

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

**DATE: FRIDAY, OCTOBER 13, 1995
TIME: 9:00 A.M.
PLACE: 132 KALANIMOKU BUILDING
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813**

Chairperson Michael D. Wilson called the meeting of the Board of Land and Natural Resources to order at approximately 9:10 a.m. The following individuals were in attendance:

MEMBERS: Chairperson Michael D. Wilson; Kauai Land Board Member Herbert Apaka; Maui Land Board Member William Kennison; Hawaii Land Board Member Christopher Yuen; Oahu Land Board Member Michael Nekoba; and Member-At-Large Colbert Matsumoto.

STAFF: Dean Uchida; Roger Evans; Manabu Tagomori; Carl Masaki; Samuel Lemmo; Keoni Fairbanks; and Michelle K. Bradley.

OTHERS: William Tam, Deputy Attorney General; Juliet Begley; Pat Tummons, Editor of *Environment Hawai'i*; Dawn Suyenaga, Gentry Waialae Iki V; Randy Brooks, Waialae Iki V Community Association; Peter Garcia, State Department of Transportation; Suzanne Harada; Reese Liggett, Sierra Club - Oahu Group; Joe Frajowski and Lester Lyman, Department of Parks and Recreation; Bob Moore, Department of Land Utilization; Mr. Bauken; and Riley Smith.

For more detailed information regarding the instant land board submittals, please refer to a copy of the Agenda, which is attached hereto as Exhibit "A". All testimonies and documentation submitted pertaining to the agenda items are available for inspection and review at the Chairperson's Office of the Department of Land and Natural Resources.

ADDED ITEM: Manabu Tagomori requested that Item D-2 be added on to the Agenda.

ACTION: Unanimously approved (Kennison/Apaka).

ITEM H-3: Roger Evans presented the staff recommendation to the Board. Dawn Suyenaga; Randy Brooks; Reese Liggett; Joe Frajowski; Lester Lyman; and Bob Moore testified before the Board.

ACTION: Unanimously deferred (Nekoba/Yuen).

ITEM F-4: Dean Uchida presented the staff recommendation to the Board.

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

1. Page 2, Proposed Amendment No. 6, to read "Amend or assign the lease . . .";

2. Page 2, Proposed Amendment No. 3, to read as follows:

3. Amend Paragraph 46 of the lease to allow Division of Forestry and Wildlife [DOFAW] to managed public hunting on the premises, allow appropriate rent discount in recognition of the public hunting agreement with the understanding that the discount will cease if DOFAW formally cancels public hunting on the property;

3. Pages 5 and 6, RECOMMENDATION, to read as follows:

That the Board take the following actions:

- A. Approve the seven (7) amendments, as amended, to General Lease S- 5374 proposed above;
- B. Authorize the issuance of an easement for the tunnel and pipeline system, and the proposed reservoir site subject to all standard conditions for easements and other conditions as maybe prescribed by the Chairperson to carry out the intent of this action;
- C. Authorize the sale of a water license for the taking of water from the Makukupu Tunnel subject to all standard conditions for a water license and other conditions as maybe prescribed by the Chairperson to carry out the intent of this action;
- D. Authorize and request that the Governor set aside the Koa Management Area, with access, and the Ainapo Road [access to Ainapo Trailhead] to the Division of Forestry and Wildlife for their respective program uses;
- E. Other terms and conditions as prescribed by the Chairperson;
- F. Authorize a reduction in rent of 20% for the Public Hunting Area use within the lease boundaries; however, the 20% shall be calculated on the net rent amount after a 20% of market is deducted for The Office of Hawaiian Affairs;
- G. Examine, at a later date, a credit against the lease rent for the water license, should Kapapala Ranch secure the water license through the public auction process;

H. Authorize the issuance of a Revocable Permit to Kapapala Ranch, et al., for the use of water originating from the Makukupu Tunnel, pending the issuance of a water license; and

I. Authorize an adjustment in the rent for the withdrawal of the Koa Management Area if the prior appraisal included the Koa Management Area in its appraisal of the lease.

The Chairperson called a recess at approximately 10:40 a.m. The meeting resumed at approximately 11:00 a.m.

ITEM F-7: Dean Uchida presented the staff recommendation to the Board. Riley Smith, Mr. Bauken, and Pat Tummons testified before the Board.

ACTION: Unanimously approved as submitted (Yuen/Nekoba).

ITEM F-5: Dean Uchida presented the staff recommendation to the Board. Tom Hopkin and Keoni Fairbanks testified before the Board.

ACTION: Unanimously approved, as amended (Kennison/Apaka). Amendment: Add Condition No. 17 to RECOMMENDATION to read as follows:

17. "Before initiating this project at Puunene, all parties involved in this operation meet and develop an operational and safety plan acceptable to DOT - Airports and/or any other aviation agencies."

ITEM D-1: Manabu Tagomori presented the staff recommendation to the Board.

ACTION: Unanimously approved as submitted (Nekoba/Yuen).

Oahu Land Board Member Michael Nekoba subsequently requested that the department submit a written request for a formal opinion by the Attorney General on whether our current process for hiring consultants is in compliance with the new procurement code; and if our process does comply, whether a bid amount be included in the process as a "factor" in determining the selection of the consultant. Deputy Attorney General William Tam advised the Board that he will wait until the request is received by the Attorney General.

ITEM D-2: Manabu Tagomori presented the staff recommendation to the Board.

ACTION: Unanimously approved as submitted (Yuen/Nekoba).

ITEMS F-1-a through e: Dean Uchida presented the Consent Calendar to the Board.

ACTION: Unanimously approved Items F-1-a through c as submitted (Apaka/Kennison);

As to Item F-1-d: Withdrawn for failure to find an approved CDUA for the subject property zoned conservation (Apaka/Kennison); and

As to Item F-1-e: Unanimously approved, as amended. Amendment: Delete the first Page 3 in its entirety and substitute it with the second Page 3 in the submittal (Apaka/Kennison).

ITEM K-1: Peter Garcia presented the staff recommendation to the Board.

ACTION: Unanimously approved as submitted (Matsumoto/Kennison).

ITEM K-2: Peter Garcia presented the staff recommendation to the Board.

ACTION: Unanimously approved as submitted (Matsumoto/Kennison).

ITEM K-3: Peter Garcia provided the Board with a Report on Revocable Permits Issued by the Department of Transportation for Consistent Uses. Board action was not required.

ITEM F-2: Dean Uchida presented the staff recommendation to the Board.

ACTION: Unanimously deferred (Nekoba/Kennison). The Board would like the Department of Health to explain why the lease rent for the Kahi Mohala facility is so high -- \$1,431,060.00 per year -- and would like an itemized listing of the services, facilities, and products being provided as a part of this lease.

ITEM F-3: Dean Uchida presented the staff recommendation to the Board.

ACTION: Unanimously approved as submitted (Apaka/Kennison).

ITEM F-6: Dean Uchida presented the staff recommendation to the Board.

ACTION: Unanimously approved, as amended (Apaka/Nekoba). Amendment: Add Paragraph C. to RECOMMENDATION to read as follows:

- C. The State should review the tax consequences of this transaction for Lihue Plantation especially if Lihue Plantation plans of acquiring land with the proceeds of the sale of their land.

Furthermore, Oahu Land Board Member Michael Nekoba indicated that if Lihue Plantation Company ("LP") bought property with the proceeds of the sale and the sale was either in condemnation or under threat of condemnation, the State should split the tax benefits that LP will gain from the reinvestment of the sale proceeds into other lands. Report back to the Board at the October 27, 1995 meeting if this is being considered by the State Department of Accounting and General Services.

ITEM F-8: Dean Uchida presented the staff recommendation to the Board.

ACTION: No action was made by Board due to its satisfaction with the sufficiency of current steps taken for determining percentage rents; thus, the submittal was viewed as a Board briefing on the internal practices for the Land Division.

ITEM F-9: Dean Uchida presented the staff recommendation to the Board.

ACTION: Unanimously approved as submitted (Kennison/Apaka).

ITEMS F-10 and 11: Dean Uchida presented the staff recommendations to the Board.

ACTION: Unanimously approved as submitted (Yuen/Nekoba).

The Board requested that by its October 27, 1995 meeting, we provide an update on the rent being paid by the permittees for each of the Revocable Permits and a rationale for how the rent was determined. The Chairperson also requested that by the October 27, 1995 meeting, we provide an update on the "build out" of the properties by the Coop and how much of the +/-1,400 acres of land available to the Coop was actually in use by the Coop today.

ITEM H-1: Roger Evans presented the staff recommendation to the Board.

ACTION: Unanimously deferred (Apaka/Kennison).

ITEM H-2: Roger Evans presented the staff recommendation to the Board.

ACTION: Unanimously approved as submitted (Kennison/Apaka).

There being no further business, the presiding Chairperson adjourned the meeting at approximately 1:15 p.m.

Respectfully submitted,

Michelle K. Bradley
MICHELLE K. BRADLEY
Land Board Secretary

APPROVED FOR SUBMITTAL:

Silbert S. Colomo-Garau

MICHAEL D. WILSON
Chairperson