

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

DATE: FRIDAY, FEBRUARY 8, 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 9:05 a.m. The following were in attendance:

MEMBERS

William Aila, Jr.
Dr. Sam Gon
John Morgan

David Goode
Jerry Edlao

STAFF

Sam Lemmo/OCCL
Dan Quinn/PARKS

Russell Tsuji/LAND
Alyson Yim/ENG

OTHER

Dan Morris, Deputy Attorney General
Ann Shigi: M-1 to M-8
Joe Farber: K-2

Ross Smith: M-1 to M-8
Sky Kahele: K-2
William Hunt: D-4

{NOTE: Language for deletion is [bracketed], new/added is underlined.}

Item A-1 January 11, 2013 Minutes

Approved as submitted (Edlao, Gon)

Item A-2 January 25, 2013 Minutes

Approved as submitted (Gon, Morgan)

Item M-1 Consent to Assignment of State Lease No. DOT-A-09-0046, and State Lease No. DOT-A-09-0047, from DTG Operations, Inc. dba Thrifty Car Rental to Simply Wheelz LLC, Lihue Airport, Kauai, Tax Map Key: (4) 3-5-01: portion of 8

Ross Smith, Department of Transportation (DOT) – Airports Division, Property Manager introduced Ann Shigi, Property Manager. He reminded the Board that he was here last year for a consent because of the merger and divestiture of Hertz, Dollar, Thrifty and Simply Wheelz that this is the third step where Wheelz is taking over Thrifty.

Item M-2 Issuance of a Direct Lease to Commercial Shelving, Inc. 2835 & 2845 Ualena Street, Honolulu International Airport, Oahu, TMK: (1) 1-1-04:03 (portion) & (1) 1-1-04:05

Item M-3 Issuance of a Direct Lease to K.W. Auto Body, LLC, 2885 Ualena Street, Honolulu International Airport, Oahu, TMK: (1) 1-1-04:06

Item M-4 Issuance of a Direct Lease to Mid-Pacific Steel, Inc., 3169 Ualena Street, Honolulu International Airport, Oahu, TMK: (1) 1-1-14:104 & 106

Item M-5 Issuance of a Direct Lease to Sharp 29 Corporation, 2909 Ualena Street, Honolulu International Airport, Oahu, TMK: (1) 1-1-04:11

Item M-6 Issuance of a Direct Lease to Hawaiian Sealife, Inc., Honolulu International Airport, Oahu, TMK: (1) 1-1-14:21 (portion)

Item M-7 Issuance of a Direct Lease to Royal Hawaiian Movers, 2999 & 3017 Ualena Street, Honolulu International Airport, Oahu, TMK: (1) 1-1-14:01 & 04

For Items M-2 through M-7 are Ualena Street leases where DOT had purchased fee simple interest closest to the makai side of the street with the exception of the Airport Center in 1990-91. The leases have run out and staff is making Ualena Street compliant to the Airport's needs having given notice to some tenants to leave and they will incorporate some of those properties into the Airport directly. Some will be used for safety zones. For others, staff is offering tenants a 5 year lease to continue their operations while staff works on the projects at hand. You will still have the income generation and staff won't dislocate these businesses for another 5 years.

Unanimously approved as submitted (Edlao, Gon)

Item M-8 Modification No. 3 to State Master Lease No. DOT-A-09-0074, U.S. Federal Aviation Administration, Hilo International Airport, Oahu, TMK: (3) 2-1-12: portion of 9

Item M-8 is to add some air space for the Lessee's equipment referring to the submittal that about 80% of the circle has air space clearance under the easements, but staff missed DOT's and

they are now taking care of that with this modification. Member Gon asked about that on the map where Mr. Smith confirmed that piece on the overrun area.

Unanimously approved as submitted (Morgan, Gon)

Item K-2 Request Approval of Conservation District Use Permit No. HA-3642 by Pa`a Pono Miloli`i for a Multi-Purpose Community Center in the Miloli`i Special Subzone at Ho`opuloa-Miloli`i, South Kona, Hawai'i, TMK: (3) 8-6-014:038, 039, 040, and 041.

Sam Lemmo representing Office of Conservation and Coastal Lands (OCCL) conveyed some background on item K-2 – the location, the area, the non-profit organization and he read the proposal. The facilities will be used to conduct community meetings, cultural activities, educational and recreational programs. Miloli`i is a special district in the conservation sub-zone. The community did a master plan and this community center is a part of that. The applicant took it through the CDUA (conservation district use application) process, met the Chapter 343 requirements, is consistent with staff's criteria and was contemplated in the original special sub-zone, master lease and master plan. One of the conditions of that development plan was the applicant comes forward to get the Department's approval which is what they are doing today. Also, the applicant asked for a waiver of our fees because of their situation. Staff made a recommendation and it's up to the Board. Staff doesn't have a problem with it and we seek your approval of the application subject to standard and special conditions.

Member Goode asked whether the fine is \$2500 and Mr. Lemmo confirmed that.

Sky Kahele, President of Pa`a Pono Miloli`i introduced Joe Farber their Environmental Consultant who testified going through NEPA (National Environmental Policy Act), EA (environmental assessment), SMA (Special Management Area) from the County and this is their final step in the CDUA. This project will help the community since they don't have permanent covered spaces for different activities proposed. The reason they are requesting a waiver of the fees is to clear a derelict desalination facility and to clear the land. Mr. Kahele said it will cost \$8500 to remediate and remove. He related how Senator Inouye appropriated monies for this project, a \$290,000 grant, to build this facility, but the grant expires September 2013 and they are under the gun to build it.

Member Morgan asked what the population of Miloli`i was and Mr. Kahele said 500 residents max.

Member Gon said this Board has a history of waiving fees when it's a non-profit organization providing a service to the community and he would waive the fees. Member Morgan concurred.

Member Goode and Member Gon asked whether the applicants were ok with the standard conditions and both representatives agreed to them.

Member Gon moved to approve staff's recommendations and waived the filing fees for this project. Member Morgan seconded it. All voted in favor.

Unanimously approved as submitted (Gon, Morgan)

Item D-4 Amend Prior Board Action of November 19, 2004, Item D-30, Grant of 55-Year Term, Non-Exclusive Easement and Construction Right-of-Entry to Chevrontexaco Products Company for Gas Pipeline Purposes, Kalihi-Kai, Honolulu, Oahu, Tax Map Key: (1) 1-2-025: Portions of 11 and 108. The Purpose of the Amendment is to correct the Tax Map Key Number Referenced in the Prior Board Actions, Change the Grantee under the Easement to Chevron U.S.A. Inc., Expand the Character of Use Approved by the Board, and Approve the Use of Non-Standard Provisions in the Easement Instrument Relating to Term, Assignment, Abandonment, Termination, Insurance, Hazardous Materials, and Notices.

Russell Tsuji representing Land Division reminded the Board of this prior Board action and that counsel requested staff to work out the language with respect to the hazardous materials noting that contamination could traverse laterally. Staff recommends the change.

Member Gon asked whether the representative agreed and William Hunt confirmed that.

Unanimously approved as submitted (Morgan, Gon)

Item E-1 Request for Approval of the Placement of Act 82, SLH 03, Warning Signs at Identified Locations of Hanauma Bay Nature Reserve, Oahu

Dan Quinn representing Division of State Parks reported on item E-1 that this applies to State and County Parks and Na Ala Hele trails. He referred to the Exhibit and displayed some County maps on what is proposed showing the vertical cliffs and there were concerns of rock fall. The County will do some remediation, but would like the signs posted. Once staff consults with the Risk Assessment Working Group they will come back to the Board for approval.

Member Gon said it is always good to inform people and asked those interested in the room if there was a particular area they were interested in and they said there was none in particular.

Unanimously approved as submitted (Morgan, Gon)

Item D-1 Resubmittal: Amend Prior Board Action of July 22, 2011, Agenda Item D-1, Set Aside to Department of Agriculture for Agricultural Purposes, Puna, South Hilo, North Hilo, Hamakua, North Kohala, South Kohala and Kau, Hawaii, Tax Map Keys: (3) 1-2-6:5 and 77; 1-8-6:103; 1-9-1:18; 2-4-49:29; 3-1-4:1 and 2; 3-9-1:1 and 2; 3-9-2:7 and 8; 4-1-1:6; 4-1-5:1; 4-4-11:33; 4-6-4:1, 2, 3, 5 and 6; 4-9-11:2; 5-5-3:12, 18, 4, 5 and 6; 5-5-4:51 and 52; 5-5-6:2, 3, 4 and 15; 5-5-7:11; 8-8-4:10; 9-5-15:3; 9-6-2:55; 5-5-5:1. The purpose of this item is to include Tax Map Key No. (3) 5-5-4:52 in the set aside. And

Amend Prior Board Action of November 10, 2011, Agenda Item D-1, Amend Prior Board Action of July 22, 2011, Agenda Item D-1, Set Aside to

Department of Agriculture for Agricultural Purposes, Puna, South Hilo, North Hilo, Hamakua, North Kohala, South Kohala and Kau, Hawaii, Tax Map Keys: (3) 1-2-6:5 and 77; 1-8-6:103; 1-9-1:18; 2-4-49:29; 3-1-4:1 and 2; 3-9-1:1 and 2; 3-9-2:7 and 8; 4-1-1:6; 4-1-5:1; 4-4-11:33; 4-6-4:1, 2, 3, 5 and 6; 4-9-11:2; 5-5-3:12, 18, 4, 5 and 6; 5-5-4:51 and 52; 5-5-6:2, 3, 4 and 15; 5-5-7:11; 8-8-4:10; 9-5-15:3; 9-6-2:55; 5-5-5:1. The purpose of this item is to delete the reference to TMK: (3)1-4-34:27 which was deleted by amendment on July 22, 2011 by the Board of Land and Natural Resources.

- Item D-2** Consent to Assignment of Interest in Grant of Easement under Land Office Deed No. S-27,750 from Earl E. and Doris J. Bakken, Trustees under that certain unrecorded The Bakken Residence Trust Agreement dated December 16, 1991, Assignor, to Earl E. Bakken, and his successors in Trust, as Trustee under the Earl E. Bakken Revocable Trust Agreement dated March 13, 1991, Assignee, Puuwaawaa, North Kona, Hawaii, Tax Map Key: (3) 7-1-002: portion of parcel 008.
- Item D-3** Term Extension for Grant of Easement No. S-5676, United States Department of the Interior, National Park Service, Kaloko-Honokohau National Historical Park (KHNHP) for Sewer Easement Purposes, Kealakehe, North Kona, Hawaii, Tax Map Key: 3rd/ 7-4-008: portion of 003.
- Item D-5** Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Set up and Firing of Aerial Fireworks Display on February 15, 2013, Princeville, Kauai, Tax Map Key: (4) 5-4-004:035: seaward of 35.

There were no changes to the above items per Mr. Tsuji.

Member Gon said he does not like the idea of explosives in the conservation area which was noted by staff and Board members.

Unanimously approved as submitted (Morgan, Edlao)

- Item K-1** Conservation District Enforcement File OA 13-11 for Placement of Rocks in the Shoreline Area by Geraldine Sim Trust at Kaneohe, Island of Oahu, TMK: (1) 4-8-003:048

Mr. Lemmo explained that item K-1 is a seawall violation and staff sent a certified letter and noted that the second one wasn't signed, but the first one was. He discussed with the Board members on when the letter was sent about the potential violation, on whether staff talked to the Geraldine Sim Trust which was only through written correspondence and that someone representing the Trust should be here. Mr. Lemmo's concern was whether the Trust didn't get the letter or got it, but forgot about it or decided not to come.

Member Goode noted that if the Trust wanted a contested case hearing they would have to state in person now and in lieu of that can they come back to ask for one. Mr. Lemmo said that the Board could waive the requirement.

The Board members were concerned with why the Trust didn't respond when there is a fine involved and wondered whether there was a response to the first letter and the response was that they (the Trust) weren't doing anything wrong. There was some discussion about when that response came in.

Member Gon said he takes issue with people who use the internet and Wikipedia to justify their actions. Mr. Lemmo suggested whether to defer this and send a notice.

Mr. Tsuji said that his staff does formal notices all the time and must follow the requirements. If the mail doesn't come back staff calls and documents that call and they try to e-mail to cover all basis. This sort of thing they can say what they want and not take it.

The Board members asked whether the Trust was called and they were not and the Board asked about deferring this. Mr. Lemmo said they could and certify mail it again. Member Goode suggested sending a DOCARE officer to hand deliver the letter and Mr. Lemmo said that he would do that.

The Chair asked how long staff would need and Mr. Lemmo said probably a month.

Member Morgan made a motion to defer for 1 month and was seconded by Member Goode. All voted in favor.

Deferred for 1 month. (Morgan, Goode)

Item E-2 Request for Approval of the Placement of Act 82, SLH 03, Warning Signs at Identified Locations of Nuuanu Pali State Wayside and Ka Iwi State Scenic Shoreline, Oahu

Item E-3 Request for Approval of the Placement of Act 82, SLH 03, Warning and Management Signs at Identified Locations of Kaena Point State Park Reserve, Mokuleia Section, and Adjacent Land, Oahu

Mr. Quinn conveyed item E-2 and explained that staff is shifting the signs at the Pali where he displayed some pictures of a rock that came down. The Ka Iwi signs are at each parking lot noting the various trails people are taking and a recent tragedy. On item E-3, Mokuleia is the climbing rock where people cross unencumbered land to reach the wall. The management, warning and mitigation will be an on-going issue and may change. Staff requested approval for items E-2 and E-3.

Chair Aila asked whether there will be signage from the lower elevations coming back up. Mr. Quinn said we do and pointed to a photo at an old DOT road and gate where there is a double sided sign.

Unanimously approved as submitted (Morgan, Gon)

Item E-4 Request for a Special Use Permit from Wendy Wagoner and Ola Sims to Hold a Fund-raiser for their Niece, Addie Sims, at Wailoa River State Recreation Area Pavilion Nos. 2, 3 and Portions of the Surrounding Areas, Hilo, Hawai'i

Mr. Quinn briefed the Board on item E-4 referring to the map in the submittal and he described the pavilion and area. The reason staff is coming to the Board on this is because it is a fundraiser. Also, staff requested that any future similar requests or decisions be delegated to the Chair. The Board previously did that when we managed the Old Kona Airport.

Unanimously approved as submitted (Edlao, Gon)

Item L-1 Appointment of Keith Unger as Kona Soil and Water Conservation District Director

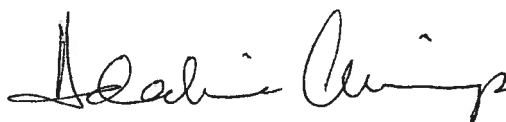
Alyson Yim representing Engineering Division related item L-1 and that they have no changes.

Unanimously approved as submitted (Morgan, Goode)

Adjourned

There being no further business, Chairperson Aila adjourned the meeting at 9:39 a.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,



Adaline Cummings
Land Board Secretary

Approved for submittal:



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