

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

DATE: July 14, 1995
TIME: 9:00 a.m.
PLACE: 1151 Punchbowl Street, Board Room
Honolulu, Hawaii

**ROLL
CALL**

Chairperson Michael D. Wilson called the meeting of the Board of Land and Natural Resources to order at 9:10 a.m.

MEMBERS PRESENT: Mr. Herbert K. Apaka, Mr. Christopher Yuen, Mr. William Kennison, Mr. Michael Nekoba, Mr. Colbert Matsumoto, and Michael Wilson (excused at 1:30 p.m.)

STAFF: Mr. William Devick, Mr. Paul Conry, Mr. Manabu Tagomori, Mr. Mason Young, Mr. Roger Evans, Mr. James Schoocraft, Mr. Larry Cobb, Ms. Geraldine M. Besse

OTHERS: Mr. Jim Housch (Item No. B-1 and Item No. J-1); Mr. Jim Greenwell (Item No. F-5); Mr. Jim Fernie (Item No. F-9); Mr. Rob McWilliams, Mr. Curtis Sano, and Mr. Mitch Allen (Item No. F-12); Ms. Cynthia Thielen, Mr. Greg Lee, David Frankel, Dr. John Harrison, Dr. Charles Fletcher (Item No. F-13); Mr. Henry Q. Curtis, Ms. Donna Davis Brown, Mr. Reese Liggett, Mr. Randy Brooks, Ms. Pat Tummons, Mr. Alika Neves, Mr. Tosh Sonoda, and Mr. Bob Wenkam (Item No. H-1); Mr. David Bills, Mr. Randy Longfield, Mr. Eric Maehara, Ms. Hoppy Smith, and Mr. Lou Rose (Item No. H-2); Mr. Lincoln Ishida (Item No. H-3); Mr. Terry Eischer (Item No. J-1); Ms. Linnel Nishioka, Dept. of the Attorney General; and Mr. Peter Garcia, Dept. of Transportation

Testimonies submitted at the meeting are filed in the Chairperson's Office and are available for review.

The agenda for this meeting is attached for reference.

MINUTES Minutes of the meetings of January 13, 1995, and March 10, 1995, were unanimously approved as submitted (Apaka/Kennison).

**ADDED
ITEM** The following item was added to the agenda (Apaka/Kennison):

B-2--Request for Approval to Hold Public Meetings and Hearings on Amendment to Hawaii Administrative Rules, Chapter 13-74, License and Permit Provisions

B. DIVISION OF AQUATIC RESOURCES

ITEM B-1 This item was presented by Mr. Devick and Mr. Schoocraft. Mr. Jim Housch from TORCH testified in support. Mr. Matsumoto and Mr. Nekoba questioned carrying capacity; Mr. Yuen commented that capacity could be regulated in the future. Regarding the monopoly rent, the rules could be amended to ensure there are no windfalls for the operators.

ACTION Unanimously approved as submitted (Kennison/Apaka).

ITEM B-2 (Unanimously approved as submitted (Kennison/Yuen).

C. DIVISION OF FORESTRY AND WILDLIFE

ITEM C-1 Unanimously approved as submitted (Nekoba/Matsumoto).

ITEM C-2 Unanimously approved as submitted (Kennison/Nekoba).

ITEM C-3 Unanimously approved as submitted (Nekoba/Kennison).

D. DIVISION OF WATER AND LAND DEVELOPMENT

ITEM D-1 Unanimously approved as submitted (Nekoba/Matsumoto).

ITEM D-2 Unanimously approved as submitted (Nekoba/Matsumoto).

ITEM D-3 Mr. Tagomori asked to amend the submittal to a three-year term ending in 1998.

ACTION Unanimously approved as amended (Matsumoto/Nekoba). Item further amended to defer action on the appointment of Mr. Doug McClure; seconded by Mr. Nekoba and unanimously approved as amended.

ITEM F DIVISION OF LAND MANAGEMENT

ITEM F-1a Approved as submitted (Nekoba/Matsumoto).

ITEM F-2 Unanimously approved as amended (Nekoba/Yuen).

ITEM F-3 Unanimously approved as submitted (Matsumoto/Nekoba).

ITEM F-4 Unanimously approved as submitted (Yuen/Nekoba).

ITEM F-5 Amendments were suggested by DOFAW. Mr. Jim Greenwell of Palani Ranch reviewed and clarified different points of his letter of July 11th. Mr. Yuen stated the item could be deferred to add DOFAW amendments; Mr. Young commented that the item could be withdrawn for further work with DOFAW and Mr. Greenwell.

ACTION Mr. Yuen moved for issuance of a permit under "C" and to defer action with regard to the auction; seconded by Mr. Matsumoto and unanimously approved as amended.

ITEM F-6 Unanimously approved as submitted (Kennison/Yuen).

ITEM F-7 Unanimously approved as submitted (Kennison/Yuen).

ITEM F-8 Unanimously approved as submitted (Nekoba/Kennison).

ITEM F-9 Mr. Jim Fernie, from Hawaiian Electric Co. land and rights-of-way, was present. Mr. Yuen suggested a one-time payment because of the small amount involved. Mr. Nekoba agreed.

ACTION Mr. Nekoba moved to approve with amendments as follows: staff appraiser to obtain assessed valuation used by the City and County of Honolulu, which will be the annual rent. Adjustment and rental reopening at the end of the 20th, 35th and 50th years of the lease term were deleted; seconded by Mr. Kennison and unanimously approved as amended.

ITEM F-10 Withdrawn as lessee's rent is up to current (Nekoba/Kennison).

ITEM F-11 Unanimously approved as submitted (Nekoba/Matsumoto).

ITEM F-12 Pastor Rob McWilliams and Curtis Sano were present and concurred with staff recommendation. Also present was Mitch Allen.

ACTION Mr. Nekoba moved for approval with amendments: (1) applicant shall complete the lo'i mitigation project prior to or during the completion of the construction of the roadway; and (2) applicant shall deliver to DLNR an acceptance letter from the Department of Health. Mr. Kennison seconded the motion, which was unanimously approved as amended.

ITEM F-13 Mr. Young distributed a letter dated July 13, 1995, from DLU opposing the project, as well as a copies of correspondence from applicant's attorney dated July 12.

Ms. Thielen presented written testimony and also testified that Greg Lee relied upon the land agent's statements that the seawall encroaches on State land and that the easement would be sold to applicant. Relying on the agent's statement, Mr. Lee went through the expense of an EA process. Mr. Yuen explained it was a misstatement of the agent.

Dr. Charles Fletcher presented written and oral testimony on coastal and beach erosion caused by seawalls. He stated he supported staff recommendation. Dr. John Harrison of the Environmental Center testified, as well as David Frankel from Office of State Planning who stated that the wall is inconsistent with HRS and that a comprehensive policy is needed.

ACTION Mr. Matsumoto moved to accept staff recommendation; Mr. Yuen seconded. Mr. Matsumoto withdrew his motion to add an amendment that B and D be deleted from the recommendation; Mr. Yuen asked for 120 days under C. Unanimously approved as amended.

ITEM H-1 Mr. Evans distributed staff's report and explained the recommendations of staff.

Mr. Randy Brooks, attorney for Waialae Iki Homeowners, stated the access was closed because of heavy construction. The concern, he said, is the parking situation, and the homeowners are amenable to attempting to work it out. Regarding the waiver form, Mr. Brooks indicated the information was required to follow up on any violations. The association is concerned about liability as well. Mr. Nekoba stated that the access is there; there is no need for a temporary agreement. He suggested the parties work out the issues for a permanent solution.

Mr. Henry Curtis of Life of the Land said he went to the guardhouse and was informed he could not walk to the trail, and this was at the request of homeowners. Mr. Curtis stated that the July 7th letter from the Homeowners Association implies they have right to give; but the access has always existed. Guests and hikers should be treated alike, he said.

Mr. Bob Wenkam stated it would be a problem to limit to six vehicles. Donna Davis Brown, president of Hawaii Trail and Mountain Club agreed. She indicated she went up to guardhouse but did not have to sign any document. She commented that it is the personal responsibility of the homeowner to know what comes with the property and also suggested a hunter education class.

Mr. Reese Liggett, Sierra Club, stated it was irresponsible and illegal not to allow for the public easement and urged that a date be set for a permanent solution. Mr. Alika Neves, land manager, Bishop Estate, said they will continue to provide access.

Mr. Tosh Sonoda from Gentry stated that one section near Oko'a Street is non-dedicable; the limit of six vehicles came from the City. Discussions have been held with the City concerning indemnification, which, he indicated, would take some time and suggested a time-frame of 60-90 days.

ACTION Mr. Nekoba moved to approve staff recommendation but to delete items 5,7,8,9 under section B, and that a time-frame of 90 days be allowed for the parties to come to a permanent solution and to return to the Board. Seconded by Mr, Yuen with a further amendment that motorcycles being hauled on trucks not be allowed. Unanimously passed as amended.

ITEM H-2 Mr. Evans indicated that the time extension goes back 10-14 years; staff is now recommending denial and revocation of the permit. Concern of representation of applicant's attempt to sell as indicated by a 1987 ad. Affidavits were presented from William Boyle, James Wayman, and Richard Wheelock concerning litigation and the Lanikai lots, which was resolved in 1994. Mr. David Bills representing applicants gave a brief history of the application. Randy Longfield asked to address speculation issue. He stated he did not advertise for sale; it involved people who had purchased the other lots. Eric Maehara, attorney for Mr. Longfield, stated that a condition could be added regarding speculation.

Hoppy Smith representing Lanikai Association presented written testimony and stated she concurred with the staff recommendation. Mr. Lou Rose, Lanikai resident, presented written testimony and likewise concurred with staff recommendation.

Mr. Bills addressed the drainage issues. Mr. Yuen suggested the solution may be to go to LUC. Mr. Bills went on to explain the conservation district line and clarified that he believes there was justification for time extension.

EXECUTIVE SESSION Mr. Kennison asked for executive session to consult with legal counsel; seconded by Mr. Apaka and motion unanimously carried. The Board was in session from 11:15 a.m. to 11:40 a.m.

ACTION Mr. Yuen moved to accept staff recommendation; seconded by Mr. Matsumoto. Passed with Mr. Kennison and Mr. Nekoba dissenting.

ITEM H-3 Mr. Lincoln Ishida representing Keolu Summit, Inc., asked for reduction of the fine; he also asked for the addition of the sewer line to the permit. Mr. Evans did not agree to the reduction and did not believe it appropriate to add the line at this time--that the applicant would need to petition for an amendment to the CDUP.

ACTION Mr. Nekoba moved to approve with a reduction of the fine to \$1,000; seconded by Mr. Matsumoto and unanimously approved as amended.

J. DIVISION OF BOATING AND OCEAN RECREATION

ITEM J-1 Presented by Mr. Jim Schoocraft. Mr. Jim Housch from Maui urged approval. Terry Eischer from Kona spoke in support of the recommendation.

ACTION Unanimously approved as submitted (Yuen/Nekoba).

ITEM J-2 Item on rent in the appraisal report amended. Mr. Matsumoto suggested public auction as appropriate. Mr. Yuen suggested auction of one-year revocable permits.

ACTION Mr. Kennison moved to amend to one-year revocable permits by public auction; seconded by Mr. Nekoba, with a separate revocable permit for the vacant land and another for the Sea Flite area. A condition is that the revocable permits would be cancelled when the new facility is built.

Mr. Kennison asked that the two to be packaged together; unanimously approved as amended.

ITEM J-3 Unanimously approved as submitted (Yuen/Kennison).

ITEM J-4 Unanimously approved as submitted (Kennison/Yuen).

ITEM J-5 Unanimously approved as submitted (Kennison/Yuen).

ITEM K OTHER DEPARTMENTS

ITEM K-1 Unanimously approved as submitted (Nekoba/Kennison).

ITEM K-2 Unanimously approved as submitted (Kennison/Yuen).

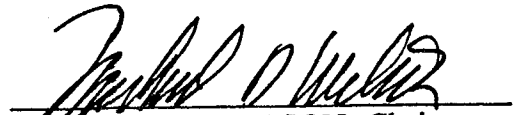
ITEM Z-1 Report accepted.

ADJOURN- The Chairperson adjourned the meeting at 3:55 p.m.
MENT

Respectfully submitted,


Geraldine M. Besse, Secretary

APPROVED FOR SUBMITTAL:


MICHAEL D. WILSON, Chairperson

8/1/95