

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

DATE: FRIDAY, JULY 12, 1996

TIME: 9:00 A.M.

PLACE: UNIVERSITY OF HAWAII AT HILO
HALE IKENA LOUNGE
521 WEST LANIKAULA STREET
HILO, HAWAII 96720

Chairperson Michael D. Wilson called the meeting of the Board of Land and Natural Resources to order at 9:15 a.m.

ROLL CALL:

PRESENT

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|-----------------|---|----------------------------------|---------------------------------------|
| Members: | Michael D. Wilson Michael Nekoba | Lynn McCrory William Kennison | Christopher Yuen Colbert Matsumoto |
| Staff: | Mr. Dean Uchida Ms. Michelle K. Bradley | Mr. Larry Cobb | Ms. Charlene Unoki |
| Guests: | Dawn Chang, Deputy Attorney General Keith Kurahashi, Kusao & Kurahashi, Inc. (Item D-3) Alex Kwon, Oahu Construction Company (Item J-2) Colin Love, Counsel for Kona Fuel & Marine, Inc. (Item J-1) Patricia Provalenko, USCOC (Item D-8) Mel Hoomanawanui, Hawaii Motorsports Association (Item D-28) Patrick Langeslay, PrimeCo Personal Communication (Items D-1 - 2, 8) Patricia Tummons, <i>Environment Hawai'i</i> Damien Ameen, ACC (Item D-3) Randy Vitousek, Counsel for Wailea Homeowners (Item D-24) Michael H. Lau, Counsel for Honolulu Cellular (Item D-2) Jeff Yamane, Honolulu Cellular (Item D-2) Ted Tsagris, PrimeCo Personal Communication (Item D-1) | | |

All written testimonies and relevant documentation submitted herein, including cassette taped recordings of the instant proceeding, are available for public inspection and/or review in the Chairperson's Office at the State Department of Land and Natural Resources.

MINUTES:

MARCH 22, 1996

ACTION: Deferred (Yuen/Matsumoto). McCrory abstained.

APRIL 12, 1996

ACTION: Approved as submitted (Kennison/Matsumoto). McCrory abstained.

JUNE 14, 1996

ACTION: Approved, as amended (Kennison/Matsumoto). Yuen and McCrory abstained. **AMENDMENT:** Page 11, Item D-9, 3rd line --change "LAHIANA" to "LAHAINA".

ADDED ITEMS:

ITEM D-29: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT - JOB NO. 93-KP-B6, SEWER SYSTEM IMPROVEMENTS AT KOKEE STATE PARK, WAIMEA, KAUAI, HAWAII

ITEM D-30: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT - JOB NO. 93-KP-B5, SEWER SYSTEM IMPROVEMENTS AT KOKEE STATE PARK, WAIMEA, KAUAI, HAWAII

ACTION: Unanimously approved (Matsumoto/Yuen).

REGULAR BUSINESS:

Certain agenda items were taken out of sequence to accommodate those individuals who were present at the meeting.

Mr. Dean Uchida, Acting Administrator, Land Division, presented the staff recommendations to the board for all items submitted by the Land Division.

ITEM D-3: AMENDMENT TO THE MASTERPLAN FOR HAWAII LOA COLLEGE SPECIAL SUBZONE AT KANEOHE, OAHU, TMK: 4-5-25:10

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

ITEM D-24: ISSUANCE OF AN INTERIM REVOCABLE PERMIT FOR NON-EXCLUSIVE ROAD ACCESS EASEMENT PURPOSES, WAIMEA, SOUTH KOHALA, HAWAII, TMK: 6-6-02:POR 31

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

In addition, the Board requested that the Land Division follow-up with the Division of State Parks on how it proposes to improve shoreline access in front of or makai of the private beach lots.

Mr. Larry Cobb, Property Manager, Division of Boating and Ocean Recreation, presented the staff recommendations to the board for all items submitted by the Division of Boating and Ocean Recreation.

ITEM J-1: CANCELLATION OF LEASE NO. H-83-2, HONOKOHAU BOAT HARBOR, ISLAND OF HAWAII (KONA FUEL & MARINE, INC.)

Colin L. Love, counsel for Jack Hall, President of Kona Fuel & Marine, Inc., testified before the board and discussed the following main points of controversy between his client and DLNR's Division of Boating and Ocean Recreation (DOBOR):

1. The State's failure to collect rent from the Dahlbergs for more than a three-year period;
2. The State's failure to provide the lessees with that which their lease promises;
3. The State entering into a settlement agreement with Kona Fuel & Marine, Inc., and then renegeing on the agreement; and
4. The State insisting that Kona Fuel & marine, Inc. pay the Dahlbergs' delinquent rent without the State first providing a statement showing how much rent is owed.

A motion was accepted to go into executive session to consult with the deputy attorney general on legal issues (Yuen/Matsumoto).

Upon reconvening, a motion to defer action on this matter was unanimously accepted until all issues could be further analyzed.

ACTION: Deferred (Yuen/Nekoba).

ITEM J-2: GRANT OF RIGHT-OF-ENTRY AGREEMENT, MAALAEA BOAT HARBOR, ISLAND OF MAUI (MAALAEA TRIANGLE PARTNERSHIP AND/OR OAHU CONSTRUCTION COMPANY, LTD.)

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

ITEM D-2: CONSERVATION DISTRICT USE APPLICATION FOR CELLULAR TELECOMMUNICATION RELY SITE AT NUUANU, OAHU, TMK: 1-3-5:1

ACTION: Unanimously approved, as amended (Nekoba/Kennison). **Amendment:** The board overturned the staff recommendation and approved CDUA OA-2809, subject to the following conditions:

1. That the site be developed with underground utilities and not photo voltaic panels to allow for other users;
2. That the applicant take necessary steps to prevent or minimize visual impacts resulting from the development of the site. Site plan and landscaping plan approval from this department required prior to starting construction on this project;
3. That this approval may be revoked by the board within sixty (60) days if the State identifies an alternative site in the area. For this 60-day period, no work on the site is to be done; no vesting of this permit approval will be allowed;
4. If the site is developed, other users will be allowed to co-locate on the site provided the new users pay a reasonable fee to reimburse the applicant for development costs;
5. All applicable standard conditions for this type of use in the Conservation District;
6. Any other terms and conditions as may be prescribed by the chairperson or board to carry out the intent of this approval; and
7. In considering this matter within sixty (60) days, the board may prescribe additional conditions on this approval.

ITEM D-8: ISSUANCE OF A DIRECT LEASE TO USCOC OF HAWAII 3, INC., DBA UNITED STATES CELLULAR, FOR A CELLULAR TOWER SITE TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITY PURPOSES, HUMUULA, NORTH HILO, HAWAII, TMK: 3-9-02:POR 7

ACTION: Deferred to August 9, 1996 meeting (Yuen/McCroy).

The board further requested that the Land Division respond to the following questions at the next board meeting scheduled for August 9, 1996:

1. How much are the existing towers in the area paying us on lease rent?

2. Why aren't we requiring co-location of other commercial antennas onto this lease property? When requiring co-location, we need to allow the existing user to re-coup their pro-rata development costs for the site.

3. How could we appraise the lease rent for this property? Flat land rent? Percentage rent? Agricultural value/industrial value? The board was concerned about maximizing the return to the State for this type of use.

4. If we allow for co-location, how do we handle the new additional user? Sublease, easement, new lease, etc. And how is the rent to be paid?

ITEM D-6: KAPAPALA RANCH PARTNERSHIP REQUEST FOR WAIVER OF PERFORMANCE BOND FOR GENERAL LEASE NO. S-5374, KAPAPALA, KAU, HAWAII, TMKS: 9-7-01:POR 1 AND 9-8-01:03:PORS. 09 AND 10

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

ITEM J-3.a.: CONTINUANCE OF REVOCABLE PERMIT (DIVISION OF BOATING AND OCEAN RECREATION)

- a. VIAJERO, INC., HONOKOHAU BOAT HARBOR, ISLAND OF HAWAII
- b. THE DELI CORPORATION, HEEIA-KEA BOAT HARBOR, ISLAND OF OAHU
- c. MAGIC ISLAND PETROLEUM INC., ALA WAI HARBOR, ISLAND OF HAWAII

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

ITEM D-7: HILO MEDICAL INVESTORS, LTD (L.P.), A GEORGIA LIMITED PARTNERSHIP, REQUEST FOR WAIVER OF THE PERFORMANCE BOND REQUIREMENT FOR GENERAL LEASE NO. S-5266 IDENTIFIED AS PARCEL A-2, PIIHONUA, SOUTH HILO, TMK: 2-3-31:POR 01

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

ITEM D-1: CONTESTED CASE HEARING REQUEST FOR AN AMENDMENT TO CONSERVATION DISTRICT USE PERMIT OA-1855, WAIMANALO, OAHU, TMK: 3-9-9:01

After a lengthy discussion, it was the Board's position that Life of the Land had sufficient time to provide any additional information that would prove standing in this

case. The parties were given ample notice, and the Board did not see why the matter should be deferred for one month given the position expressed by Life of the Land in their application for standing.

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

ITEM D-28: HAWAII MOTORSPORTS ASSOCIATION REQUEST FOR A RIGHT OF ENTRY TO CONDUCT A MOTORCROSS EVENT ON STATE LAND,
TMK: 3-8-08:POR 1, PULEHUNI AND WAIKAPU, WAILUKU, MAUI

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

ITEM C-1: REQUEST APPROVAL OF CONTRACTS WITH MS. TERESA TRUMAN-MADRIAGA TO COORDINATE THE FEDERAL FUNDED URBAN AND COMMUNITY FORESTRY PROGRAM AND MR. KARL DALLA ROSA TO COORDINATE THE FEDERAL FUNDED FOREST STEWARDSHIP PROGRAM WITH THE DIVISION OF FORESTRY AND WILDLIFE

On behalf of the Division of Forestry and Wildlife (DOFAW), Dean Uchida presented the staff recommendations to the Board for all items submitted by DOFAW.

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

ITEM C-2: REQUEST APPROVAL OF CONTACT WITH MR. DESMOND TWIGG-SMITH TO PARTICIPATE IN THE STATE FOREST STEWARDSHIP PROGRAM

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

ITEM D-4: AMENDMENT TO CONSERVATION DISTRICT USE PERMIT NO. OA-2636 TO INCLUDE THE CONSTRUCTION OF A 10,000 GALLON OVERFLOW RESERVOIR AND ACCESS ROAD AT THE PROPOSED MAAKUA WELL SITE, HAUULA, OAHU, TMK: 5-4-5:01

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

ITEM D-5: REQUEST WAIVER OF FLUME RIGHTS-OF-WAY RESERVATION CONTAINED IN LAND PATENT GRANT NO. 7261, KULAIMANO HOMESTEADS, SOUTH HILO, HAWAII, TMK: 2-8-06:7

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

ITEM D-9: REQUEST FOR LAND PATENT IN CONFIRMATION OF A PORTION OF LAND COMMISSION AWARD NO. 8559-B, APANA 3, MAKALAPA, NORTH KOHALA, HAWAII, TMK: 5-2-09:POR. 35

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

ITEM D-10: ASSIGNMENT OF GENERAL LEASE NO. S-3170, LOT 37, OCEAN VIEW LEAST LOTS, 2ND SERIES, WAIAKEA, SOUTH HILO, KOOLAUPOKO, OAHU, TMK: 4-1-10:POR. 36

ACTION: Unanimously approved, as amended (Nekoba/Matsumoto). **Amendment:** Add Condition No. 4 to staff recommendation to read as follows:

4. That the assignor pay to the State, directly or through escrow, the speculative profit calculated by our staff appraiser as \$2,532.00 prior to the issuance of the final documents on this assignment.

ITEM D-11: CONSENT TO ASSIGNMENT OF PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ACCESS PURPOSES, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-10:POR. 79

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

ITEM D-12: REQUEST BOARD APPROVAL TO CANCEL GOVERNOR'S EXECUTIVE ORDER NO. 1857 AND RE-SETASIDE TO THE DEPARTMENT OF EDUCATION, WAIPAHU, OAHU, TMK: 9-4-11:67

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

ITEM D-13: SET ASIDE TO THE DEPARTMENT OF AGRICULTURE, STATE OF HAWAII, BY GOVERNOR'S EXECUTIVE ORDER FOR AGRICULTURAL RESEARCH FACILITY AND AGRICULTURAL RELATED PURPOSES, MAUNAWILI, KAILUA, OAHU, TMK: 4-2-10:04

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

ITEM D-14: STAFF REQUEST AUTHORIZATION FOR PUBLIC AUCTION SALE OF GENERAL AGRICULTURAL LEASE COVERING LOT 22, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-27:20

ACTION: Deferred (Matsumoto/Nekoba).

ITEM D-15: REQUEST BOARD AUTHORIZATION TO CANCEL GENERAL LEASE NO. S-5395, JOHN ESTORES, LOT 22, WAIMANALO, AGRICULTURAL SUBDIVISION, WAIMANALO, OAHU, TMK: 4-1-27:20

ACTION: Deferred (Matsumoto/Nekoba).

ITEM D-16: AUTHORIZATION TO CANCEL GENERAL LEASE NO. S-5353 TO DALE HARDINGER, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-08:76

ACTION: Deferred (Matsumoto/Nekoba).

ITEM D-17: REQUEST FOR CONSENT TO THE ASSIGNMENT OF GENERAL LEASE NO. S-5353, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-18:51

ACTION: Approved as amended (Nekoba/McCrory). **Amendment:** Add Condition No. 4 to read as follows:

That this approval does not in any way grant any release of personal guarantee on this lease.

ITEM D-18: REQUEST BOARD APPROVAL FOR A REVOCABLE PERMIT BETWEEN MENTAL HELP HAWAII AND THE HAWAII STATE HOSPITAL, DEPARTMENT OF HEALTH, AT KEAAHALA, KANEOHE, KOOLAUPOKO, OAHU, TMK: 4-5-23:02

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

ITEM D-19: REQUEST TO AMEND PRIOR BOARD ACTION OF JANUARY 12, 1996 (AGENDA ITEM F-12) RELATIVE TO THE "JOSEPH ANDRADE, ET AL. REQUEST FOR CONSTRUCTION RIGHT-OF-ENTRY AND GRANT OF PERPETUAL, NON-EXCLUSIVE UTILITY EASEMENT AFFECTING STATE-OWNED GOVERNMENT LAND OF KALAHEO, KALAHEO HOMESTEADS, 1ST SERIES, KOLOA, KAUAI, TMK: 2-4-1:24

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

ITEM D-20: REQUEST ISSUANCE OF A REVOCABLE PERMIT TO STAN IRION FOR LANDSCAPING AND PARKING PURPOSES ON GOVERNMENT LAND, KAPAA TOWN LOTS, KAWAIHAU, KAUAI, TMK: 4-5-11:29

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

ITEM D-21: CANCELLATION OF REVOCABLE PERMIT NOS. 6346 AND 6944, INCREASE AND CONSOLIDATION OF LAND AREA, AND REISSUANCE OF A REVOCABLE PERMIT TO FRANK AND ABIGAIL SANTOS DBA NO KA OI PLANTS, HANAPEPE, WAIMEA, KAUAI, TMKS: 1-9-7:5, 29 AND 30

ACTION: Unanimously approved as submitted (McCrory/Kennison)

ITEM D-22: REQUEST TO AMEND GENERAL LEASE NO. S-5358, BY DELETING PERCENTAGE RENT REQUIREMENT, KAUAI INDEPENDENT DAYCARE SERVICES, INC., KAPAA TOWN LOTS, FIRST SERIES, LOTS 3 AND 4, BLOCK R, KAPAA, KAWAIHAU (PUNA), KAUAI, TMK: 4-5-8:11

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

ITEM D-23: RESUBMITTAL - APPROVAL ON LAND EXCHANGE CONCEPT BETWEEN THE STATE OF HAWAII AND GE CAPITAL HAWAII, INC. AT WAILUA RIVER, KAUAI, AND SUBSEQUENT SET-ASIDE TO DLNR-DIVISION OF STATE PARKS FOR ADDITION TO WAILUA RIVER STATE PARK

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

ITEM D-25: REQUEST FOR EXTENSION OF CONSTRUCTION DEADLINE, SPECIAL SALE AGREEMENT NO. S-5598, LOT 99, HANAPEPE TOWN LOTS, FIRST SERIES, HANAPEPE, WAIMEA (KONA), KAUAI, TMK: 1-9-10:50

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

ITEM D-26: GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED (GTE) REQUEST FOR PERPETUAL, NON-EXCLUSIVE EASEMENT TO ATTACH A FIBER OPTIC TELECOMMUNICATIONS SYSTEM TO AN EXISTING CITIZENS UTILITIES CO. OVERHEAD POLE LINE, WAILUA HOMESTEADS, 1ST SERIES; WAILUA RICE AND KULA LOTS, KAWAIHAU; AND, WAILUA, KAWAIHAU, KAUAI, TMKS: 4-2-3:8, 4-1-1:4 AND 4-1-9:5, 6 AND 20

ACTION: Unanimously approved as submitted (McCrary/Yuen)

ITEM D-27: ASSIGNMENT OF GENERAL LEASE NO. S-4739, LOT 15, BRODIE LOTS, HANAPEPE, WAIMEA (KONA), KAUAI, TMK: 1-8-8:62

ACTION: Unanimously approved as amended (McCrary/Yuen). **Amendment:** Add Condition No. 4 to read as follows:

4. That this approval does not in any way grant any release of personal guarantee on this lease.

ITEM D-29: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT - JOB NO. 93-KP-B6, SEWER SYSTEM IMPROVEMENTS AT KOKEE STATE PARK, WAIMEA, KAUAI, HAWAII

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

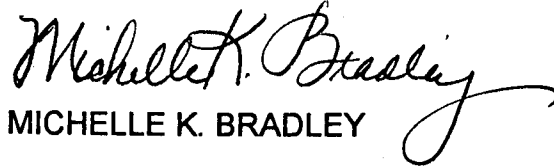
ITEM D-30: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT - JOB NO. 93-KP-B5, SEWER SYSTEM IMPROVEMENTS AT KOKEE STATE PARK, WAIMEA, KAUAI, HAWAII

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


ADJOURNMENT:

There being no further business, the Chairperson adjourned the meeting at 2:05 p.m.

Respectfully submitted,


MICHELLE K. BRADLEY

APPROVED FOR SUBMITTAL:


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