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

DATE:	FRIDAY, OCTOBER 28, 2005
TIME:	9:00 A.M.
PLACE:	KALANIMOKU BUILDING LAND BOARD CONFERENCE ROOM 132 1151 PUNCHBOWL STREET HONOLULU, HAWAII 96813

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

MEMBERS

Mr. Peter Young
Mr. Ted Yamamura
Mr. Toby Martyn
Mr. Tim Johns
Mr. Ron Agor

STAFF

Mr. Russell Tsuji, Land
Ms. Charlene Unoki, Land
Mr. Morris Atta, Land
Mr. Eric Hirano, Engineering
Mr. Sam Lemmo, OCCL
Mr. Barry Cheung, Land
Mr. Dan Quinn, Parks
Mr. Paul Conry, DOFAW

OTHER

Mr. William Wynhoff, Deputy Attorney General
Mr. Keith Kirschbraun, D-10
Mr. Stevan Bailey, D-17
Mr. Steven Lim, D-7, K-2

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

Item A-1: Minutes of October 14, 2005

Unanimously approved as submitted (Johns/Yamamura).

Item D-10: Grant of Term, Non-Exclusive Easement to Alan Battersby and Lisena Quintiliani for Seawall and Filled Land Purposes, Waiohui-Keokea Homesteads, Maui, TMK: (2) 3-9-12:seaward of 2.

Russell Tsuji, Administrator for the Land Division appeared before the Board and recommended they impose a $500 fine for the illegal encroachment and authorize the issuance of a term, non-exclusive easement to the applicant covering the subject area for seawall purposes.

Keith Kirschbraun, attorney for the applicant was present.

Unanimously approved as submitted (Yamamura/Martyn).

Item D-7: Request from WB Maniniowali, LLC to Extinguish Existing Public Easement, Extinguish 60 Foot Wide Easement Designation, confirm the construction of the park entry roadway and public park facilities, confirm the connection of the water system on the Kukio 2nd/Maniniowali property to the park facilities, and Grant of Perpetual, Non-Exclusive Easement for Access and Utility Purposes, Situate at Awakee, Maniniowali and Kukio 2nd, North Kona, Hawaii, TMK: (3) 7-2-04:03, 27 and 19.

Mr. Tsuji let it be known this submittal seeks the release of certain conditions that were imposed as part of land exchange. Mr. Tsuji recommended the Board confirm that WB Maniniowali, LLC, successor in interest to the North Kona Development Group, that an access acceptable to the State of Hawaii from the Queen Kaahumanu Highway to Kua Bay was provided, that WB Maniniowali, LLC has constructed a park entry roadway from Queen Kaahumanu Highway to the Kua Bay area, that the Board accept the improvements constructed by WB Maniniowali, LLC, confirm through appropriate documentation that the State of Hawaii has connected to a water system developed by Maniniowali, LLC and authorize the issuance of a perpetual non-exclusive easement to WB Maniniowali, LLC covering the subject area for access and utility purposes.

Steven Lim, attorney representing WB Maniniowali, LLC who is the current developer of the subject property acknowledged the actions taken by his client is a result of a 1990 land exchange between the developer and the State. At present the developer has spent a minimum of $250,000,000 on improvements to the Kekaha Kai State Park. Mr. Lim also confirmed for the next six months his client would be providing assistance with the maintenance of the park facilities. Mr. Lim presented the Board with a copy of monies spent on the above project to satisfy the Board's requirements set forth.

Unanimously approved as submitted (Johns/Martyn).

Item D-17: Sale of Reclaimed Lands to Stevan Bailey, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-7-30:18 seaward.

Mr. Tsuji pointed out during the preparation of the map for a pier lease the applicant was found to be encroaching upon State lands. As a way of remedying the situation, the applicant looked at purchasing the filled lands. A staff appraiser from the land division estimated the value at $30,241.97. Mr. Tsuji recommended the Board authorize the sale of the subject reclaimed land to Stevan Bailey and authorize the Department to accept a deposit in the amount of $60,535.00 as an estimated consideration amount.

Stevan Bailey the applicant asked the Board to use their discretion in reducing the sale price of the subject lands. Mr. Bailey indicated he obtained a copy of the permit from the Army Corp of Engineers and an aerial photo, which serves as proof that the subject land was reclaimed as of June 12, 1962. Mr. Bailey feels staff's appraiser should have viewed the land as submerged land when arriving at a sale consideration amount and that amount should be half of the estimated value.

Morris Atta appeared before the Board to explain how staff came up with the estimated value of the subject land. Mr. Atta confirmed the estimated consideration amount was based on the lands being fast lands not submerged lands.

The Board amended Recommendation 3) as follows

"3. Authorize the Department to accept a deposit in the amount of [~~$60,535.00~~] <u>$40,000.00</u> from the Applicant as an estimated consideration pursuant to the conditions set forth in the Remarks section above."

Unanimously approved as amended (Johns/Yamamura).

Item K-2: Conservation District Use Application (CDUA) HA-3233 for the Gadler Single Family Residence (SFR), Keonepoko Iki, Puna, Hawaii, TMK (3) 1-5-009:040.

Sam Lemmo, Administrator of the Land Division pointed out the subject parcel is located on unimproved oceanfront property makai of a Government Beach Road and is adjacent and North of the Hawaiian Beaches subdivision located at Keonepoko Iki. The proposed single family residence will consist of a one-story concrete floor dwelling with two bedrooms, two and half baths, a kitchen, a dining room, a living room, a foyer and entryway that is approximately 2849 square feet. The applicant is also proposing to construct covered lanais, arcade and breezeway, a utility and storage area and a swimming pool which will bring the area of the residence to the maximum 5,000 square feet. Mr. Lemmo noted the existing topography would require grading/contouring of 7% of the property. Mr. Lemmo recommended the Board approve this application for a one-story Single Family Residence as described subject to the conditions listed in staff's submittal.

Steven Lim, attorney representing the Gadler Family Trust appeared before the Board. Mr. Lim acknowledged the breezeway would be connected so there will be only one structure. He went on to say that his client has consulted with their neighbors on the

proposed plans as requested by the Office of Environmental Quality Control as wells as spoke with community members with regards to Hawaiian cultural practices. Mr. Lim noted his concern with recommendation 4) as the tree house was constructed by a previous owner. He spoke of his client's inability to remove the tree house within 30 days, instead he asked that his client be granted 180 days to remove the tree house.

The Board amended Recommendation 4) as follows

"4. The applicant shall remove the unauthorized tree house within [~~30~~] <u>180</u> days of Board approval of CDUA HA-3233;"

Unanimously approved as amended (Johns/Martyn).

Item K-1: Conservation District Use Application (CDUA) OA-3248 for Subdivision of Land for Traffic Calming Improvements, Aiea, Oahu, TMK (1) 9-8-037:003.

Unanimously approved as submitted (Johns/Martyn).

Item E-1: Permission to assign Mobile Food Concession Agreement SP-0053 at Wailua River State Park (Opaekaa Falls Lookout), Kauai from H & M Partners to H & M Foods, Inc.

Unanimously approved as submitted (Johns/Martyn).

Item C-1: Request to Conduct Public Hearings Regarding Designation into the Natural Area Reserve System State Forest Reserve Lands at Hono O Na Pali, Island of Kauai, and State Forest Reserve Lands at Poamoho, Island of Oahu.

Unanimously approved as submitted (Johns/Martyn).

Item M-1: Amendment to Lease No. DOT-A-98-0008 U.S. Federal Aviation Administration Hilo International Airport.

Item M-2: Issuance of an Inconsistent Use Revocable Permit to T. Sniffen and Sons, LLC, Kahului Airport.

Item M-3: Amendment to Prior Board Action of August 22, 2003, Item M-1 U.S. Federal Aviation Administration Molokai Airport.

Unanimously approved as submitted (Johns/Martyn).

Item L-1: Approval for Award of Construction Contract: J00C404A – Alakai Vista ADA Barrier Removal, J00C405A – Kawaikoi ADA Barrier Removal, J00C406A – Sugi Grove ADA Barrier Removal, J00C407A

– Kokee Hunter Check-in Station ADA Barrier Removal, J00C408A – Lapa ADA Barrier Removal Kokee, Kauai, Hawaii.

Item L-2: **Approval for Award of Construction Contract: Job No. J00C402A, Keahua Aboretum ADA Barrier Removal Wailua, Kauai, Hawaii.**

Item L-3: **Approval for Award of Construction Contract: Job No. J00CF47A, Haena State Park ADA Barrier Removal, and Job No. J00CF80A, Na Pali Coast State Park ADA Barrier Removal, Haena, Kauai, Hawaii.**

Unanimously approved as submitted (Johns/Martyn).

Item D-8: **Consent to Assign Grant of Easement Identified as General Lease No. S-4227, SWVP Keauhou LLC, Assignor, to Oxford Lodging Kona Beach Hotel, LLC, Assignee, Kahaluu, North Kona, Hawaii, TMK: (3) 7-8-13:42.**

Motion to withdraw
Unanimously approved to withdraw (Johns/Martyn).

Item D-12: **Acquisition of a Perpetual Non-Exclusive Subsurface Communication Easement from the City and County of Honolulu, and Set Aside to the Department of Accounting and General Services; Mililani Street, Honolulu, Oahu, TMK: (1) 2-1-25:04 (Portion of adjacent roadway).**

Item D-13: **Amend Prior Board Action of September 26, 1986 (Agenda Item F-9) – Set Aside to City and County of Honolulu for Solid Waste Collection Site, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-09:283.**

Item D-18: **Set Aside to the City and County of Honolulu, Department of Parks and Recreation for Beach Park Purposes, Pupukea-Paumalu Beach Lots, Koolauloa, Oahu, TMK: (1) 5-9-03:69.**

Item D-21: **Annual Renewal of Revocable Permits on the Islands of Hawaii, Maui, Molokai, Kauai and Oahu.**

Motion to defer
Unanimously approved to defer (Johns/Martyn).

Item D-1: **Rescind Prior Board Action of April 22, 1992 (Item F-9), Amendment to Prior Board Action of November 17, 1989 (Item F-1-b), Consent to Assignment of Lease (General Lease No. S-5039), Lot 84, Kokee Campsite, Waimea, Kauai, TMK: (4) 1-4-04:55.**

Item D-2: **Conveyance of State Land, Parcel 03 abutting the Eastside of Poipu Road for Road Improvement Purposes to the County of Kauai, Koloa, Kauai, TMK: (4) 2-6-04:03.**

Item D-3: **Grant of Perpetual Non-Exclusive Easement to the Department of Water, County of Kauai for Overflow Drainage and Channel Purposes and Issuance of a Construction and Management Right-of-Entry, Omao, Koloa, Kauai, TMK: (4) 2-7-04:11.**

Item D-4: **Amend Prior Board Actions of March 10, 1995, Agenda Item F-4 and January 23, 1997, Agenda Item D-4, Direct Sale of Non-Exclusive Easement to Nicholas J. Schwaebe and Sabina H. Schwaebe for Access and Utility Purposes; Government Remnant at Kehena, Puna, Hawaii, TMK: (3) 1-2-09:21.**

Item D-5: **Mutual Cancellation of Grant of Easement No. S-4696 to ARC of Hilo for Access and Utility Purposes, Kaumana, South Hilo, Hawaii, TMK: (3) 2-5-04:portion of Amau Road.**

Item D-6: **Consent to Assign General Lease No. S-5546, Gill Terry Causey, Assignor, to Christopher P. O'Conner, Assignee, Kokoiki, North Kohala, Hawaii, TMK: (3) 5-5-05:portion of 19.**

Item D-9: **Amend Prior Board Action of May 27, 2005 (Item D-3), Grant of Perpetual, Non-Exclusive Easement to Oceanic Time Warner Cable for Utility Purposes, Kahakuloa, Maui, TMK: (2) 2-2-01:portion 51 and 68.**

Item D-11: **Acquisition of Private Lands and Set Aside to Division of Boating and Ocean Recreation for Addition to the Manele Small Boat Harbor, Manele, County of Maui, Island of Lanai, TMK: (2) 4-9-17:02 por. and Rescind Prior Board Action of July 13, 2001 (Agenda Item J-2), Issuance of Lease by Direct Negotiation to Castle and Cooke Resorts LLC, Manele Bay Small Boat Harbor, Island of Lanai.**

Item D-14: **Amendment to Prior Board Action of November 19, 2004 (Agenda Item D-11) for Sale of Reclaimed Land to Lloyd and Diana Komagome, Kaneohe, Oahu, TMK: (1) 4-4-21:33 seaward.**

Item D-15: **Amend Prior Board Action of September 24, 2004 under Agenda Item D-8, for Grant of a 55-year Non-Exclusive Easement for Concrete Boat Ramp to Ralph and Margaret Kiessling, Kalokohanahou, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-5-47:49 seaward.**

Item D-16: **Sale of Reclaimed (Filled) Land to John Donald Perry, at Kahaluu, Koolaupoko, Oahu, TMK: (1) 4-7-19:44 seaward.**

Item D-20: **Amend Prior Board Action of June 9, 2005 (Item D-18), Reconsideration of Rent under General Lease No. S-5382 to Waianae District Comprehensive Health and Hospital Board, Inc., Waianae, Oahu, TMK: (1) 8-6-01:03.**

Unanimously approved as submitted (Johns/Martyn).

Item D-19: **Amendment to Prior Board Action of February 25, 1966, (Item F-13) and April 12, 1991, (Item F-4), Direct Perpetual Non-Exclusive Easement for Electrical Transmission Line, Pole and Anchor at Waianae, Oahu, TMK: 8-5-06:portions of 01 and 04 and 6-7-03:portions of 18 and 25.**

Member Johns recused himself.

Unanimously approved as submitted by the remaining Board members (Yamamura/Martyn).

There being no further business, Chairperson Young adjourned the meeting at 9:42 a.m. Tapes 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,

Terry Crowell

Terry Crowell

Approved for submittal:

PETER T. YOUNG
Chairperson
Department of Land and Natural Resources