

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

DATE: Friday, February 25, 1994
TIME: 9:00 a.m.
PLACE: Board Room
Kalanimoku Building, Rm 130
1151 Punchbowl Street
Honolulu, Hawaii

ROLL CALL Chairperson Keith Ahue called the meeting of the Board of Land and Natural Resources to order at 9:10 a.m. The following were in attendance:

MEMBERS: Mr. Herbert Apaka
Mr. Christopher Yuen
Mr. Michael Nekoba
Mr. Keith Ahue

STAFF: Mr. Roger Evans
Mr. Henry Sakuda
Mr. Mason Young
Mr. Manabu Tagomori
Mr. Dave Parsons
Mrs. LaVerne Tirrell

OTHERS: Deputy Attorney General Johnson Wong
Mr. Tom Toyama, Dept. of Transportation
Messrs. Glen Koyama and Ray Taylor (Item H-2)
Mr. Joe Conant and Ms. Ann Lo-Shimazu (Item F-6)

ADDED ITEMS Upon motion by Mr. Yuen and a second by Mr. Apaka, the board voted unanimously to add the following items to the Agenda:

Item B-2 REQUEST FOR APPROVAL TO AMEND AN AGREEMENT WITH THE UNIVERSITY OF HAWAII, HAWAII INSTITUTE OF MARINE BIOLOGY DURING FY 1993-94.

Item C-1 APPLICATION FOR FISCAL YEAR 1994 RURAL COMMUNITY FIRE PROTECTION FUNDS (MAUI COUNTY DEPT. OF FIRE CONTROL)

MINUTES: The January 14, 1994 minutes were unanimously approved as submitted. (Apaka/Yuen)

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

**CDUA FOR EXPANSION OF TELECOMMUNICATION FACILITIES AT
MT. WEKIU, KAWAIHAU, KAUAI, TMK 4-2-1:2; APPLICANT:
KAUAI PAGING AND COMMUNICATIONS, INC.**

ITEM H-2

Mr. Glen Koyama, consultant for the applicant, said that they did get an SMA clearance for the project.

Mr. Ray Taylor, the applicant's project manager, explained that the basic thrust of their business is paging, and 2-way radio communication. The uniqueness of this business is that the whole aspect of communication was with 2-way radios before cellular came into the picture, and paging was an addition to that. They are trying to expand in order to give more coverage to the subscribers of the 2-way radio systems. Staff's report says that they are trying to duplicate the cellular market. He clarified that this is not so. Their customers are more into the commercial business where radio dispatch is used to conduct their business. Use of the Wekiu site would enhance what they already have.

In reply to Mr. Ahue's question regarding the conditions, Mr. Koyama said that they had no problems with the conditions. Insofar as the fine was concerned, Mr. Taylor said that he had no problems; however, he said that they could probably be a facilitator for the State's communications system, which he understood did not go into the Na Pali area.

Mr. Evans said that the board has, in the past, allowed in-kind service in lieu of paying a fine. However, at this point 1) staff does not know what their needs are, if any; 2) subsequent to this there would be a disposition requirement from the Division of Land Management so maybe at that time departmental needs could be assessed; 3) when the board has approved CDUA's they have required co-location of other antennas on towers and, as such, there has been no need for the board to pay any amount of money or to take any in-loose services to offset fines. Their requirement that space be set aside for other people to locate on the towers is certainly something which the board has to require as part of the basic approval.

ACTION Unanimously approved as submitted. (Apaka/Nekoba)

**CONVEYANCE OF STATE LAND TO HOUSING FINANCE AND
DEVELOPMENT CORPORATION FOR VILLAGES OF LEIALII MASTER
PLANNED PROJECT AT WAHIKULI, LAHAINA, MAUI, TMK 4-5-21:9,
17 AND PORTIONS OF 3, 4 & 5.**

ITEM F-6

Mr. Young asked that the submittal be amended as follows:
(NOTE: bracketed material [] to be deleted; underscored material to be added.)

Page 5, 1st paragraph:

We understand that the conveyance of the lower half of the area (approximately 550 acres) is almost complete. Still remaining at issue, and what we believe to be the major hurdle to date, is determining compensation for OHA and DHHL, pursuant to Acts 317 and 318, SLH, 1992. The Attorney General's Office has informed us that this situation is similar to a condemnation proceeding, HFDC may [take possession of] acquire title but, we believe that some type of deposit toward the final value should be made by HFDC when it [takes possession of] acquires title to the property. This will also reduce the interest payment made by HFDC once the value has been determined.

Page 8, condition #6:

6. Once HFDC [takes possession of] acquires title to property, HFDC issues a lease and/or permit to Pioneer Mill Company for their sugar operations. Lease rents and terms negotiated will follow the general intent established by the BLNR in its action of August 27, 1993.

Page 9, condition #10:

10. Until such time that OHA and DHHL receives their full compensation for the lands being conveyed to HFDC, HFDC shall assume responsibility as required by Sections 10-3 and 10-13.5 of the Hawaii Revised Statutes, and Article XII, Section 1 of the State Constitution, relating to the remittance of revenues to OHA and DHHL, respectively, derived from any lease and/or permit issued to Pioneer Mill Company for sugarcane cultivation purposes[.] , if determined applicable by the Attorney General.

ADDITIONS/DELETIONS:

Page 10, Delete Section D and replace with the following:

- D. Until the conveyance, in whole or in parts, of the State lands, in fee through the issuance of a land patent grant or quitclaim deed, authorize the issuance of a lease to HFDC, and grant HFDC an immediate right-of-entry to use the site for short-term sugar operations and long-term development of a master planned community subject to the following terms and conditions:
 1. HFDC shall provide DLNR with survey descriptions and three (3) white prints of the survey map for the +/- 1,125 acres or portions thereof;

2. HFDC shall work with Pioneer Mill Company on an orderly phase down of the sugar lands consistent with HFDC's housing development schedule.
3. HFDC shall secure appropriate subdivision approval from the County of Maui for +/- 1,125 acre parcel or portions thereof;
4. Standard indemnification and hold-harmless clause;
5. Standard compliance with applicable Federal, State and County rules, regulations, statutes and ordinances regarding use of the property;
6. Lease term is for 20 years (estimate build out period), if HFDC does not build out completely, HFDC may request that the lease be extended or terminated for that portion of the State lands remaining, and the remaining lands will revert back to DLNR;
7. Authorize HFDC to sublease all or portions of the State land to Pioneer Mill Company for sugar cultivation purposes. Sub-lease rents and terms negotiated will follow the general intent established by the BLNR in its action of August 27, 1993;
8. Lease rent payment to the State is gratis; however, HFDC shall remit 20% and 30% of the sub-lease rents collected from Pioneer Mill Company to OHA and DHHL respectively; if determined applicable by the Attorney General;
9. Allow for partial releases of portions of State lands from the lease as HFDC phases in their development through the conveyance of the property;
10. Standard General Lease conditions, and such other terms and conditions as may be prescribed by the Chairperson.

Page 10, Add Section E:

- E. Authorize the issuance of a Revocable Permit to Pioneer Mill Company, Ltd., covering the area remaining from G.L. S-4229 [1,812 - 1,125 = 687 (estimate)] for sugar cultivation purposes, subject to the following:
 1. Applicable terms and conditions of G.L. S-4229 with rent to be determined;
 2. Applicable standard terms and conditions for Revocable Permits:

3. Such other terms and conditions as may be prescribed by the Chairperson.

Chris Yuen questioned the second paragraph, page 5 regarding compensation to OHA being based on the Admission Act. He cautioned staff that, as written, seems to imply that the Admissions Act creates a requirement on the State to segregate portions of funds from the Land Trust to the Native Hawaiians. The State, he said, has consistently taken the position in litigation that the Admissions Act does not create that requirement. The State recognizes the requirement created by the State Constitution and follow-up legislation. Mr. Young agreed.

Mr. Joe Conant of HFDC felt that the conditions presented to the board by Land Management were adequate to their needs. He then went on to explain to the board how they planned to proceed with their development. If everything goes well, they expect homes in the first phase to be underway early this summer.

Mr. Ahue asked Mr. Conant whether he had a chance to review the amendments presented by Mr. Young. Mr. Conant said that he did, and felt that the amendments further clarified some of the provisions in the submittal.

Mr. Yuen felt that the 35 acres set aside for park purposes was rather small. Neal Woo, project manager for the master plan explained that there would be two different sites set aside for park and school, averaging about 10 acres each. Mr. Conant, in reply to Mr. Yuen's question as to the number of units that would be built, said that 4800 units are being planned for the area. There is an intermediate and high school already in the area and, according to the DOE, this is sufficient to service the community. Mr. Yuen said that the State is standing by to purchase a high school site in Kula for \$12 million. He did not want to see the same thing happening in this area.

Ms. Ann Lo-Shimazu, representing Pioneer Mill Co. said that they don't have a lot of problems with the submittal as written, with the exception of Condition No. 7, where staff is recommending that Pioneer Mill Co. be responsible for up to 50% of the estimated (\$1.5 million) cost of relocating infrastructure as a result of HFDC'S housing development. Their immediate concern is that the lower cane haul road has been taken out and, in the interim, another road is being put in for their operation. However, they understood that as soon as construction on Phase 1 begins, the interim road will be taken out. In the meantime they will need a replacement road where they can connect the upper and lower cane road.

ACTION Unanimously approved as amended. (Yuen/Nekoba)

RECESS 10:25 a.m. to 10:40 a.m

ITEM B-1 REQUEST FOR APPROVAL TO AMEND/EXTEND THREE AGREEMENTS WITH THE RESEARCH CORP. OF THE UNIVERSITY OF HAWAII (RCUH), FY 1994-1995.

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ADDED ITEM B-2 REQUEST FOR APPROVAL TO AMEND AN AGREEMENT WITH THE UNIVERSITY OF HAWAII, HAWAII INSTITUTE OF MARINE BIOLOGY DURING FY 1993-94.

ACTION Unanimously approved as submitted. (Apaka/Yuen)

ADDED ITEM C-1 APPLICATION FOR FY 1994 RURAL COMMUNITY FIRE PROTECTION FUNDS (MAUI COUNTY DEPARTMENT OF FIRE CONTROL).

ACTION Unanimously approved as submitted. (Apaka/Nekoba)

ITEM D-1 APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT - JOB NO. 64-KP-G, REROOF KAUAI DISTRICT BASEYARD WAREHOUSE BUILDING, KAUAI.

ACTION Unanimously approved as submitted. (Apaka/Nekoba)

ITEM D-2 APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT - JOB NO. HW-K, PUU ANAHULU WATER SYSTEM (WELL DRILLING), HAWAII.

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM D-3 PERMISSION TO HIRE CIVIL ENGINEER FOR JOB NO. 40-MB-B, MAALAEA SEWAGE SYSTEM IMPROVEMENTS, MAUI.

ACTION Unanimously approved as submitted. (Nekoba/Apaka)

ITEM F-1 TRANSMITTAL OF DOCUMENTS

Item F-1-a Assignment of General Lease No. S-5095, Lot 78, Puu Ka Pele Park Lots, Waimea (Kona), Kauai, Tax Map Key 1-4-02:75.

Item F-1-b Issuance of Land License to E. T. Ige Construction, Inc., Government land at Wakiu and Kawaipapa, Hana, Maui, Tax Map Key 1-3-06:por. 12.

Item F-1-c Sale of Leasehold by Sub-Agreement of Sale, General Lease No. S-4093, Lot 48, Waimanalo, Koolaupoko, Oahu, Tax Map Key 4-1-26:17.

Mr. Young asked that the Tax Map Key be amended to 4-1-27:2.

Item F-1-d Assignment of Grant of Easement (Land Office Deed No. S-27,996) covering
waterline easement at Hamakuapoko, Makawao, Maui, Tax Map Key
2-4-13:por. 78

ACTION Mr. Apaka moved to approve Items F-1-a, b & d as submitted, and F-1-c as
amended. Motion carried unanimously with a second by Mr. Nekoba.

ITEM F-2 RESUBMITTAL - CANCELLATION AND FORFEITURE OF GENERAL
LEASE NO. S-3908 TO SEIYUKAI KABUSHIKI GAISHA, LOT 13, OCEAN
VIEW LOTS, WAIAKEA, SO. HILO, HAWAII, TMK 2-1-05:28.

ACTION Unanimously approved as submitted. (Yuen/Nekoba)

ITEM F-3 APPROVAL IN PRINCIPAL TO LAND EXCHANGE BETWEEN STATE OF
HAWAII AND MAUNA KEA AGRIBUSINESS CO., INC. AT SO. HILO,
HAWAII, TMK 2-9-03:44 AND 2-6-13:POR. 7.

Mr. Yuen recused himself because of a conflict of interest.

ACTION Deferred to March 11, 1994 meeting for lack of quorum.

ITEM F-4 STAFF REQUEST FOR AUTHORIZATION TO SELL LAND LICENSE AT
PUBLIC AUCTION COVERING STATE LAND SITUATE AT HANA, MAUI,
TAX MAP KEY 1-3-06:15.

ACTION Unanimously approved as submitted. (Yuen/Nekoba)

ITEM F-5 AMENDMENT TO PRIOR BOARD ACTION OF JUNE 25, 1993 (AGENDA
ITEM F-6) RELATIVE TO PUBLIC AUCTION SALE OF LEASE AT
HONOKALA AND MOKUPAPA, HAMAKUALOA, MAKAWAO, MAUI, TAX
MAP KEY 2-9-05:20 AND 32.

ACTION Unanimously approved as submitted. (Yuen/Nekoba)

ITEM F-6 See Pages 2, 3 4 and 5.

ITEM F-7 DIRECT AWARD OF PERPETUAL, NON-EXCLUSIVE SEWER LINE
EASEMENT TO CITY AND COUNTY OF HONOLULU, KAPALAMA,
HONOLULU, OAHU, TAX MAP KEY 1-5-33.

ACTION Unanimously approved as submitted. (Apaka/Nekoba)

ITEM F-8 AMENDMENT TO PRIOR BOARD ACTION OF JUNE 8, 1990 (AGENDA
ITEM F-15) RELATIVE TO CONVEYANCE OF DRAINAGE EASEMENTS
IN THE WAIANAE AGRICULTURAL PARK TO CITY & COUNTY OF
HONOLULU, WAIANAE, OAHU, TAX MAP KEY 8-5-34.

ACTION Unanimously approved as submitted. (Nekoba/Apaka)

ACCEPTANCE OF LAND DONATION FOR HISTORIC PRESERVATION SITE, KAHALUU TARO LOI, AHUIMANU, KOOLAUPOKO, OAHU, TAX MAP KEY 4-7-51:POR 4.

ITEM F-9

Mr. Young asked to amend the submittal by adding the following conditions:

- Landowner shall, at its own cost and expense, remove all structures situated on the premises, and conduct a Hazardous Waste Survey, Level 1, prior to conveyance to the State, with a copy of the Level 1 Survey Report to be submitted to DLNR.
- Provide the State of Hawaii (DLNR) legal ingress and egress to the subject property from a public roadway.

ACTION Mr. Nekoba moved to approve with the above amendment. Mr. Yuen seconded; motion carried unanimously.

APPROVAL IN PRINCIPAL TO LAND EXCHANGE BETWEEN STATE OF HAWAII AND ASAHI KANKO U.S.A., INC. AT KAPALAMA AND KAILUA, HONOLULU, HAWAII, TAX MAP KEYS 1-5-20:6 AND 4-2-05:1.

ITEM F-10

Mr. Young requested that the following language be added to the submittal:

- Exchange of the state-owned parcel at Kuwili, Honolulu, Oahu, Tax Map Key 1-5-20:6 is subject to G.L. No. S-4643 to Gem of Hawaii, Inc.

ACTION Unanimously approved as amended. (Nekoba/Yuen)

KAUAI RACING ASSOCIATION REQUESTS RIGHTS-OF-ENTRY TO UTILIZE KAUAI RACEWAY, MANA, WAIMEA, KAUAI, TAX MAP KEY 1-2-02:POR. 30 AND 40.

ITEM F-11

Mr. Young requested the following amendments to the submittal:

- Under "Recommendation", second line, change "eight dates" to "eleven dates".
- Under "Recommendation" number 4, add, "subject to OHA's 20% revenue entitlement on ceded lands".

ACTION Unanimously approved as amended. (Apaka/Yuen)

STAFF REQUESTS AUTHORIZATION TO SELL AT PUBLIC AUCTION, LOT 2, BLOCK R, KAPAA TOWN LOTS, KAPAA, KAWAIHAU (PUNA), KAUAI, TAX MAP KEY 4-5-08:12.

ITEM F-12

ACTION Unanimously approved as submitted. (Apaka/Nekoba)

**CONSERVATION DISTRICT USE APPLICATION (CDUA) FOR THE
SUBDIVISION OF SUBMERGED LANDS FOR KAWAIHAE SMALL BOAT
HARBOR, SO. KOHALA, HAWAII (SEAWARD OF TAX MAP KEY 6-1-03),
APPLICANT: DEPT. OF LAND AND NATURAL RESOURCES, DIV. OF
BOATING AND OCEAN RECREATION.**

ITEM H-1

ACTION Unanimously approved as submitted. (Yuen/Nekoba)

ITEM H-2 See Page 2.

**SNACK BAR, GIFT, PACKAGED FOODS, FLORIST, JEWELRY AND
SUNDRIES CONCESSION, HONOLULU INTERNATIONAL AIRPORT,
OAHU.**

ITEM K-1

ACTION Unanimously approved as submitted. (Yuen/Nekoba)

**LEASE, HONOLULU INTERNATIONAL AIRPORT, OAHU (UNITED
STATES DEPT. OF AGRICULTURE, ANIMAL AND PLANT HEALTH
INSPECTION SERVICE.)**

ITEM K-2

ACTION Unanimously approved as submitted. (Nekoba/Apaka)

**REQUEST FOR DELEGATION OF AUTHORITY TO THE DEPT. OF
TRANSPORTATION FOR THE ISSUANCE OF REVOCABLE PERMITS
AT KAPALAMA MILITARY RESERVATION FOR INCONSISTENT
PURPOSES.**

ITEM K-3

DOT requested that this delegation be extended for an indefinite period. However, Mr. Young of Land Management felt that the delegation should only be for 30 days.

Mr. Nekoba asked Mr. Toyama, who represented DOT, if he had any problems with Mr. Young's suggestion. Mr. Toyama did not.

ACTION Unanimously approved with the amendment that the extension be for a 30-day period. (Nekoba/Yuen)

ADJOURNMENT: The meeting was adjourned at 11:30 a.m.

Respectfully submitted,



LaVerne Tirrell

APPROVED



KEITH W. AHUE, CHAIRPERSON