

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

DATE: FRIDAY, JANUARY 27, 1995
TIME: 9:00 A.M.
PLACE: 132 KALANIMOKU BUILDING
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

ROLL CALL: Chairperson Michael D. Wilson called the meeting of the Board of Land & Natural Resources to order at 9:06 a.m. The following individuals were in attendance:

MEMBERS: Michael D. Wilson
Herbert K. Apaka
William Kennison
Christopher J. Yuen
Michael H. Nekoba
Colbert M. Matsumoto

STAFF: Mr. Roger Evans Mr. Glenn Abe
Mr. Mason Young Mr. David Parsons
Mr. Gary Moniz Mr. Carl Masaki
Ms. Michelle K. Bradley

OTHERS: Linnel Nishioka, Deputy Attorney General
Mr. Peter Garcia, Department of Transportation
Mr. David Kimo Frankel, Office of State Planning
Mr. Robert Stran
Mr. Alan S. Lloyd
Mr. Chester Koga
Mr. Chris Hart, Chris Hart & Partners
Mr. Douglas W. MacDougal, Esq.
Ms. Yola Forbes
Mr. Meyer Ueoka, Esq.
Ms. Annette Niles
Mr. James Ino, Natural Conservation Resource Service
Ms. Diane Shepard, Humane Society
Mr. Clayton Hee, Office of Hawaiian Affairs
Mr. Keith Kealoha George
Mrs. Estelita Kehaulani Alapai George (Kuki)

MINUTES:

The **October 28, 1994** and **December 16, 1994** Minutes were unanimously approved (Apaka/Yuen).

All written testimonies submitted at today's meeting are available for review at the Chairperson's Office at the Department of Land & Natural Resources.

ITEM F-7:

STAFF REQUESTS AUTHORIZATION FOR ISSUANCE OF NON-EXCLUSIVE TERM SEAWALL EASEMENT, LANIKAI, KAILUA, OAHU, TAX MAP KEY 4-3-04:SEAWARD OF 99

Mr. Mason Young, Administrator of the Division of Land Management, presented the staff recommendation to the Board with one amendment -- to change the name of the Applicant and Grantee to **Alan S. Lloyd, Successor Trustee of the Bluebell Emma Harper Revocable Living Trust dated August 27, 1991, and Successor Trustee of the Joseph Chalmer Harper Revocable Living Trust dated August 27, 1991.**

Mr. David Frankel from the Office of State Planning testified regarding Item F-7.

Mr. Robert Stran, on behalf of the Applicant, testified that Applicant is agreeable to deferring his request and allowing the Office of State Planning a 30-day period within which to review the materials.

Mr. Chester Koga, Applicant's Engineer, testified and presented the Board with pictures of the encroachment.

ACTION:

Unanimously approved, as amended (Nekoba/Apaka).

ITEM H-4:

**TIME EXTENSION REQUEST TO SUBMIT A PETITION FOR A SUBZONE AMENDMENT FOR A PARCEL AT PAEHALA AND PUUALU, HANA, MAUI; TAX MAP KEY 1-5-11:09
PETITIONER: BYRON M. COOK
CONSULTANT: CHRIS HART & PARTNERS**

Mr. Roger Evans, Administrator of the Office of Conservation and Environmental Affairs, presented the staff recommendation to the Board.

The landowner's consultant, Mr. Chris Hart, Senior Partner of Chris Hart & Partners, testified regarding Item H-4.

ACTION: Unanimously approved (Kennison/Apaka).

ITEM H-1: **SECOND EXTENSION OF TIME REQUEST FOR CONSERVATION DISTRICT USE PERMIT LA-2300, TELECOMMUNICATION FACILITY A WAIAKEKUA PEAK, LANAI; TAX MAP KEY 4-9-2:1**
APPLICANT: MOTOROLA RADIO NETWORK SOLUTIONS GROUP

Mr. Evans presented the staff recommendation to the Board.

ACTION: Unanimously approved (Matsumoto/Kennison).

ITEM H-2: **TIME EXTENSION REQUEST TO COMPLETE CONSTRUCTION OF A WATER TRANSMISSION LINE FROM WAIHANAU STREAM TO MEYER LAKE, MOLOKAI FOREST RESERVE, CENTRAL MOLOKAI; TAX MAP KEY 5-2-14:1-3 AND 6-1-1:2 AND 4**
APPLICANT: R.W. MEYER, LTD.
AGENT: ASHFORD & WRISTON

Mr. Evans presented the staff recommendation to the Board.

Mr. Douglas W. MacDougal, Esq. and Ms. Yola Forbes testified on behalf of Applicant regarding Item H-2.

ACTION: Unanimously approved (Kennison/Apaka).

ITEM F-2: **STEPHEN PERREIRA REQUESTS FOR CANCELLATION OF GENERAL LEASE NO. S-5277, GOVERNMENT LANDS AT UKUMEHAME, LAHAINA AND WAILUKU, MAUI, TAX MAP KEY 3-6-06:14 AND 4-8-01:1**

Mr. Young presented the staff recommendation to the Board with amendments.

Meyer Ueoka, Esq. testified on behalf of Lessee..

Mr. James Ino of the Natural Conservation Resources Service testified regarding the services they provide.

Chairperson Wilson called a recess at approximately 10:50 a.m.; the meeting resumed at approximately 11:04 a.m.

Mr. Ueoka continued testifying on behalf of Lessee and requested that due to extenuating circumstances, special consideration be given to reducing the \$20,000.00 fine.

Ms. Annette Niles, daughter of Lessee, testified before the Board.

Ms. Diane Shepard, staff person from The Humane Society, testified against the Lessee.

ACTION:

Approved, as amended (4-2 vote) (Kennison/Apaka)..
Amendments:

1. Amend Paragraph 2 under Recommendation to reduce the amount of the fine to \$5,650.00 (10% of annual rent).
2. Under Recommendation, add Paragraph 10 as follows:
 10. Should the Lessee fail to comply with any of the terms and conditions listed above, the Board approve forfeiture of General Lease No. S-5277 effective December 18, 1994, subject to the following conditions:
 - a. Retention of all sums heretofore paid under General Lease No. S-5277 as liquidated damages.
 - b. Authorize the Attorney General's office and/or the Department's private collection agency to collect all monies due the State of Hawaii under General Lease NO. S-5277.
 - c. Authorize the Chairperson to take whatever actions necessary to carry out the intent of the Board.
 - d. DLNR shall take immediate possession and have complete jurisdiction leasehold upon termination of the lease.

- e. Upon termination, all private property within the leasehold shall be seized by the Department of Land & Natural Resources and disposed of according to the terms and conditions of the lease and all other applicable laws and regulations of the State of Hawaii and the Federal Government of the United States.
- f. Forfeiture to the State of Hawaii of real property under a Deed of Trust dated May 20, 1994, executed by Stephen Perreira, Trustee of the Stephen Perreira Revocable Living Trust Agreement dated December 27, 1985; Mary P. Perreira, Trustee of the Mary P. Perreira Revocable Living Trust Agreement dated December 27, 1985; Wayne Kimo Niles and Annette Marie Niles, posted as the performance bond in the sum of \$113,000.00 pursuant to Paragraph 18, Page 9, of the General Lease No. S-5277.

ITEM F-11:

RESUBMITTAL -- AUTHORIZATION TO CONVEY TO OFFICE OF HAWAIIAN AFFAIRS: (1) FEE SIMPLE TITLE TO STATE-OWNED PUBLIC LANDS, PURSUANT TO ACT 304 SESSION LAWS OF HAWAII OF 1990, AT MOANALUA, ILINUI AND KALIWA, KALIHI, HONOLULU, OAHU; TAX MAP KEY 1-1-03:3, 204, 205, 206 AND 207; AND TAX MAP KEY 1-2-21:35, 36, 37, 39, 40, 41, 42, 43 AND 44; AND AT KALIA (WAIKIKI YACHT CLUB SITE), WAIKIKI, HONOLULU, OAHU; TAX MAP KEY 2-3-37:6; AND (2) PERPETUAL, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF SUBMERGED LANDS AND OCEAN WATERS WITHIN ALA WAI BOAT HARBOR BASIN, SITUATE OFFSHORE OF KALIA, WAIKIKI, HONOLULU, OAHU; TAX MAP KEY 2-3-37:POR 12

Mr. Young presented the staff recommendation to the Board.

In view of the recent communication received from the Attorney General's office regarding Item F-11, Chairperson Wilson entertained a motion to go into executive session so the Board could actually hear from the Attorney General about said communication (Nekoba/Kennison).

At approximately 12:35 p.m., the meeting recessed, and the Board went into executive session; the meeting resumed at approximately 1:41 p.m.

Chairperson Wilson stated for the record that the Board received just this morning, with no advance notice, a three-page memo from the Attorney General that explains the State's concerns on whether or not said conveyance to OHA can be done under Section 171-95, HRS.

Chairperson Wilson quoted the following sentences from the Attorney General's memo:

"It is imperative that the Board request another legal opinion from our Department prior to any final decision for conveyed said parcels. We have serious legal questions concerning the process used for the conveyance to OHA and whether such conveyance can be done under Section 171-95, HRS."

Given this directive from the attorney general's office, Chairperson Wilson entertained a motion to defer Item F-11 until the Board does what it is directed to do, which is to request for another legal opinion.

ACTION: Deferred (Nekoba/Kennison).

DISCUSSION: Mr. Clayton Hee, Representative of OHA, testified that he didn't know who requested the opinion but wished they (OHA) were given some notification and further expressed concerns of not having the benefit of reading what the Board has discussed, and recounted for the Board that they requested for and are in possession of a memo from the former Director of the Office of State Planning, Norma Wong, and under the direction of the former Governor, on the relevance of 171 versus Act 304, which we have been operating under and which authorizes the conveyance of the land. Mr. Hee then asked the Board what is the legal question.

Chairperson Wilson responded that the legal question raised and initiated by Attorney General Margery Bronster is whether or not OHA can be the recipient of the lands, whether the State can transfer the lands to OHA; there are some questions about the status of OHA -- whether it is the kind of state agency that would necessarily qualify for the transfer of the lands and receive the lands.

Mr. Hee expressed his disbelief that Attorney General Margery Bronster, on her own volition, decided to render an opinion today

which affects over four years of good faith negotiations between the Hawaiian people and the State of Hawaii.

Land Board Member-At-Large Colbert Matsumoto suggested to Chairperson Wilson to read the first sentence of the memo to answer Mr. Hee's question.

Chairperson recited:

"This letter is in response to Mr. Keith Ahue's December 22, 1994 letter regarding the above-referenced matter. In brief,"

Hawaii Land Board Member Christopher Yuen asserted that he thinks he read Keith Ahue's letter and is not sure if the specific question that was asked is the issue that is being raised. Mr. Yuen further stated that he sat on the Board when this has come up probably four or five times and indicated that Mr. Hee has every right to be upset that these legal questions are arising at this point in the process; however, we have a memo that says not to do anything further until they give us an opinion from the attorney general's office.

Oahu Land Board Member Mike Nekoba concurred.

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Maui Land Board Member William Kennison was excused from the rest of the meeting.

ITEM C-1: PRICE INCREASE OF NURSERY STOCK

Acting Administrator of the Division of Forestry & Wildlife Carl Masaki approached the Board and presented the staff recommendation.

ACTION: Unanimously approved (Yuen/Nekoba).

ITEM F-1: TRANSMITTAL OF DOCUMENTS FOR BOARD CONSIDERATION

- a. **ISSUANCE OF REVOCABLE PERMIT TO ASIAN AMERICAN LUMBER COMPANY, GOVERNMENT LAND AT KAPAA RICE AND KULA LOTS, KAPAA, KAWAIHAU, KAUAI, TAX MAP KEY: 4-5-15:POR 34**

- b. **SUBLEASE BETWEEN HAWAII HOUSING AUTHORITY, SUBLESSOR, AND KALIHI-PALAMA MODEL CITY ASSOCIATION, SUBLESSEE, FORMER OR&L DEPOT, KUWILI, HONOLULU, OAHU, TAX MAP KEY: 1-5-7:POR 2**

- c. **SUBLEASE BETWEEN GEM OF HAWAII, INC., SUBLESSOR, AND ALBERT K.C. YUEN AND PAUL C.M. WONG, CERTIFIED PUBLIC ACCOUNTANTS, INC., SUBLESSEE, COVERING THE SEIYU BUILDING ON GOVERNMENT (FORT) LAND OF KUWILI, PARCEL A, KUWILI, HONOLULU, OAHU, TAX MAP KEY: 5-1-20:6**

Mr. Young presented the Consent Calendar to the Board.

ACTION: Unanimously approved (Apaka/Nekoba).

ITEM F-3: STAFF REQUESTS AUTHORIZATION TO CAUSE FORFEITURE OF GENERAL LEASE NO. S-4007 TO LIVING DESIGNS, INC., WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY: 4-1-27:23 & 24

Mr. Young requested that Item F-3 be withdrawn from the agenda.

ACTION: Withdrawn (Nekoba/Apaka).

ITEM F-4: CITY AND COUNTY OF HONOLULU, BOARD OF WATER SUPPLY REQUESTS RIGHT OF ENTRY TO CONDUCT PRELIMINARY SURVEY AND EXPLORATORY WELL DRILLING AT KALUANUI, KOOLAULO, OAHU TAX MAP KEY: 5-3-11:9

Mr. Young presented the staff recommendation to the Board with one amendment -- should the Board approve Item F-4, it should be upon concurrence of the Governor because said land is currently under Executive Order.

ACTION: Unanimously approved, as amended (Nekoba/Apaka).

ITEM F-5: TOKAI RAYON CO., LTD. REQUESTS WAIVER OF PERFORMANCE BOND REQUIREMENT IN GENERAL LEASE NO. S-4644, WAIMALU, KALAUAO, EWA, OAHU, TAX MAP KEY: 9-8-13:14

Mr. Young presented the staff recommendation to the Board.

ACTION: Unanimously approved (Nekoba/Matsumoto).

ITEM F-10: STAFF REQUESTS AUTHORIZATION TO CAUSE FORFEITURE OF GENERAL LEASE NO. S-5288 TO KEITH KEALOHA GEORGE, KAHANA VALLEY STATE PARK, PHASE II SUBDIVISION, KAHANA VALLEY, KAHANA, KOOLAULO, OAHU, TAX MAP KEY: 5-2-02

Mr. Young presented the staff recommendation to the Board with one amendment -- on Page 2, second paragraph, December 1, 1995 should be December 1, 1994.

Mr. Keith Kealoha George and Mrs. Estelita Kehaulani Alapai George (Kuki), lessees, testified before the Board.

Mr. Mike Nekoba agreed to make a motion to defer any action on this matter contingent upon the lessee having their house inspected by a building inspector and to work with Ralston Nagata from the Division of State Parks within the next 30 days.

ACTION: Deferred to February 24, 1995 meeting (Nekoba/Apaka).

ITEM F-6: STAFF REQUESTS AUTHORIZATION FOR PUBLIC AUCTION SALE OF GENERAL AGRICULTURAL LEASE COVERING GOVERNMENT LAND AT WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY: 4-1-13:POR 22

Mr. Young requested permission from the Board that this matter be deferred to the February 24, 1995 land board meeting.

ACTION: Deferred to February 24, 1995 meeting (Nekoba/Yuen).

ITEM F-8: AMENDMENT TO PRIOR BOARD ACTION OF NOVEMBER 19, 1993 (AGENDA ITEM F-18) RELATING TO PROPOSED LAND EXCHANGE BETWEEN THE STATE OF HAWAII AND ROGER A. AND ELLEN H. WATSON, WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY: 4-1-10:POR 79 AND 4-1-10:POR 62

Mr. Young presented the staff recommendation to the Board.

ACTION: Unanimously approved (Nekoba/Yuen).

ITEM F-9: AMENDMENT TO PRIOR BOARD ACTION OF DECEMBER 14, 1984 (AGENDA ITEM F-12), PUBLIC AUCTION SALE OF AN AGRICULTURAL LEASE, LOT 25, WAIMANALO AGRICULTURAL SUBDIVISION, WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY: 4-1-27:30

Chairperson Wilson briefly excused himself from the meeting. Kauai Land Board Member Herbert K. Apaka presided.

Mr. Young presented the staff recommendation to the Board with an amendment -- under Recommendation Section A, change Item No. 5 to: No. 6 -- Permittee shall be allowed to remove his inventory only after the entire premises is cleared and cleaned satisfactorily to the Chairperson and all outstanding debts and account balances have been completely paid in full.

ACTION: Unanimously approved, as amended (Nekoba/Matsumoto).

ITEM F-12: SET ASIDE TO DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF FORESTRY AND WILDLIFE FOR ADDITION TO KAWAIELE WILDBIRD SANCTUARY, KAWAIELE, MANA, KEKAHA, KAUAI, TAX MAP KEY: 1-2-02:POR 1

Mr. Young presented the staff recommendation to the Board.

ACTION: Unanimously approved (Apaka/Nekoba).

**ITEM H-3: REVOCATION OF CONSERVATION DISTRICT USE
APPLICATION OA-2435 FOR A SINGLE FAMILY RESIDENCE
AT KANEOHE, OAHU; TAX MAP KEY: 4-4-14: 34
APPLICANT: COLIN DE SILVA
AGENT: DHC HAWAII CORPORATION**

Mr. Evans presented the staff recommendation to the Board.

ACTION: Unanimously approved (Nekoba/Apaka).

**ITEM I-1: REQUEST FOR A SIX MONTH EXTENSION OF THE HEARING
OFFICER/ADMINISTRATIVE PENALTY SYSTEM (HOAPS)
PILOT PROJECT**

Mr. Gary Moniz, Acting Administrator of the Division of Conservation and Resources Enforcement, presented the staff recommendation to the Board.

ACTION: Unanimously approved (Nekoba/Matsumoto).

**ITEM J-1: ISSUANCE OF RIGHT-OF-ENTRY AND GRANT OF
EASEMENT, MILOLI'I LANDING, ISLAND OF HAWAII
(WALTER H. PAULO, ET AL.)**

Mr. Dave Parsons, Administrator of the Division of Boating and Ocean Recreation, presented the staff recommendation to the Board.

ACTION: Unanimously approved staff recommendation (Yuen/Nekoba).

ITEM J-2: CONTINUANCE OF REVOCABLE PERMITS

- A. KANEOHE OUTRIGGER CANOE CLUB, HEEIA KEA
BOAT HARBOR, ISLAND OF OAHU**
- B. TAHITIAN LANAI RESTAURANT, ALA WAI BOAT
HARBOR, ISLAND OF OAHU**
- C. MAALAEA BOAT AND FISHING CLUB, MAALAEA
BOAT HARBOR, ISLAND OF MAUI**

Mr. Parsons presented the staff recommendation to the Board.

ACTION: Unanimously approved (Nekoba/Matsumoto).

ITEM J-3: ISSUANCE OF REVOCABLE PERMIT, HEEIA KEA BOAT HARBOR, ISLAND OF OAHU (GRACE PACIFIC CORPORATION)

Mr. Parson presented the staff recommendation to the Board.

ACTION: Unanimously approved (Nekoba/Apaka).

ITEM J-4: ISSUANCE OF REVOCABLE PERMIT, MAALAEA BOAT HARBOR, ISLAND OF MAUI (MAUI PETROLEUM, INC.)

Mr. Parsons presented the staff recommendation to the Board.

ACTION: Unanimously approved (Yuen/Apaka).

ITEM J-5: CONSENT TO ASSIGNMENT OF LEASE NO. H-83-2, HONOKOHAU BOAT HARBOR, ISLAND OF HAWAII (JAMES L.K. DAHLBERG, ET AL. AND KONA FUEL AND MARINE, INC.)

Mr. Parsons requested for a deferral on this matter because a memo from the Attorney General's office was just received stating that the final agreement has not been fully executed yet with respect to the outstanding fees owed to us on this particular lease.

ACTION: Deferred (Yuen/Apaka).

ITEM K-1: AMENDMENT NO. 1 TO LEASE NO. DOT-A-92-6, HONOLULU INTERNATIONAL AIRPORT, OAHU (DFS GROUP L.P.)

Mr. Peter Garcia, Representative of the State of Hawaii Department of Transportation, presented the staff recommendation to the Board.

ACTION: Unanimously approved Yuen/Matsumoto).

ITEM K-2: GAMEROOM CONCESSION, HONOLULU INTERNATIONAL AIRPORT, OAHU

Mr. Garcia presented the staff recommendation to the Board.

ACTION: Unanimously approved (Nekoba/Matsumoto).

ITEM K-3: SUPPLEMENTAL LEASE AGREEMENT NO. 2 TO LEASE NO. DOT-A-89-6, HONOLULU INTERNATIONAL AIRPORT, OAHU (U.S. DRUG ENFORCEMENT ADMINISTRATION)

Mr. Garcia presented the staff recommendation to the Board.

ACTION: Unanimously approved (Nekoba/Matsumoto).

ITEM K-4: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KAWAIHAE HARBOR, HAWAII (ISLAND OF HAWAII YMCA)

Mr. Garcia presented the staff recommendation to the Board.

ACTION: Unanimously approved (Yuen/Nekoba).

ITEM K-5: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NAWILIWILI HARBOR, KAUAI (SHELL OIL COMPANY)

Mr. Garcia presented the staff recommendation to the Board.

ACTION: Unanimously approved (Apaka/Yuen).

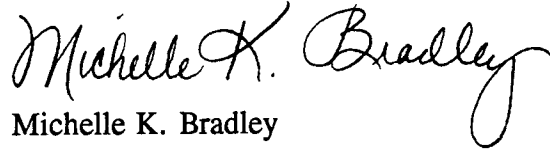
ITEM K-6: MOTOR COACH GROUND TRANSPORTATION SERVICES (AIRPORT SHUTTLE BUS) CONTRACT, KAHULUI AIRPORT, MAUI

Mr. Garcia presented the staff recommendation to the Board.

ACTION: Unanimously approved (Nekoba/Apaka).

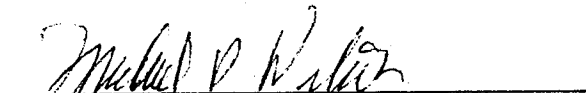
ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 3:16 p.m.

Respectfully submitted,



Michelle K. Bradley
Secretary

APPROVED:



MICHAEL D. WILSON
Chairperson