

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

DATE: FRIDAY, OCTOBER 25, 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 Aila, Jr.
Dr. Sam Gon
Reed Kishinami

Shawn Smith
David Goode
James Gomes

STAFF

Russell Tsuji/LAND
Roger Imoto/DOFAW
Carty Chang/ENG

Kevin Moore/LAND
Dan Quinn/PARKS

OTHER

Pamela Matsukawa/Deputy Attorney General
Michael Munskiy:D-5
Robert Irvine: D-3
Leighton Yuen: D-9

Degray Vanderbilt: A-1
Robert Nakagawa: D-5
Steven Lim: D-7

Item A-1 Approval of July 26, 2013 Minutes

Chairman Aila stated that the Kalaupapa minutes will be made testimony and therefore be made part of the record.

Unanimously approved as Amended (Gomes, Gon)

Item A-2 Approval of September 12, 2013 Minutes

Item A-3 Approval of September 13, 2013 Minutes

Item D-4 Report on the Status of Chapter 11 Bankruptcy Case No. 12-02279, Hawaii Outdoor Tours, Inc., Debtor, Filed in the United States Bankruptcy Court,

District of Hawaii, Including a Report on the Hearing before the Bankruptcy Court Scheduled for October 21, 2013. Discussion will entail at least the following:

- a. Trustee’s Motion for Order (A) Authorizing the Assumption of Certain Unexpired Non-Residential Real Property Leases and (B) Establishing Cure Costs; Declaration of David C. Farmer; Exhibits “A” to “C”;**
- b. Secured Creditor First-Citizens Bank and Trust Company’s Joinder to Trustee’s Motion for Order (A) Authorizing the Assumption of Certain Unexpired Non-Residential Real Property Leases and (B) Establishing Cure Costs;**
- c. State of Hawaii’s Memorandum in Opposition to Trustee’s Motion for Order (A) Authorizing the Assumption of Certain Unexpired Non-Residential Real Property Leases and (B) Establishing Cure Costs; and**
- d. County of Hawaii’s Opposition to Trustee’s Motion for Order (A) Authorizing the Assumption of Certain Unexpired Non-Residential Real Property Leases and (B) Establishing Cure Costs; Exhibits A to C.**

The Board may hold a discussion in Executive Session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board’s powers, duties, privileges, immunities and liabilities.

Russell Tsuji, DLNR Land Division Administrator presented Item D-4. Mr. Tsuji explained that there will be an update and briefing on events that have been going on in the bankruptcy court. After the September meeting, the trustee filed motion to assume the Naniloa lease without curing any defaults. There were several bidders and the trustee filed a motion to approve the sale, therefore everything had been put off until November 6th. The Deputy Attorney Generals would like to discuss with the board some critical outcomes that came up before the court, during executive secession.

Nonaction item-Update from Attorneys only

Executive Seccession 9:04 AM (Gon, Gomes)
Reconvene 9:58 AM

Chair Aila withdrew Item D-8

Item D-5 Approval in Concept to Amend General Lease No. S-5177 to Maui County Council Ltd., Boy Scouts of America, Lessee, and Issuance of a Perpetual Non-Exclusive Easement for Parking, Access and Utility Purposes Kahakuloa, Wailuku, Maui, Tax Map Key (2) 3-1-001: 001 por. (MDLO)

Kevin Moore, DLNR-Land Division gave an overview of the submittal explaining that the Boy Scouts want to upgrade their dining hall, which is located on land owned by the Boy Scouts. A requirement for funding is that the Boy Scouts need to satisfy parking requirements for the larger facility. They therefore want to use the joining state lease land to meet the parking requirement, which requires an amendment to the lease. Staff recommended amending the lease. The Boy Scouts will come back to the Board with a formal request to amend the lease once the permitting process is complete.

Michael Munskiyo and Robert Nakagawa with Maui County Council Boy Scouts are present and note that will come back and return to the Board after the environmental assessment and county permit is complete.

Member Gon asked the Maui Council Boy Scouts if they were okay with the recommendations made by staff; applicants agree.

Member Goode expressed his excitement about the improvements. Member Goode also wanted the Maui County Council Boy Scouts to explain what exactly is going on with access to trails.

Currently there is a gate at the bottom across of Mendez Ranch, which is opened and closed daily. However there is a pass around so the trail is always accessible although some people don't like having to hike the extra half mile to the trail head. The Boy Scouts are working with Maui DLNR on other options for access to the gate.

Unanimously approved as submitted (Gomes, Gon)

Item D-3 Consent to Sublease of General Lease No. S-5513, Hospice of Hilo, Lessee, to Technology Credit Corporation, Sublessee, Piihonua, South Hilo, Hawaii, Tax Map Key: (3) 2-3-032: portion of 011. (HDLO)

Kevin Moore, DLNR-Land Division went over the submittal for Item D-3. The request is for consent to sublease the roof of the Hospice of Hilo for PV. Staff recommendation is to approve this request, and to monitor to make sure that Hospice doesn't somehow profit from this energy.

Member Gomes questioned what type of monitoring would be done.

Kevin Moore referred to recommendation B-2 in which they have asked the lessee for the electric bill for the preceding year and copies of net metering agreement so that they can keep track the power consumption. A lot of the power will be used for onsite air-conditioning systems. If an issue comes up then they will come back to the Board and suggest a possibility of some sort of participation.

Robert Irvine-Representative for the Board of the Hospice of Hilo, spoke on behalf of Hospice and made it clear that this is an opportunity for Hospice to save money. They are not out to make money and they are happy with staff's recommendations.

Unanimously approved as submitted (Goode, Gon)

Item D-7 Grant of Term, Non-Exclusive Easement to Mary Helen Lehmann, Robert Albert Pelletier, Kathleen Ann Mulliken, Annabelle Robin Mulliken, and Mary Helen Lehmann, Trustee of the Pelletier Property Revocable Trust dated March 2, 2012 for Driveway, Water Tank, Propane Gas Tank, Fencing, and Rock Walls Purposes, Tantalus, Honolulu, Oahu, Tax Map Key: (1) 2-5-019:portion of 009.

Kevin Moore, DLNR-Land Division, presented item D-7; request for a 55 year term easement to allow encroaching items such as, a water tank and a propane tank on state land remain to in place for the term of that easement. The land is part of the Honolulu Watershed Forest Reserve and DOFAW has been involved and concurs with this request.

Steven Lim- of Carlsmith Ball LLP.- represented Robert and Mary Lehmann asked for Board support. The Lehmanns are working with the Division of Forestry and Wildlife and are fine with staff's recommendations and details.

Approved as submitted (Gomes, Kishinami)

Item D-9 Amend Prior Board Action of August 9, 2013, Item D-17:

Consent to Assign General Lease Nos.:

S-3795, Hanapepe, Waimea, Kauai, Tax Map Key: (4) 1-4-01: pors.;

S-4028, Papaanui, Makawao, Maui, Tax Map Key: (2) 2-2-07: pors.;

S-4130, Humuula, North Hilo, Hawaii, Tax Map Key: (3) 3-9-02:

pors.;

S-4320, Punahoa 2nd, South Hilo, Hawaii, Tax Map Key: (3) 2-3-22:

pors.;

S-4402, Nanakuli, Waianae, Oahu, Tax Map Key: (1) 8-9-08: pors.;

and

S-4614, Humuula, North Hilo, Hawaii, Tax Map Key: (3) 3-8-01: 1 &

10 pors.

Hawaiian Telcom, Inc., Assignor, to Global Tower Assets, LLC, Assignee; Authorize Chairperson to Execute Estoppel Certificates in Favor of Global Tower Assets, LLC;

Consent to Assign General Lease Nos.:

S-4223, Mount Kaala, Mokuleia, Waialua, Oahu, Tax Map Key: (1) 6-7-03: pors.; and

S-4588, Kalawahine and Opu, Honolulu, Oahu, Tax Map Key: (1) 2-5-19: pors.

**Hawaiian Telcom, Inc., Assignor, to GTP Structures I, LLC, Assignee;
Authorize Chairperson to Execute Estoppel Certificates in Favor of GTP
Structures I, LLC;**

**Amendment of General Lease Nos. S-3795, S-4028, S-4130, S-4223, S-4320,
S-4402, S-4588, and S-4614 to Update the Provisions Relating to Assignment
and Subletting, and to Provide that the State shall Receive a Percentage of
New Sublease Rents;**

**Amendment of General Lease No. S-4130 To Set forth the Correct
Termination Date of the 31st day of December, 2022; Amendment of General
Lease No. S-4320 To Set forth the Correct Termination Date of the 31st
day of December, 2034; and**

**Consent to Sublease General Lease Nos. S-3795, S-4028, S-4130, S-4320,
S-4402, S-4614, Global Tower Assets, LLC, Sublessor, to Hawaiian Telcom,
Inc., Sublessee; Consent to Sublease General Lease Nos. S-4223 and S-4588,
GTP Structures I, LLC, Sublessor, to Hawaiian Telcom, Inc., Sublessee**

**The Purpose of the Amendment is to Change the Approved
Assignee/Sublessor for General Lease Nos. S-3795, S-4130, and S-4614, from
Global Tower Assets, LLC to GTP Structures I, LLC; and to Change the
Approved Assignee/Sublessor for General Lease No. S-4588 from GTP
Structures I, LLC to Global Tower Assets, LLC.**

Kevin Moore, DLNR-Land Division explained that this item is a request to amend a prior board action that was granted on August 9, 2013, item D-17, which involved Hawaiian Telcom and approval of a number of assignments. After approval was granted, Hawaiian Telcom and Global Towers asked that the leases be re- assigned to new entities. Kevin Moore referred to table two as to how they would amend the prior board action to straighten out who takes which lease.

Member Gon bought up a discussion and expressed that he felt like issues regarding leases and subleases come to the board. Member Gon felt like these types of issues should be brought to the Chairman Aila and staff to deal with. Member Gon said that if this is something by law they must do then, that's one thing, but if this is something that could be assigned to Chairman Aila and staff, then that would free up the agenda for other matters.

Pamela Matsukawa, the attorney general present commented that Land Division can look into this with the Attorney General's Office.

Member Gon asked staff to check with the Attorney General's Office to see if this is an appropriate delegation.

Leighton Yuen, with Goodwill Anderson, representing Hawaiian Telcom he had nothing to add, but was willing to answer any questions.

Unanimously approved as submitted (Gon, Gomes)

Item C-1 Request for Authorization to Negotiate, Execute, Amend, and Extend a Contract(s) to Furnish Helicopter Transportation Services for Department of Land and Natural Resources, Division of Forestry and Wildlife

And

Request Approval of Declaration of Exemption to Chapter 343, HRS, Environmental Compliance Requirements for this Procurement.

Roger Imoto, Administrator, Division of Forestry and Wildlife had one amendment to Item C-1. The title reads "Request for Authorization to Negotiate, Execute, Amend..."; the title should read "Request for Authorization to Solicit Bids, Execute, Amend...".

Member Gon asked Imoto if this was a single contract.

Imoto responded that this could be several contracts because separate contracts are done by each county/branch.

Member Gomes asked Imoto what his annual budget for helicopter services was, and if there are normally a lot of bidders or a handful.

Imoto stated that the budget is less than eight-hundred thousand dollars statewide and that there are only handfuls of bidders because all bidders must meet all certifications. Not only does the pilot need to meet certifications but so does the helicopter and everything else they use.

Unanimously approved as submitted (Gon, Kishinami)

Item C-2 Request for Delegation of Authority to the Chairperson to Negotiate, Approve, Execute, Amend, and Extend Right-of-Entry and Release of Liability Agreements for the Division of Forestry and Wildlife to Conduct Management on Private Lands, Including but Not Limited to Invasive Species and Fire Control, Restoration or Introduction of Native Species, Infrastructure Installation and Maintenance, and Monitoring.

Roger Imoto, Administrator, Division of Forestry and Wildlife presented Item C-2, explaining that this is a delegation so that the division can reach agreements with private land owners. This is for work that is done on their private lands such as invasive species control, fire control, etc. No changes.

Unanimously approved as submitted (Gomes, Gon)

Item D-6 Issuance of Right of Entry Permit to Team Unlimited LLC for the XTERRA Off – Road Triathlon World Championship, Honolua, Lahaina, Maui, Tax Map Key Numbers: (2) 4-2-004: Seaward of 014, 015 and 016.

Kevin Moore, Land Division had one amendment to make to Item D-6; on page 1 under area day one is listed at 11,100 square feet, it should read 6,000 square feet. The recommendation remains the same.

Unanimously approved as submitted (Gomes, Kishinami)

Item D-2 Cancellation of Revocable Permit No. S-7594 to Gilbert F. Barretto, Jr. and Request for Waiver of Phase I Environmental Site Assessment Requirement, Kapaa Homesteads, Kawaihau, Kauai, Tax Map Key: (4) 4-6-009:049 and (4) 4-6-014:074.

Member Goode asked if a waiver of Phase I was required in Revocable Permits for pasture leases. Goode then asked if the division can look at the revocable permits to see if requiring this waiver on small revocable permits is necessary.

Attorney General Pamela Matsukawa stated that there is a standard form for revocable permits, but the standard form can be amended for certain types of leases if the Board requires the change.

Member Gon liked the idea of having these in a standard from, then waiving the phase by staff and Chair.

Unanimously approved as submitted (Smith, Gomes)

Item D-1 Amend Prior Board Action of May 24, 2013, Item D-3: Cancellation of Governor’s Executive Order Nos. 1747, 2419 and 3114 and Reset Aside to the Department of Land and Natural Resources, Division of Boating and Ocean Recreation for Kukuiula Small Boat Harbor Purposes, Kukuiula, Koloa, Kauai, Tax Map Key: (4) 2-6-03: 61 and (4) 2-6-11: 12 and 18.

Amendment Request: Include Tax Map Key: (4) 2-6-03: 61 in the Exemption Notification Form in Agenda Item D-3 of the Board’s May 24, 2013, Meeting.

Staff had no changes.

Unanimously approved as submitted (Smith, Kishinami)

Item E-1 Selection of Projects for Federal Grant Awards through the Land and Water Conservation Fund Program.

Dan Quinn, Administrator, State Parks gave background on Item E-1 explaining that these are the only federal funds that State Parks receives. State Parks is the pass-through agency for these funds to the counties.

Written testimony was submitted in support by Mayor Billie Kenoi.

Unanimously approved as submitted (Gon, Gomes)

Item E-2 Consent to Assign General Lease No. SP-0147, Richard Taubman, Workstar Occupational Health Systems, Inc., James Wise and Tracy Wise, and Elizabeth Freeman, Assignors, to Workstar Occupational Health Systems, Inc., Kaua'i Kuleana LP, Elizabeth Freeman, James Wise, Tracy Lyman fka Tracy Wise, Assignors, Lot 12, Koke'e Campsites Lots, Waimea (Kona), Kaua'i, Hawai'i, TMK: (4) 1-4-003:010.

Staff had no changes.

Unanimously approved as submitted (Smith, Kishinami)

Item E-3 Request Approval of the Department of Land and Natural Resources' Implementation of Proposed Projects Funded by the Transient Accommodations Tax Revenues, Pursuant to Section 237D-6.5, Hawaii Revised Statutes, as Amended by Act 161, 2013 Session Laws of Hawai'i, and Authorize the Chairperson of the Department of Land Natural Resources to Review and Approve the projects for Fiscal Years 2014 and 2015 on behalf of the Board of Land and Natural Resources.

Dan Quinn, Administrator, Division of State Parks, noted that this is a huge Item for the Department. Quinn summarized that for years the department has been getting one-million dollars of the Transient Accommodations Tax and that has been split between State Parks and the Na Ala Hele Trail program with Forestry and Wildlife. During the last legislative secession the law was changed, which the amount that DLNR was receiving was bumped up to three-million dollars, which requires State Park to have a plan approved by BLNR and the HTA Board. Quinn also went into detail about what the money would be used for.

Russell Kumabe, Division of State Parks handed out a document providing Act 161.

Quinn commented that in short this is the request for approval and delegation to the Chair for projects for fiscal year 2014 and 2015 consistent with the current HTA strategic plan. There are more details in the submittal.

Kumabe clarified that the money is coming from residuals of the general fund. Uses for the funds have to be pursuant to the approval of the Land Board and the HTA Board. In addition to approving the proposal, staff also proposed providing Chair the authority to fulfill the role for the next two years. Kumabe explained that by doing this instead of having to come back to the Board, Chairman Aila would be able to act on behalf of the Board.

Quinn then noted that State Parks has created a 5 year plan, but the plan may change based on HTAs strategic plan. Quinn explained that they still have the operating fund, general fund and the special fund.

Kumabe commented that if the money doesn't come in until later and certain projects need to be put on hold, those projects will get done, and they will just get done later. Kumabe also noted that the three-million will be able to be split into more divisions that the Act 161 identifies, including OCCL, DOCARE, and State Parks.

Quinn and Kumabe agreed to brief the Board with annual reports with descriptive graphing of how the money is being spent.

Unanimously approved as submitted (Gon, Kishinami)

**Item L-1 Declaration of Exemption from Environmental Assessment Requirements of Chapter 343, HRS, and Chapter 11-200, Hawaii Administrative Rules for:
Job No. F64B636B: Mauna Kea State Recreation Area Water System Improvements, Kaohe, Hamakua, Hawaii.**

Carty Chang, Administrator, Engineering Division had no changes to Item L-1.

Unanimously approved as submitted (Gon, Goode)

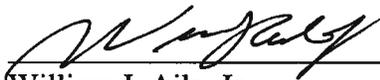
Adjourned (Gon, Kishinami)

There being no further business, Chairman William Aila adjourned the meeting at 10:48a.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