

Motions Log 08-09

RMC

7-14-08 Roger Hawney moved to approve the minutes of June 9, 2008. Andrew Coyne seconded; the motion passed unanimously.

BOARD

7-28-08 Approval of Minutes: Fred McConnell moved to approve the April Board minutes as restated, correcting the spelling of Blane's. Andrew Coyne seconded; the motion passed unanimously.

7-28-08 Wesley Owens moved to approve the minutes of the regular Board meeting of June 30, 2008, as corrected. Fred McConnell seconded; the motion passed unanimously.

7-28-08 Dawn Spurrell-Robinson moved to approve the minutes of the special Board meeting of June 30, 2008; Fred McConnell seconded. The motion passed unanimously.

RMC

8-11-08 Andrew Coyne moved to approve the minutes of April 14, 2008, as written. Roger Hawney seconded; the motion passed by a vote of two for, zero opposed. [Fred McConnell abstained, since he was not present at the meeting.]

8-11-08 Andrew Coyne moved to approve the minutes of May 12, 2008, as written; Roger Hawney seconded. The motion passed by a vote of two for, zero opposed. [Fred McConnell abstained, since he was not present at the meeting.]

8-11-08 Andrew Coyne moved to approve the minutes of July 14, 2008, as written; Roger Hawney seconded. The motion passed unanimously.

BOARD

8-25-08 Yen Chin nominated Dennis McCartin for Director. He was elected unanimously.

8-25-08 Yen Chin moved to withdraw the proposal to file a contested case against 130 Holding, contingent upon 130 Holding's agreement to abide by the Orchardland Design Plan, and to donate \$5000 and work diligently to lobby the DOT to install appropriate traffic control at Orchardland Dr. and Highway 130. Dennis McCartin seconded; the motion passed by a vote of 4 for, 0 against. [Greg Gadd recused himself.]

8-25-08 Greg Gadd moved to approve the minutes of July 28, 2008, as written. Fred McConnell seconded; the motion passed unanimously.

8-25-08 Yen Chin moved to spend up to \$500 for a bulk mailing permit. Fred McConnell seconded; the motion passed unanimously.

8-25-08 Yen Chin moved to approve up to \$5000 for legal fees for defense of the Sung lawsuit. Fred McConnell seconded. The motion passed by a vote of 4 for, 0 against, 1 abstention.

8-25-08 Yen Chin moved to authorize up to \$5000 to purchase Director and Officer Commercial Liability insurance when it comes due. Fred McConnell seconded; the motion passed unanimously.

RMC

9-8-08 Roger Hawney moved to recommend to the Board of Directors to allocate an additional \$2000, if needed, for materials on Keala, 41st and 42nd. Dennis McCartin seconded; the motion passed by a vote of 2 for, 0 opposed.

BOARD

9-22-08 Approval of Minutes: Dennis McCartin moved to approve the minutes of August 25, 2008, as written. Fred McConnell seconded; the motion passed unanimously.

9-22-08 Greg Gadd moved to move \$100,000 to an interest-bearing account at First Hawaiian Bank. Fred McConnell seconded. Yen Chin offered a friendly amendment to move \$95,000 to First Hawaiian Bank and \$95,000 to Bank of Hawaii, so that any interest accrued would also be insured. The friendly amendment was accepted, and the motion as amended passed unanimously.

9-22-08 Dennis McCartin moved to approve an additional \$2000 for Keala, 41st, 42nd, and the top of Orchidland Drive. Fred McConnell seconded; the motion passed unanimously.

9-22-08 Yen Chin moved to approve Wesley Owens' letter to the post office, with the last paragraph deleted. Fred McConnell seconded; the motion passed unanimously.

BOARD

10-27-08 Yen Chin nominated D'artagnan Josephson for Director; Dennis McCartin seconded. The motion passed by a vote of 16 for, 0 against.

10-27-08 Yen Chin moved to approve the minutes of September 22, 2008, as written. Fred McConnell seconded; the motion passed unanimously.

10-27-08 Yen Chin moved to authorize an expenditure of \$3500 for a retainer for Ivan Van Leer to represent OLCA in the Murakami countersuit. Fred McConnell seconded; the motion passed by a vote of 4 for, 0 against. Greg Gadd abstained.

10-27-08 Fred McConnell moved to accept a Directors and Officers insurance from Westminster for approximately \$3500. Dennis McCartin seconded; the motion passed by a vote of 4 for, 0 against. D'artagnan Josephson abstained.

MEMBERSHIP

11-15-08 Art Smith moved to approve the minutes of the general membership meeting of April 26, 2008, as written. Dean Monroe seconded; the motion passed unanimously.

11-15-08 Gaila Vidunas moved to request a \$50 special assessment for a legal contingency fund for defense and indemnification of directors, officers and agents of the corporation, or such wording as recommended by the Association's attorney. David Aasve seconded; the motion passed by a vote of 35 for, 6 opposed.

11-15-08 Marti Morishige moved to call a special meeting before the special assessment ballots are due to explain why the assessment is needed and to discuss the pro's and con's of receivership. Dean Monroe seconded. The motion passed by a vote of 21 for, 8 against.

BOARD

11-24-08 Dennis McCartin moved to approve the minutes of the Board of Directors meeting of October 27, 2008, as corrected. Roger Hawney seconded; the motion passed unanimously.

11-24-08 Yen Chin moved to increase the 08-09 budget line item for legal and professional fees from \$3000 to \$13,000. Wesley Owens seconded; the motion passed by a vote of 4 for, 1 against. [A 2/3 majority is required to change a budget line item.]

11-24-08 Yen Chin moved to increase the 08-09 budget line item for ballot tabulation from \$300 to \$1000. Dennis McCartin seconded; the motion passed unanimously.

11-24-08 Greg Gadd moved to obtain a quotation from Gerald Yamada to pave Auli`i. Yen Chin seconded; the motion passed unanimously.

11-24-08 Yen Chin moved to reject the bid from Yamada & Sons for \$147,000 to pave Auli`i and Ilima, because of the lack of a warranty. Roger Hawney seconded; the motion passed unanimously.

RMC

1-12-09 The minutes of April 14, 2008, and August 11, 2008, were approved as written.

Yen Chin moved to approve the minutes of September 8, 2008, as written. Dennis McCartin seconded; the motion was approved unanimously.

1-12-09 Dennis McCartin moved to use the Kubota tractor to drag an I-beam to smooth 34th Avenue, with the cost not to exceed \$500. Fred McConnell seconded; the motion passed unanimously.

1-12-09 Yen Chin moved to ask the Board to increase the amount allocated for preparation for paving on Auli`i from \$45,000 to \$55,000. D'Artagnan Josephson seconded. The motion passed by a vote of 3 for, 1 opposed.

1-12-09 Yen Chin moved to spend up to \$10,000 of the paving funds derived from MRMA's (not from the special paving assessments) to repair 39th and Pohaku Dr. Dennis McCartin seconded; the motion passed unanimously.

SPECIAL MEMBERSHIP

1-17-09 Gaila Vidunas moved to approve the minutes of November 15, 2008, as read. Sherri Carden seconded. The motion passed by a vote of 37 for, 0 opposed.

1-17-09 Melia Goodnow moved to approve the wording of an amendment to the Bylaws to add: Article XIV, Disputes: *Any member of the Association must, before filing a legal action against OLCA, its Board of Directors or any individual director, officer or agent of the corporation, attend mediation with the full Board of Directors and the agent, if any. Such mediation will be presided over by an impartial facilitator, and any cost incurred will be covered by the instigator of the action.*

The motion passed by a vote of 26 for, 0 opposed.

1-17-09 Roger Hawney moved to approve the wording of changes to Bylaws Article IV as follows: All owners of lots abutting private roadways shall be assessed MRMA as authorized by the State of Hawaii Court Summary Judgment dated April 3, 1992, and further clarified by the ruling in Civil #06-01-099, *OLCA vs. Murakami*. Changes in the MRMA shall be recommended by the BOD and submitted for approval to the membership by a simple majority of the votes cast.

[delete: 'Each assessment shall constitute a lien upon each lot against which it is imposed.'] Upon any lot owner becoming delinquent for more than [delete 'sixty (60) days'] *one (1) year* after the due date for payment, the BOD may *enforce collection by obtaining a judgment against the property owner for the payment of MRMA, and then registering the judgment with an assistant registrar of the Bureau of Conveyances or Land Court of the State of Hawaii.*

The motion passed by a vote of 26 for, 0 opposed.

SPECIAL BOARD

2-2-09 Roger Hawney moved to approve the minutes of November 24, 2008, as presented. Dennis McCartin seconded; the motion passed unanimously.

2-2-09 Dennis McCartin moved to accept the bid from Yamada & Sons to pave Auli'i Street for \$172,212.30. Roger Hawney seconded; the motion passed unanimously.

2-2-09 Yen Chin moved that the Association rent the machinery required for the preparation for paving on Auli'i Street. Labor will be provided through a licensed contractor. Wesley Owens seconded; the motion passed by a vote of 4 for, 0 opposed, 1 abstention.

2-2-09 Dennis McCartin moved to approve up to \$62,400 for paving preparation on Auli'i Street, to be awarded to the lowest bidder. D'Artagnan seconded. The motion passed by a vote of 4 for, 0 opposed, 1 abstention.

2-2-09 Yen Chin moved to approve the IRS-sanctioned conflict of interest policy. Dennis McCartin seconded; the motion passed by a vote of 4 for, 0 opposed, 1 abstention.

RMC

2-9-09 The minutes of January 12, 2009, were approved by acclamation, with the correction to capitalize the initial A in D'Artagnan Josephson's name.

2-9-09 Yen Chin moved to give Yamada & Sons until Friday to bid on the prep work on Auli'i; if a bid is not received by that date, to proceed with Gary Dalton's bid. Dennis McCartin seconded; the motion passed unanimously.

RMC

3-9-09 Yen Chin moved to spend \$350 to \$400 to purchase a truckload of rock to fill holes on 35th Ave., Pohaku Place and Laniuma St. D'Artagnan Josephson seconded; the motion passed unanimously.

BOARD

4-20-09 The minutes of the special Board meeting of February 2, 2009, were approved as written by acclamation.

4-20-09 Roger Hawney moved to approve the priority list for the road maintenance projects as follows: first, 39th and Pohaku Dr. and 37th and Pohaku Dr. as one unit; second, chipseal at 36th and Orchidland Dr.; and third, the T at 35th and Pohaku Place and 35th between Laniuma and Pohaku Place as one unit, with the possible adjustment of moving 36th and Orchidland Dr. to first priority if and when the man with the donated oil becomes available. Dennis McCartin seconded the motion, which passed by unanimous vote.

4-20-09 Yen Chin moved to approve up to \$1000 per year for liability insurance for office space. Fred McConnell seconded; the motion passed unanimously.

MEMBERSHIP

4-25-09 The minutes of January 17, 2009, were approved as corrected by acclamation.

4-25-09 Suzanne Garfield moved to delete the budget item diverting \$5000 from mandatory road maintenance assessment funds to the paving fund. Jerry Gardner seconded. The motion passed by a vote of 24 for, 1 opposed.

4-25-09 Ralph Boyea moved to accept the budget as amended; Luke Bailey seconded. The motion passed by a vote of 24 for, 0 opposed.

4-25-09 Ralph Boyea moved to add to the opening statement of the Legal Fund Policy and Procedures that "in 2009 Orchidland Community Association created a legal defense fund for the defense and indemnification of directors, officers and agents of the corporation." The motion was seconded and passed by a vote of 24 for, 0 opposed.

4-25-09 Luke Bailey moved to strike item 3: "Collections are under the same policy and procedures as the MRMA fund" from the proposed Legal Fund Policy and Procedures. Tegen Greene seconded; the motion passed by a vote of 23 for, 0 opposed.

4-25-09 Dennis McCartin moved to amend item 2 to read: "Support in the form of payment to this Orchidland Legal Defense Fund is a one-time assessment due as approved by a majority vote of the general membership." Wayne Carey seconded. The motion passed by a vote of 21 for, 1 opposed.

4-25-09 Ralph Boyea moved to amend item 4 to read: "This fund is for legal defense use only," deleting "and not for legal offense or defendant countersuits." The motion was seconded, and failed by a vote of 5 for, 18 opposed.

4-25-09 Roger Hawney moved to amend item 5 to insert: "Expenditures are for contingent use after *an amount equal to* the insurance deductible is satisfied or administrative funds are insufficient for legal usage." Ralph Boyea seconded; the motion passed by a vote of 19 for, 2 opposed.

4-25-09 Ralph Boyea moved to amend item 7 to read: "Allocations will happen on recommendations of any Director and approval by decision of the Board of Directors." The motion was seconded and passed by a vote of 21 for, 0 opposed, 1 abstention.

4-25-09 Ralph Boyea moved to adopt the Legal Defense Fund Policy and Procedures as amended; Luke Bailey seconded. The motion passed by a vote of 22 for, 0 opposed.

BOARD

4-27-09 D'Artagnan Josephson and Dennis McCartin nominated Jerry Gardner and Ralph Boyea to be appointed as interim Directors. They were elected by a vote of 6 for, 1 against.

4-27-09 Dennis McCartin moved to approve \$20,200 for the repair of Pohaku and 39th. Ralph Boyea seconded. The motion passed unanimously.

4-27-09 Dennis McCartin moved to allocate \$2700 for the repair of 37th and Pohaku Dr. D'Artagnan Josephson seconded; the motion passed unanimously.

4-27-09 Wesley Owens moved to allocate \$3500 to provide drainage and replace the chipseal at 36th and Orchidland Drive, including aprons, dependent upon receipt of an acceptable project scope with final cost estimate. D'Artagnan Josephson seconded. The motion passed unanimously.

4-27-09 Dennis McCartin moved to approve \$2400 for a delivery of cold-patch to the Road Manager for community use. Ralph Boyea seconded; the motion passed unanimously.

RMC

5-11-09 The RMC minutes of March 9, 2009, were approved by acclamation.

5-11-09 Fred McConnell moved to approve \$850 to repair the Association's dump truck. D'Artagnan Josephson seconded; the motion passed unanimously.

5-11-09 Jerry Gardner moved to recommend to the Board to approve an additional \$4000 to pave Auli'i on the weekend of May 30, or the next earliest possible weekend, if the paving has not been completed by that date. Fred McConnell seconded; the motion passed unanimously.

5-11-09 Ralph Boyea moved to recommend that the Board of Directors appropriate an additional \$1500 [from \$3500 to \$5000] for chipsealing at 36th Avenue and Orchidland Drive, with \$1000 of that amount for aprons, due to increased labor and materials costs. D'Artagnan Josephson seconded; the motion passed unanimously.

BOARD

5-25-09 Dennis McCartin moved to approve the minutes of April 27, 2009, as written. Ralph Boyea seconded; the motion passed unanimously.

5-25-09 Dennis McCartin moved to approve an additional \$4000 to pave Auli'i Street on a weekend, if necessary to complete the project by May 31, 2009. Roger Hawney seconded; the motion passed unanimously.

5-25-09 Dennis McCartin moved to spend up to \$1000 to remove rocks from Auli'i to the washout on 35th Avenue by Friday, May 29. Jerry Gardner seconded; the motion passed unanimously.

5-25-09 Ralph Boyea moved to appropriate an additional \$1500 for chipsealing at 36th Avenue and Orchidland Drive, with \$1000 of that amount for aprons, due to an increase in labor and materials costs. Fred McConnell seconded; the motion passed unanimously.

RMC

6-8-09 Ralph Boyea moved to approve the minutes of May 11, 2009, as written. Yen Chin seconded; the motion passed unanimously.

6-8-09 Yen Chin moved to approve the minutes of February 9, 2009, as written. Dennis McCartin seconded; the motion passed unanimously.

6-8-09 Ralph Boyea moved to use the rock from the current paving work on Auli'i Street to fill a large hole on 40th Avenue and to Keala Street, with an estimated cost of \$800 for labor, plus one load of gravel. Dennis McCartin seconded; the motion passed unanimously.

BOARD

6-22-09 Dennis McCartin moved to approve the minutes of May 25, 2009, as written. Roger Hawney seconded; the motion passed unanimously.

6-22-09 Fred McConnell moved to hold a special meeting to address the paving assessment, MRMA issue, Bylaws issues, and/or legal decisions, as determined by priority. D'Artagnan Josephson seconded; the motion passed unanimously.

6-22-09 Dennis McCartin moved to approve payment of approximately \$24,000 for cinders to Bryson's, and \$69,802.50 for completion of the paving preparation for Auli'i. Ralph Boyea seconded. The motion passed by a vote of 4 for, 1 opposed.

SPECIAL BOARD

6-29-09 Ralph Boyea moved to extend the term of the current OLCA officers until new officers are elected at the next Board meeting in July. D'Artagnan Josephson seconded. The motion passed by a vote of 3 for, 2 opposed.

6-29-09 D'Artagnan Josephson moved to approve spending \$8150.84 to buy the commercial general liability insurance policy presented by our insurance agency, pending satisfactory review of what the policy really covers. Roger Hawney, Fred McConnell and Yen Chin are empaneled as the review group to make the final buying decision. Jerry Gardner seconded; the motion passed by a vote of 4 for, 1 opposed.