

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

DATE: MAY 12, 1995
TIME: 9:00 a.m.
PLACE: Board Room
Kalanimoku Building, Room 132
1151 Punchbowl Street
Honolulu, Hawaii

**ROLL
CALL**

Chairperson Michael D. Wilson called the meeting of the Board of Land and Natural Resources to order at 9:12 a.m. The following were in attendance:

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

STAFF: Mr. Michael Buck
Mr. Ralston Nagata
Mr. Roger Evans
Mr. Mason Young
Mr. Dave Parsons
Ms. Geraldine M. Besse

OTHERS: Mr. Charles Rose (Item No. E-1)
Mr. David Bills (Item No. H-1)
Mr. Rob McWilliams (Item No. H-2)
Mr. Bruce Hopper (Item No. H-3)
Mr. Kerry Komatsubara, Mr. Daryl Wong, Rep. Ed
Case, and Mr. Tom Heinrich (Item No. H-4)
Mr. Arne C. Laprade (Item No. J-1)
Mr. Peter Garcia, Dept. of Transportation
Mr. Jordan Wagner, Dept. of the Attorney General

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.

ITEM E-1 RENEWAL OF THE CURATOR AGREEMENTS FOR ULUPO HEIAU STATE MONUMENT, OAHU AND POLIHAU AND HIKINAAKALA HEIAU, WAILUA RIVER STATE PARK, KAUAI

Mr. Charles Rose of the Hawaiian Civic Club spoke in favor of the agreements. He asked that the parks be cleaned more often and that the Division of Land Management take the necessary steps to allow the club to acquire the property. The Chairperson suggested a meeting of the curators and State Parks Staff.

ACTION Unanimously approved as submitted (Apaka/Kennison).

ITEM J-1 ISSUANCE OF REVOCABLE PERMIT, ALA WAI BOAT HARBOR, ISLAND OF OAHU (CHARLES PANKOW BUILDERS, LTD.)

Mr. Arne C. Laprade of Charles Pankow explained their request.

ACTION Unanimously approved as submitted (Nekoba/Matsumoto).

ITEM H-1 TIME EXTENSION REQUEST TO COMPLETE CONSTRUCTION OF A SINGLE FAMILY RESIDENCE AT LANIKAI, OAHU; TAX MAP KEY 4-3-5:77; FORMER APPLICANTS: JJMMWW CORP. & JJSSSS CORP.; AGENT: GRAY, HONG, BILLS & ASSOCIATES

Mr. Evans advised the Board that he received a letter from the applicant requesting deferral until the Board has the opportunity to meet with the applicant on the issue.

ACTION Unanimously deferred to next Oahu meeting (Nekoba/Matsumoto).

ITEM H-3 REQUEST FOR A TIME EXTENSION OF CONSERVATION DISTRICT USE PERMIT (CDUP) MA-2058 FOR THE CONSTRUCTION OF A NON-CONFORMING SINGLE-FAMILY RESIDENCE AT KIPAHULU, HANA, MAUI; TAX MAP KEY: 1-6-07:9; APPLICANT: MR. BRUCE E. HOPPER

Mr. Evans recommended denial of the time extension. He said conditions of the CDUA were accepted by the applicant; however, the applicant did not do anything to start construction. Mr. Evans advised that if the staff recommendation is sustained it would mean that the application was null and void; that the applicant would need to resubmit an application, which would be processed under the new rules.

Mr. Hopper said he has retained an attorney who was unable to be present. Mr. Hopper detailed his personal and financial reasons for not starting the construction of the residence.

EXECUTIVE SESSION Mr. Kennison moved for an executive session to consult with legal counsel; seconded by Mr. Nekoba and unanimously approved. The Board was in executive session from 10:17 to 10:45 a.m.

ACTION Mr. Kennison moved to defer the item to the next meeting on Oahu; seconded by Mr. Nekoba.

Mr. Yuen asked that the applicant: (1) provide a rationale if the Board grants him this extension--why should the Board do it? What are the standards under which the Board would do it that would not apply to anyone else requesting an extension? Mr. Yuen further stated that when a decision has been made so long ago, he would like to see on the extension a showing by the applicant that conditions have not changed since the granting of the original approval, such as any change in the environment, i.e., tsunami, etc.

Unanimously approved by the Board.

Mr. Evans stated it might be helpful during the interim to have staff meet with the applicant and his attorney to further elaborate on concerns expressed by Mr. Yuen.

ITEM H-4 AMENDMENT TO CONSERVATION DISTRICT USE PERMIT NUMBER OA-30 TO CONVERT THE USE OF BUILDINGS TO GENERAL OFFICE AND RETAIL SPACE AT PARADISE PARK, MANOA, HONOLULU, OAHU; TAX MAP KEYS: 2-9-54: 7 & 18; APPLICANT: PARADISE PARK, INC.; AGENT: WILSON, OKAMOTO & ASSOCIATES, INC.

Mr. Evans distributed copies of a May 9, 1995, letter at the request of the applicant. He also distributed copies of portions of the environmental assessment and the negative declaration.

Mr. Evans asked to correct the staff submittal, on line 5, page 10, second paragraph: "per month" should be changed to "annually."

Mr. Evans stated that the application was for an inappropriate land use.

Mr. Kerry Komatsubara, representing Paradise Park, Inc., the applicant, stated that Daryl Wong, an officer and director of Paradise Park was present and available to answer any questions.

He commented (1) on the credibility of applicant's statements; (2) the legal ramifications and (3) use of a common sense approach. He acknowledged some misunderstandings with the DLNR staff. Referring to the proposed use on pages 5-6, he asked to clarify the proposal--the fee is owned by the Catholic Church and there is another 50 years left on the lease. The proposal is to take parcel 18, the parcel with the buildings, and parcel 7, and sublease to a non-profit entity, which, he said, was already in existence. The non-profit would then sublet to the categories of tenants described in the amended EA and in previous correspondence. The tenants for the first 25 years would be paying rent equal to pay off the mortgage on the property and the rent to the Catholic Church. Mr. Komatsubara stated there was no intention on the part of Paradise Park to profit from the situation. At the end of the 25-year period, the rent would drop to \$5,000 annually plus 1% of gross sales, which is basically the rent to the Church.

Representative Ed Case stated he rested on previous testimony concerning commercial use on conservation land.

Chairman of the Neighborhood Board, Tom Heinrich, stated that the matter was the basic use of the facility and was willing to work with the applicant. He said the board supported the concept of an environmental/conservation resource center, education center, which would be consistent with the conservation district; however, it was a business decision of the applicant. Regarding credibility, he suggested withdrawal of the application.

ACTION Unanimously deferred (Nekoba/Yuen).

Mr. Matsumoto suggested the applicant work with the community towards a more acceptable solution. He said the staff recommendation was appropriate; that the proposal was a land use change and it was the proper function of the staff to protect conservation. Unfortunately, there is apparent urban use in the conservation district. He said when the staff returns on the 26th, he hoped to see some economic elements, taking into account economic viability. He also stated he had concerns about parcel 7 not being included in the process and it should be addressed. He also wanted to know whether there were potential tenants. Mr. Matsumoto also asked that vesting rights to the applicant be addressed because the Board would be giving approval to users as opposed to use but was unsure of the legal ramifications of vesting.

ITEM H-2 FOLLOW-UP ON CDUA FOR THE CONSTRUCTION OF THE HOPE CHAPEL ACCESS DRIVEWAY AT KANEOHE, OAHU; TAX MAP KEY: 4-5-23; PORS. 2 & 3; APPLICANT: HOPE CHAPEL KANEOHE; AGENT: PBR HAWAII

ACTION Unanimously approved as submitted (Nekoba/Matsumoto).

ITEM C-1 PERMISSION TO CONDUCT PUBLIC HEARINGS TO REVISE APPLICABLE SECTIONS OF CHAPTER 105, RULES REGULATING CLOSED WATERSHEDS

ACTION Unanimously approved as submitted (Yuen/Nekoba).

ITEM E-1 See page 2.

ITEM F DOCUMENTS FOR BOARD CONSIDERATION:

Item F-1a **ISSUANCE OF REVOCABLE PERMIT TO R & C CONCRETE SPECIALISTS, INC., KEEHI INDUSTRIAL PARK, KALIHI-KAI, HONOLULU, OAHU, TAX MAP KEY 1-2-23:76**

Item F-1b **LICENSE AGREEMENT BETWEEN UNITED STATES OF AMERICA, DEPARTMENT OF THE NAVY, LICENSOR, AND STATE OF HAWAII, BY ITS BOARD OF LAND AND NATURAL RESOURCES ON BEHALF OF THE DEPARTMENT OF EDUCATION, LICENSEE, WATER SAFETY INSTRUCTION FOR PUBLIC ELEMENTARY STUDENTS, WAIANAE COAST, FEDERAL FACILITY AT NAVAL MAGAZINE, LUALUALEI, WAIANAE, OAHU, TAX MAP KEY 8-8-01**

ACTION Unanimously approved the above items as submitted (Nekoba/Yuen).

ITEM F-2 **COUNTY OF HAWAII REQUESTS CANCELLATION OF GENERAL LEASE NOS. S-3732, S-3738, S-3739, S-3744 AND S-3745 ON THE ISLAND OF HAWAII, TAX MAP KEYS 2-5-40:12, 1-5-09:9, 1-5-10:3, 1-3-07:6, 7-1-03:1 AND 7-1-04:POR. 1**

ACTION Unanimously approved as submitted (Yuen/Nekoba).

The Chairperson was excused at 1:05 p.m.; the remainder of the meeting was chaired by Mr. Apaka.

ITEM F-3 **AMENDMENT TO PRIOR BOARD ACTION OF APRIL 28, 1995 (AGENDA ITEM F-1-E) RELATIVE TO CONSENT TO ISSUANCE OF REVOCABLE PERMIT NO. 12 BY THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM (DBED&T) TO HOLLIDAY PRODUCTIONS, INC., FORT RUGER, WAIKIKI, OAHU, TAX MAP KEY 3-1-42:9**

ACTION Unanimously approved as submitted (Nekoba/Yuen).

ITEM F-4 AMENDMENT TO PRIOR BOARD ACTION OF AUGUST 26, 1994 (AGENDA ITEM F-3), CONSENT TO ASSIGNMENT OF GRANT OF EASEMENT (LAND OFFICE DEED NO. S-27,516), WAIMANO, EWA, OAHU, TAX MAP KEY 9-7-19:35

ACTION Unanimously approved as submitted (Yuen/Kennison).

ITEM F-5 STAFF REQUESTS APPROVAL TO AMENDMENT NO. 2 OF THE NAVY LICENSE AGREEMENT NO. 6274289RP0041 (LAND OFFICE DEED NO. S-26,830), PARKING LOT FOR LEHUA ELEMENTARY SCHOOL, PEARL CITY PENINSULA, PEARL CITY, OAHU, TAX MAP KEY 9-7-16:14

ACTION Unanimously approved as submitted (Nekoba/Kennison).

ITEM H-1 See page 2.

ITEM H-2 See page 4.

ITEM H-3 See page 3.

ITEM H-4 See page 4.

ITEM J-1 See page 2.

ITEM J-2 CONTINUANCE OF REVOCABLE PERMITS:

Item J-2a ISLAND ADVENTURE, INC., NAWILIWILI BOAT HARBOR, ISLAND OF KAUAI

ITEM J-2b AKANA PETROLEUM, INC., KAILUA-KONA PIER AND KEAUHOU HARBOR, ISLAND OF HAWAII

ITEM J-2c HAWAII PETROLEUM DISTRIBUTORS, INC., KAILUA-KONA PIER, ISLAND OF HAWAII

ITEM J-2d MDR, INC., HONOKOHAU BOAT HARBOR, ISLAND OF HAWAII

ACTION Unanimously approved as submitted (Yuen/Nekoba).

ITEM J-3 ISSUANCE OF REVOCABLE PERMIT, MAALAEA BOAT HARBOR, ISLAND OF MAUI (FRESH ISLAND FISH CO., INC.)

Mr. Kennison stated that he received inquiries from a number of fishermen as to why the space was not put out to bid. Mr. Parsons responded that there was substantial interest and support from members of the Legislature and the County to ensure that a fish processing facility remain in business in the best interest of the public. Mr. Parsons stated the lease by direct negotiation was reviewed and approved by the Attorney General's Office, and approved by the Board on November 18, 1994.

ACTION Unanimously deferred (Kennison/Nekoba). Mr. Nekoba suggested that the Attorney General take another look at this.

ITEM K-1 AMENDMENT NO. 3 TO LEASE NO. DOT-A-84-38, RENTA-A-CAR CONCESSION, MOLOKAI AIRPORT (PACIFIC INTERNATIONAL SERVICES CORPORATION)

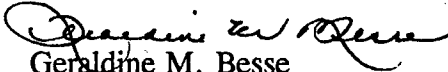
ACTION Unanimously approved as submitted (Kennison/Nekoba).

ITEM K-2 CONSTRUCTION RIGHT-OF-WAY AND GRANT-OF-EASEMENT FOR UNDERGROUND TRANSMISSION SYSTEMS AT NAWILIWILI HARBOR, LIHUE, KAUAI

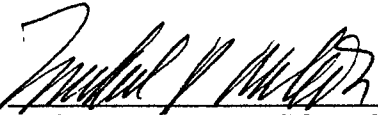
ACTION Unanimously approved as submitted (Kennison/Nekoba).

ADJOURN-MENT There being no further business, Mr. Apaka adjourned the meeting at 1:30 p.m.

Respectfully submitted,


Geraldine M. Besse
Secretary

APPROVED FOR SUBMITTAL:


MICHAEL D. WILSON, Chairperson
Board of Land and Natural Resources