii, LLC for Rock Blanket Purposes; Assess Administrative Cost of \$500, Kailua, Koolaupoko, Oahu, Tax Map Key: (1) 4-3-003:Seaward of 065**
- Item D-5**      **Amend Prior Board Action of December 13, 2002, Item D-9 by Changing the Applicant from Yamashiro Investments & Yoshiko Yamashiro, Trustee of the Yoshiko Yamashiro Trust to Yamashiro Investments, and the Grant of Term, Non-Exclusive Easement of Seawall Purposes, Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-4-018: 069 Seaward.**

Mr. Tsuji had no changes to Items D-1, D-2, D-4 or D-5.

**Unanimously approved as submitted (Pacheco, Gon)**

- Item C-1**      **Request Amendment for Board Action Item C-3 Passed on July 26, 2013 Related to the Anne Brooke Forest Stewardship Project and Cost Share Support.**
- Item C-3**      **Request Approval of a Forest Stewardship Agreement with Kaupakuea Orchards, LLC to Participate in the State Forest Stewardship Program, TMKS (3) 2-8-003-009 and (3) 2-8-003-010, Hamakua District, Island of Hawaii.**

Roger Imoto, of the Division of Forestry and Wildlife, had no changes to Items C-1, C-3, or C-4.

Member Gon commented that he is glad to see more forestry agreements on the agenda, and that these items are being brought to the Board.

**Unanimously approved as submitted (Pacheco, Gon)**

- Item C-4**      **Progress Briefing for Research Projects, Educational Tours and Administrative Challenges of the Hawai'i Experimental Tropical Forest, Hawai'i (TMK'S (3) 3-7-001:002; (3) 3-7-001:012; (3) 7-1-001:001; (3) 7-1-001:004; (3) 7-1-001:006; (3) 7-1-001:007; (3) 7-1-002:001; (3) 7-1-002:013; (3) 7-1-002:002; (3) 7-1-002:008).**

Member Gon stated that C-4 was a progress briefing and suggested deferring C-4 because he would like to hear from the Foresters of DOFAW.  
All the Board members agreed.

**Chairman Aila deferred Item C-4.**

**Item J-1 Request for Approval to Adopt Amendments and Compile Hawaii Administrative Rules, Title 13, Subtitle 11, Chapter 13-230, Sections 13-230-4 Penalties and Prosecution (Violation and Administrative Penalties); 230-8 Definitions (Civil Union, Civil Union Partner, Dormant Vessel, Personal Partner, Reciprocal Beneficiary, Spouse, Stay Aboard, Tahiti Moor, Temporary Mooring, Temporary Permittee); 13-230-21 Definitions (Personal Partner); 13-230-22 Twelve-Month Rule (Corrected Citation); 13-230-25 Particular Categories (Legal Relationships); 13-230-27 Permittee Required to Report Change of Residence (Residence Off-Island and Assumption of Obligations to Others); 13-230-28 Appeals (Corrected Citation).**

Ed Underwood, Administrator for the Division of Boating and Ocean Recreation (DOBOR) commented that there were no changes to Item J-1. Mr. Underwood notified the Board that DOBOR will go to public hearing on October 16<sup>th</sup> and 17<sup>th</sup> for DOBOR's commercial rules.

**Unanimously approved as submitted (Pacheco, Gon)**

9:36AM RECESS  
9:40AM RECONVENE

**Item L-1 Approval for Award of Construction Contract and Declaration of Exemption from Environmental Assessment Requirements of Chapter 343, HRS, and Chapter 11-200, Hawaii Administrative Rules for: Job No. 500BK54F, Stream Mouth Maintenance at Various Locations, Kauai, Hawaii**

Carty Chang Chief Engineer, DLNR said that there were no changes to this submittal.

**Unanimously approved as submitted (Pacheco, Gon)**

**Item L-2 Request Acceptance of the Final Environmental Assessment and Approval for the Issuance of Finding of No Significant Impact (FONSI) for a Proposed Central Maui Regional Park, Kahului, Maui, Hawaii.**

Mr. Chang had no changes to this submittal and asked the Board to accept the final environmental assessment (EA) and allow Engineering to publish funds. Chairman asked Mr. Chang if he had received any feedback and Mr. Chang explained that they have received lots of positive feedback on this project.

**Unanimously approved as submitted (Pacheco, Gon)**

**Adjourned (Kishinami, Gon)**

There being no further business, Chairman William Aila adjourned the meeting at 9:42a.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kuulei Moses  
Land Board Secretary

Approved for submittal:



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