

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

**DATE:** FRIDAY, JANUARY 10, 1992  
**TIME:** 8:30 A.M.  
**PLACE:** HILO STATE OFFICE BUILDING  
CONFERENCE ROOMS A, B AND C  
25 AUPUNI STREET  
HILO, HAWAII

**ROLL  
CALL**

Chairman William Paty called the meeting of the Board of Land and Natural Resources to order at 8:30 a.m. The following were in attendance:

**MEMBERS:** Mr. John Arisumi  
Mr. Herbert Apaka  
Mr. Christopher Yuen  
Mr. T.C. Yim  
Mr. William Paty

**ABSENT & EXCUSED** Ms. Sharon Himeno

**STAFF:** Mr. W. Mason Young  
Mr. Roger Evans  
Mr. Michael Buck  
Mr. Gordon Akita  
Mr. Glenn Taguchi  
Ms. Dorothy Chun

**OTHERS:** Mr. Johnson Wong, Deputy Attorney General  
Mr. Peter Garcia, Department of Transportation  
Ms. Sandra Schutte (Item F-2)  
Ms. Kim Harris (Items C-1, C-2, C-3)  
Ms. Barrie Morgan (Items C-1, C-2, C-3)  
Ms. Annie Brach (Item H-1)  
Mr. Alton Miyamoto (Item H-3)  
Mr. Steve Oliver (Item F-3)

**MINUTES** Mr. Apaka moved that the minutes of September 27, 1991, October 11, 1991 and November 22, 1991 be approved as circulated. Seconded by Mr. Yim, motion carried.

Items on the agenda were considered in the following order to accommodate those applicants and interested parties at the meeting.

**ITEM F-2 SOUTH POINT COUNTRY CLUB PARTNERS (PARTNERS) REQUEST FOR  
RIGHT-OF-ENTRY TO A PORTION OF THE GOVERNMENT LANDS,  
SITUATE AT WAIOHINU, KA'U, HAWAII, TAX MAP KEY 9-5-06:01**

After his presentation of Item F-2, Mr. Young said that staff was recommending that a right-of-entry be granted with a disclaimer that the applicant is fully aware of the concerns of the lava hazards as well as the safety zone area and that the right-of-entry does not in any way obligate the State in granting the proposal for the whole subdivision or for the disposition of the road.

The Chairperson asked Mr. Young if he wished to comment on any of the comments made by the various agencies that may be of particular interest.

Mr. Young took the opportunity to inform the Board that the Office of State Planning and the Department of Business and Economic Development and Tourism brought out the matter of the launching ramp facilities as well as the lava. Again they reiterate in their response that's described in the submittal their concerns with respect to the development and the impact it may have in the event the launching ramp facility does go and how it may affect the safety zone area for the applicants. They are willing to grant the right-of-entry to do the environmental assessment.

Upon inquiry by the Chairperson, Mr. Young repeated the concerns of the County Public Works Department and the Office of Hawaiian Affairs as listed in the submittal.

Mr. Yuen asked if the road is a County or State road.

Mr. Young said that the position that they are taking is that any roadway other than a State Highway, would be a county public highway. He felt that this needed to be worked out with the County.

Ms. Sandra Schutte said that she represented the applicant, South Point Country Club Partners and with her today was Bruce Shain who is an officer of the general partnership and also Ivan Esteros who is working on this project.

Ms. Schutte began her presentation by introducing a large aerial photo to point out the different areas.

Discussion followed on the width of the road and the area of the State parcel and the distance to the State property.

Her clients have been in contact with the Office of Space Industry and they understand that the area near this property is one of the potential State launch sites. At this time they are willing to take the risk in doing the environmental assessments necessary for this road and in the event that the other site is chosen they would proceed with this project. If this particular site near the property is chosen, they don't have a project either.

Besides providing access to this property once the road is widened, it will provide better access to Greenspan Subdivision and Ke' O Laka Subdivision. These subdivisions have almost 500 lots that are existing right now. It will also provide utilities and water to those subdivisions.

More discussion followed on the road.

Ms. Schutte said that they did do an abstract through Title Guaranty as to who owns the road. There was no description of the road or any evidence of ownership and they came up with nothing.

Ms. Schutte said after meeting with Bruce McClure, the Deputy Chief Engineer, Bobby Anabu, head of the Engineering Division in Public Works, they instructed

her client that they wanted a 60 foot right-of-way. Since this comment came in, they saw the submittal this week that said they wanted 80 feet, but if that's going to be the requirement of the County, the developer will meet the requirement. The 200 foot corridor should be sufficient for the archaeological work or any other work.

Mr. Young said that the County was aware of the rocket launching facility but he did not know the County's position with respect to this development and the launching facility. He again stressed the fact that applicant today was seeking a right-of-entry to do an environmental assessment.

Ms. Schutte said that in December her client received a letter from George Mead about this issue. She said that a study was done in 1988 and apparently the two sites were selected. Her client and the Office of Space Industry have been in contact discussing when a decision would be made and hopeful that a decision would be made before the end of 1991 but nothing has been done. That's part of the reason they want to proceed at least with the right-of-entry because they could get initial studies done. Until a decision is made on the space port, with this being a potential site, her client probably cannot proceed with their subdivision because if it is the selected site, the property that is in their control zone is going to be condemned and not even be allowed for the subdivision. Plus there's the issue who's going to buy a residential lot if they're so close to the space port facility. Her client is willing to do the environmental assessment for the road improvement but they are also fully aware of the problems.

There was a question of the road reserve through the subdivisions. Ms. Schutte said she was assuming it belonged to the County or considered the road reserve for the homestead road. She then explained it would be 50 feet wide through the two subdivisions, through the State land it would be 60 or 80 feet wide and through her client's property it would be 60 or 80 feet wide. The actual pavement, the travel surface would probably be 40 feet so that it would be uniform throughout the right-of-way. The 50 foot right-of-way is something that the County required a long time ago for the subdivision.

**ACTION** Unanimously approved as submitted. (Yuen/Arisumi)

**REQUEST FOR BOARD APPROVAL TO ENTER INTO A NATURAL AREA PARTNERSHIP AGREEMENT WITH THE NATURE CONSERVANCY FOR PELEKUNU PRESERVE, MOLOKAI**

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**ITEM C-1**

Mr. Buck requested that Items C-1, C-2 and C-3 be taken up together as they are all for a Natural Area Partnership Agreement with the Nature Conservancy for a preserve on three different islands. He then gave a background because it is a new program saying it's not the first that will show up in front of the Board. Last year the legislature introduced two landmark legislation bills to afford a stewardship program in the Natural Area Partnership Program. The intent of the programs was to encourage private landowners to manage forest and native resources that are in the public interest and the vehicle to do it was possibly incentive to the landowner. At one time over a million acres were surrendered to the state for management as forest reserve. As their surrender agreement lapsed and the property tax exemptions moved to the counties and

liability issues, most of these surrender agreements have not been renewed and we have approximately 800,000 to 1,000,000 acres of private land that has important forest resources on it.

Mr. Buck said to qualify for the Natural Area Partnership program, it has to be private land and it has to be areas that are deemed to have high quality natural area resources. There has to be a cooperating entity of some sort of organization that has shown it's capable of managing those lands and a private landowner has to give a permanent conservation easement of those lands to the cooperating entities.

The first proposal is on the island of Molokai in the Pelekunu Preserve, this is owned in fee simple by the Nature Conservancy of Hawaii and they are the cooperating entity.

The second proposal is Kapunakea Preserve in West Maui. It is owned in fee simple by AmFac, JMB and they have given a perpetual conservation easement to the Conservancy.

The third proposal is Kanepu'u Preserve on the island of Lanai. It is owned by Castle and Cooke and they have given the Nature Conservancy a conservation easement.

The plan is an innovative program. They are asking for permanent conservation easements but the State can only guarantee two years of funding, constitutionally. They are trying to lock the landowner into at least a six year management planning cycle as there are all sorts of planning and updating. The management plans can be amended through Board approval. There are a series of progress reports and disbursement and monies which will be coordinated with the progress reports. There's also a penalty payback clause.

All three areas are located within the conservation district. All the land uses within the plans are permitted uses within the protected subzone. They are holding these management plans to the same standards that the Natural Areas Commission hold the state in managing their own Natural Areas.

Mr. Arisumi questioned the 1/2 million dollars use for the projects.

Mr. Buck said that the 1/2 million dollars would be used over three projects. It's a two to one match, so the State will give \$2 for every \$1 that the private landowner uses. In each of the specific plans there is a detailed budget as to what the money will be used for, like management activities, monitoring native plant controls, animal control, a public education component and mostly for on the ground protection of non-native plants and animals, fences and improved accesses.

Discussion followed as to the expense of putting up fences in a large area and there are also some very steep areas where other methods may be used. Fencing over a large range could become very expensive.

Chairperson Paty asked Mr. Buck to comment on the fact that the Nature

Conservancy was the partner in all three of these initial applications and they were very active in lobbying for the passages of the bill.

Mr. Buck said that the legislation calls for a cooperating entity that is capable of managing natural areas. The Nature Conservancy was well positioned to take advantage of the bills but it does not mean that any other agency or even landowner can't come forward. They've heard that West Maui Land and Pineapple is interested and they're watching to see how this process works. They are already managing their lands. A private landowner could come forward as a cooperating entity as well as any other groups. There are a lot of landowners that will be watching the program.

The Chairperson commented that this partnership works to an arrangement that comes under the two for one, the Natural Area Partnership. He asked what interest has been expressed on the stewardship aspect on a one for one relative not to the quality of monetary but could be put back into watershed or forest management.

Mr. Buck responded that they've had an overwhelming response on both programs. The requests have exceeded their funding and they will be coming to the Board probably at the next meeting for the stewardship contracts which would be 50-50 matching and only a 10 year commitment. With a management plan they have a stewardship committee on resources such as reforestation, sustainable use of koa and individual endangered species restoration project. They've had a large response on both of those and that is why both programs ran tandem at the legislature. There was an alliance of interest all the way from the Hawaii forest industry to Sierra Club Legal Defense Fund all coming together wanting to support both programs and they will be coming to the Board for the stewardship program as well. This is the only state with a Natural Area Partnership program. Only one other state has the stewardship program.

Chairperson Paty asked if they are able to account for in-kind service or kokua time or how do they add it all up, faced against the one for one or two for one.

Mr. Buck said that in-kind services are allowable as the landowner's contribution as they know that some of the landowners may be land rich or cash poor and they might have existing infrastructure with heavy equipment. They have access to all the financial records and the progress reports that the landowners will provide, with a detailed account of all monies spent. There's a 6 month and a one year recording cycle and the payments are locked into that once they go on site and inspect and insure the job is being done.

The Division of Forestry and Wildlife will be the lead agency from the State that will be accountable for the State funds. One of the reasons the legislature specifically wanted the Board involved is because they wanted public opportunity for public review.

Representing the Nature Conservancy were Ms. Kim Harris and Ms. Barrie Morgan. Ms. Harris said that one of the things she wanted to add to what Mr. Buck said was that although the funding for two years won't be enough to bring on new projects at this point, at the last session they were really encouraged by the Chair of the Finance Committee and the Ways and Means Committee to

come back. They wanted to see how these programs worked in the first year to see if there was enough interest to keep them going and to return this year for supplemental funding.

Responding to Mr. Yuen, Ms. Morgan described the number of stewardship positions of the three programs and a short background on how their time was spent, also there is one stewardship ecologist to one stewardship planner.

**ACTION** Mr. Arisumi moved for approval Items C-1, C-2 and C-3; seconded by Mr. Yim, motion carried unanimously.

**ITEM C-2** **REQUEST FOR BOARD APPROVAL TO ENTER INTO A NATURAL AREA PARTNERSHIP AGREEMENT WITH THE NATURE CONSERVANCY FOR KAPUNAKEA PRESERVE, WEST MAUI**

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See above Item C-1 for Action.

**ITEM C-3** **REQUEST FOR BOARD APPROVAL TO ENTER INTO A NATURAL AREA PARTNERSHIP AGREEMENT WITH THE NATURE CONSERVANCY FOR KANEPU'U PRESERVE, LANAI**

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See above Item C-1 for Action.

**ITEM H-1** **MODIFICATION OF CONDITION "A. VIOLATION (2)" OF CONSERVATION DISTRICT USE PERMIT FOR AN AFTER-THE-FACT SINGLE FAMILY RESIDENCE AND AGRICULTURAL USE AT SOUTH HILO, HAWAII; TAX MAP KEY 2-6-11:22; APPLICANT: ANNIE BRACH**

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Mr. Evans informed the Board that this was a follow-up action on the part of the applicant. In a previous action, the Board imposed a fine and applicant was required to pay the fine within 60 days. Prior to staff referring the violation to the Attorney General's Office, a certified check was received some 80 days after the Board's action.

Staff is asking the Board to extend the payment period of 60 days to 90 days and thus that portion relative to the violation can be put to rest.

Ms. Annie Brach, applicant apologized for the late payment. She informed the Board that the property has been put up for sale because of heavy financial problems.

**ACTION** Unanimously approved as submitted. (Yuen/Arisumi)

**ITEM H-3** **CDUA FOR THE RECONSTRUCTION OF THE PORT ALLEN TO WAINIHA TRANSMISSION LINE; TAX MAP KEYS: (VARIOUS); APPLICANT: KAUAI ELECTRIC DIVISION, CITIZENS UTILITIES COMPANY**

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Mr. Evans informed the Board that this matter was deferred at the last Board meeting due to discussion on an SMA requirement. To date they have not received an SMA and staff is recommending denial of the application.

Mr. Alton Miyamoto, Manager at Kauai Electric and said that he understands Mr. Evans' concern because he did say he would work on obtaining the SMA clearance. He said that he did get a letter on January 3rd from the County of Kauai regarding a SMA and he forwarded a copy to DLNR the following day.

He said that he had a copy of the County's letter dated January 3, 1992 and asked to read it to the Board. "Subject CDUA for 57.1/67 TV Tower Replacement Line, File No. KA-7/23/91-2489, Our department has determined the project under the subject CDUA is outside of the County's Special Management Area and therefore does not require an SMA or SMA permit approval. Should you have any questions, please contact me at 245-3910."

Mr. Miyamoto apologized for not being able to get a copy of the letter to Mr. Evans' office in time to get it to the Board.

Chairperson Paty asked Mr. Evans if this information would make a difference in staff's recommendation.

Mr. Evans said they are prepared to make an amendment on page 6, under RECOMMENDATION: '... Staff recommends that the Board of Land and Natural Resources approve replacement of the 57.1/69 kilovolt transmission circuit as a conditional use subject to the following conditions.'

Mr. Yuen questioned Mr. Evans regarding a suit that is pending with the claim that the birds were going to run into the transmission line. This application is replacing an existing line so is the configuration of the lines going to be the same.

Mr. Miyamoto said that the configuration was going to be the same but the height would be higher. He said the question of birds running into the conductors have always been of great concern. One side of the coin is the height that the shearwaters fly is around the height of their existing conductors. So, the one side of the coin is it's getting better because the wire is getting higher but to say it's flying up to 65 foot, no one can positively say it. All they can say is the number of conductors and configuration is the same so they believe and the wildlife people believe that there is no differential change from the existing configuration.

Mr. Arisumi questioned if a report of the number of dead birds could substantiate any claims.

Mr. Miyamoto said that on the island of Kauai, the number of fallen birds are taken by motorists bringing in the birds which are on the highway. This power line is in the mountains and there would not be any records to go by. He added that one of the concerns or recommendation for birds has been marking the lines with orange helicopter balls which their company has been doing.

**ACTION** Unanimously approved as amended. (Apaka/Yim)

**ITEM F-3**

**RESUBMITTAL--WITHDRAWAL OF LAND FROM THE OPERATION OF  
GENERAL LEASE NO. S-4222, AND SUBSEQUENT SET ASIDE TO  
COUNTY OF KAUA'I AS AN ADDITION TO THE KEKAHA SANITARY  
LANDFILL, KEKAHA, KAUA'I, TAX MAP KEY 1-2-02:POR. 01**

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Mr. Young informed the Board that this item was deferred several times before the Board. He then gave the background and reasons for the deferrals.

Staff recommendation is not only to approve the withdrawal but for the issuance of the executive order should the withdrawal be consummated.

Mr. Apaka asked if the County had submitted any type of outline or plan of action relative to the project they are requesting. He also questioned the Department of Health's concern about the traffic of the trucks going in and out of the landfill over and through the main highway. Another concern was the height of the dump which looks like a mountain.

Mr. Young commented on Mr. Apaka's concerns but said that Mr. Steve Oliver from the Department of Public Works should be able to answer more of his questions.

Mr. Oliver said at the present time, the landfill has reached an elevation of 42 feet which is about 30 feet above the existing land level. They are not taking sand from the area at this time. They are hauling a great deal of sand in there which they are purchasing from the Kekaha Plantation. Sand has been used as a cover material plus they are purchasing a large amount of cover material. They have contracts with commercial haulers that must also purchase cover material. The Department of Health requires at this time, for every two feet of refuse that does down, there must be a minimum of 6 inches of cover material on each layer.

Mr. Oliver said he would respond to the question on the traffic. At a meeting yesterday at PMRF with the U. S. Coast Guard, it turns out that what they proposed to do, proposed access and utilities route, that roadway belongs to the U. S. Coast Guard. This was discovered by Naval Facilities Engineering Command in Honolulu. He said that was the Coast Guard road that goes to the Kokole Point Navigation Lighthouse.

He said what they did yesterday, they met with PMRF and the U. S. Coast Guard. There is an existing 12 foot road at this time and they intend to pave that out to 30 feet of width. They intend to put up a chain link fence on both sides right down to the existing PMRF Kokole Gate which is a chain link gate at the bottom. PMRF will continue to maintain access through that gate and the U. S. Coast Guard. Right now they have a conceptual idea to keep the residential people from actually going into the landfill. They plan to have a tipping area and an area for scales which they intend to purchase in the future, recycle, greenways composting area, a future storage and maintenance of equipment that's utilized on the side, plus a gate house. They would have the capability of doing all of these things by utilizing the coast guard road because there is electricity and water that comes in on that roadway. Everyone at the meeting yesterday was in agreement that they saw no reason why they couldn't do this.



Mr. Apaka inquired about the buffer zone mentioned on the first page.

Mr. Oliver said that was correct, there is was an open space about 400 feet. They intend to make sure that there are trees along the front to keep the tourist industry from observing the mountains that might be created in the area.

To answer a previous question on how high they would be taking the existing landfill to, Mr. Oliver said that they are working with the Department of Health. They would like to put a maximum of 60 feet from sea level or 48 feet above existing ground. It is their hope that they do not have to get to that height and keep it substantially less given the opportunity to have this new 63 acres.

Question regarding widening of the road came up and of the ownership of the road came up again. Mr. Oliver said that it was the Coast Guard's opinion that it was their road by Presidential Proclamation dated December 4, 1908. Mr. Young said that this would need to be checked out.

Mr. Apaka pointed to the area in the submittal that mentions an office building and a maintenance area.

Mr. Oliver said that would be for heavy maintenance equipment only, a concrete service area where hydrocarbons would not be going into the ground and the automotive mechanics would not have to lay on the rubbish to repair the equipment.

Mr. Apaka asked Mr. Oliver if there would be a problem if this item were deferred to the next meeting in Kauai, the first week in February to allow the Board to look over his proposal for Kekaha. Mr. Oliver said that it would not be a problem.

**DEFERRED** Mr. Apaka moved that this Item F-3 be deferred to the next meeting in Kauai which would be in February. Seconded by Mr. Arisumi, motion carried.

**ITEM D-1     AWARD OF CONSTRUCTION CONTRACT - JOB NO. 8-HW-H KALAOA WELL A DEVELOPMENT, WELL NO. 4355-02, HAWAII**

**ACTION**     Unanimously approved as submitted. (Yim/Apaka)

**ITEM D-2     PERMISSION TO HIRE A CONSULTANT FOR JOB NO. 1-OW-A, ALTERNATE WATER SOURCE DEVELOPMENT, WAIKELE STREAM IMPOUNDMENT, OAHU**

**ACTION**     Unanimously approved as submitted. (Yim/Apaka)

**ITEM D-3     PERMISSION TO ENTER INTO AN AGREEMENT WITH THE ESTATE OF JAMES CAMPBELL AND OTHER ENTITIES TO CONDUCT A NON-POTABLE WATER REUSE FEASIBILITY STUDY**

Discussion followed on the amount of funds available and funds that the Division of Water Resource Management proposes would be its cost.

Mr. Akita said that staff's recommendation could be amended to list the

estimated amount that they would need to expend.

Mr. Yim expressed concern that if the Board approved the recommendation as presented, can staff legally go ahead and expend \$50,000.00. He wanted to be sure for the record that staff by way of the recommendation, be very clear for any expenditures. After the last line on staff's recommendation he suggested it be added, "provided that any funds to be expended be no more than \$50,000.00."

**ACTION** Mr. Yim moved for approval Item D-3 with an amendment to staff's recommendation to be added, "provided that any funds to be expended be no more than \$50,000.00." Seconded by Mr. Apaka, motion carried.

**ITEM D-4 APPROVAL OF MEMORANDUM OF UNDERSTANDING FOR THE CONSTRUCTION AND OPERATION OF THE BULKHEADS FOR THE KAHANA WATER SYSTEM**

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Mr. Akita gave a background of the reasons for the construction of the bulkheads for the Kahana Water System. He passed out a draft copy of a Memorandum of Understanding between the State and Oahu Sugar Company. He said that Oahu Sugar Company is presently reviewing the draft MOU and have indicated that they will be revising it to detail specific responsibilities.

After discussion, Deputy Attorney General Wong confirmed that any final version of an MOU would need to come back before the Board.

The Board agreed that details should be worked out and then brought back to the Board.

**DEFERRED** Mr. Apaka moved that Item D-4 be deferred. Seconded by Mr. Yim, motion carried.

**ITEM F-1 DOCUMENTS FOR BOARD CONSIDERATION**

**Item F-1-a** Assignment of Grant of Easement No. S-4105, Non-Exclusive Access Easement A at Pu'ukapu, Waimea, South Kohala, Hawaii, Tax Map Key 6-4-01:por. 60

**Item F-1-b** Issuance of Revocable Permit to Corrine Brandt, Lot 3, Brodie Lots, Hanapepe, Waimea (Kona), Kaua'i, Tax Map Key 1-8-08:50

**ACTION** Motion to approve items F-1-a and F-1-b was made by Mr. Apaka, seconded by Mr. Yim, motion carried unanimously.

**ITEM F-2** See Page 3 for Action.

**ITEM F-3** Deferred, see Page 9 for Action.

**ITEM H-1** See Page 6 for Action.

**REQUEST TO AMEND A PREVIOUSLY APPROVED CDUA FOR A TELEVISION RELAY STATION AT MT. WEKIU, KAUAI; TAX MAP KEY 4-6-01:01; APPLICANT: PRINCEVILLE COMMUNICATIONS COMPANY**

**ITEM H-2**

**ACTION** Unanimously approved as submitted. (Yim/Apaka)

**ITEM H-3** See Page 7 or 8 for Action.

**APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4829 AND 4830, AIRPORTS DIVISION**

**ITEM J-1**

**ACTION** Unanimously approved as submitted. (Arisumi/Apaka)

**ITEM J-2** **RENEWAL OF REVOCABLE PERMITS 2103, ETC., AIRPORTS DIVISION**

**ACTION** Unanimously approved as submitted. (Arisumi/Apaka)

**DISCUSSION** Chairperson Paty asked Mr. Garcia, what basis are they using for rental increases and how are they handling it.

Mr. Garcia said at the Airport Divisions, every 1-1/2 to 2 years they have an appraisal done on all rentals within the airports division. For this purpose they have two appraisals done. Each makes an independent appraisal, it is then reviewed and decided where the rentals should be. Concessions are done separately.

**CONSENT TO ASSIGNMENT OF HARBOR LEASE NO. H-89-12, ALA WAI BOAT HARBOR, HONOLULU, OAHU (ALA WAI HARBOR FUEL SERVICES/ALA WAI FUEL SERVICES, INC.)**

**ITEM J-3**

**ACTION** Unanimously approved as submitted. (Yim/Apaka)

**ADJOURNMENT** There being no further business, the meeting was adjourned at 11:00 a.m.

Respectfully submitted,

*Dorothy Chun*  
Dorothy Chun  
Secretary

APPROVED

*John P. Keppeler*  
WILLIAM W. PATY, Chairperson

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