

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

DATE: August ²³24, 1996
TIME: 9:00 a.m.
PLACE: Kalanimoku Building
Land Board Conference Room 132
1151 Punchbowl Street
Honolulu, Hawaii

PRESENT:

MEMBERS: Michael Wilson Colbert Matsumoto
Christopher Yuen Michael Nekoba
William Kennison Lynn McCrory

STAFF: Dean Uchida Ed Henry
Sam Lemmo Mike Buck
Cecil Santos Bill Gorst
Ralston Nagata Dave Parsons
John Corbin Bill Devick
Sterling Yong Michelle Bradley

GUESTS: Peter Garcia, Juliet Bagley, Linnel Nishioka, Daryl Huff, Ipolani Tano, Craig Nakamura, Verla Moore, Dr. Gordon Graus, Dawn Wasson, Robbie Dingman, John Estores, Mike McElroy, Ken Morikami, Wayne Uehira, Kalani Wilson, Fred Rodriguez, Garth Spurrier, Dave Luehring, Marilyn Nicholson, Merry Glass and Milton Haitsuka.

The Chairperson commenced the meeting of the Board of Land and Natural Resources at 9:10 a.m.

Chair Wilson presented awards for the Department of Land & Natural Resources for Manager of the Year to Dean Uchida, Sustained Superior Performance and Employee of the Year to Michael Lauretta, Sustained Superior Performance to Dean Toda, and Certificate of Merit to Roy Hattori.

APPROVAL OF MINUTES:

Minutes of March 22, 1996

Item D-5, page 2, Correct, "...in which his uncle was one of the...", should read, "...in which his ~~father~~ was one of the..."

father's uncle

Item D-5, page 3, Clarification on Member Matsumoto's recusal was not due to any affiliation between his law firm and HELCO.

Unanimously approved with corrections as noted (Nekoba/Yuen).

Minutes of April 26, 1996

Item D-10, page 3, Clarification on Member Matsumoto's recusal was not due to any affiliation between his law firm and HELCO.

Unanimously approved with corrections as noted (Nekoba/Yuen).

Minutes of June 28, 1996

Unanimously approved as submitted (Nekoba/Matsumoto).

Item D-1 Request for approval to issue a request for proposal (RFP) to produce a comprehensive analytical review, alternatives analysis, and recommendations study to improve property management and disposition of public lands, pursuant to the provisions of Chapter 171, Hawaii Revised Statutes

Dean Uchida said the approval is to request to advertise the RFP statewide and to proceed to assess potential qualified bidders. The Department will present its analysis and recommendation for consultant selection to the Board at a regular board meeting. The Department will develop a contract with the Board approved consultant. The contract will be sent to the Department of the Attorney General for approval. The staff's recommendation is that the Board authorize the Department to advertise and issue the Request For Proposal and to assess the qualifications of potential bidders, and the response to the RFP for the Board to review and to select a consultant.

Unanimously approved as submitted (Nekoba/Yuen).

Item D-2 Request for approval to conduct statewide public hearings on the proposed amendments of Chapters 13-219, 13-221 and 13-222, (relating to schedule of fees, unencumbered public lands and shoreline certifications) and Chapter 13-190 (relating to dams and reservoirs), Hawaii Administrative Rules

Uchida said the goal is to establish a mechanism and fee structure to fairly reimburse the Department for specific costs attributed to an individual applicant's need or request. The Department proposes to develop a fee structure that is similar to those fees charged by private sectors for such documents and services and to amend pertinent sections to increase the fees charged for itemized categories. Uchida said the staff's recommendation is that the Board authorize the Department to conduct statewide public hearings on the proposed amendments and to authorize the Chairperson to appoint Public Hearing Masters to receive testimony on the proposed rule amendments.

There was discussion about the fee structures and the amendments to the rules. The Board requested that the Division look into charging for the processing of right-of-entries, easements, increasing fees for penalties on non-compliance, and the acceptable indexing of the fee structure.

Unanimously approved as submitted (Matsumoto/Nekoba).

Item D-4 Conservation District Use Application Oa-2807 to construct a 46 kV electrical subtransmission line from Waialua to Kuilima, North Shore, Oahu, TMKs: 5-9-06:26, etc. (to be distributed)

Uchida said the staff's recommendation was that the Board approve Hawaiian Electric Company's application to construct a new 46 kV Subtransmission line through Anahulu Gulch, Upper Waimea Valley, and the Pupukea Forest Reserve, at the North Shore of Oahu as identified in TMKs subject to conditions.

Ken Morikami introduced himself as a representative of HECO and said he was here to answer questions. He explained where the holes are going to be dug for the poles would be cleared and that HECO employs an in-house forester that is aware of fire and safety hazards.

There was a discussion about the cost of under ground versus overhead alignment. Morikami said the major cost of going underground is the digging of the trenches. In the cost of overhead, holes are dug for the poles. He explained that the actual costs were determined by what HECO had encountered in previous projects.

Wayne Uehira introduced himself as the traffic engineer for the project. He approximates the trenching work cost is \$105 per ft. which includes repair, manholes, conduit, underground cable, utility cost, traffic control, cable splicing, etc. Member Yuen requested a copy of their projected cost estimates. Morikawa offered HECO to work and plan with DLNR staff and the Board for future projects.

Unanimously approved with amendments to condition 14) that the applicant shall obtain the appropriate real property rights from the private property owners or through appropriate legal proceedings, condition 17) any work to be done on the land shall be initiated within one (1) year of the later of the Board or Public Utilities Commission approval and all work and construction must be completed within three (3) years (Nekoba/Kennison).

Chair Wilson noted that Member Matsumoto recused himself from this vote.

Item B-1 Request for approval to hold public meetings and hearings on amendment to Hawaii Administrative Rules, Chapter 13-74, License and Permit Provisions and Fees for Fishing, Fish, and Fish Products

Bill Devick briefed the Board on amendments proposed to increase fees for licenses and permits, to clarify that licenses and permits may not be renewed unless the proper information is provided and to remove the penalties described in sections 188-70 and 189-4. He said the staff's recommendation is

that the Board approve the holding of public meetings and hearings for the amendment of the HAR, Chapter 13-74 relating to license and permit provisions for fishing, fish and fish products.

There was a discussion about the enforcement of the licenses, permits, and fines. The fee ranges were set according to residents and non residents.

Dawn Wasson testified that Native Hawaiians should be exempt from fishing fees because it is State land. Nishioka said any legal opinion requests are welcomed at the attorney general's office.

Unanimously approved as submitted (Matsumoto/McCrory).

Item B-2 Request for approval to amend an agreement with the University of Hawaii, Institute of Marine Biology

Devick said this request is to amend an Agreement between the Board of Land and Natural Resources and the University of Hawaii that entails cooperative fisheries. The staff's recommendation is that the Board authorize the Chairperson to negotiate and subject to approvals, execute the amendment with the University of Hawaii through June 30, 1997.

Dr. Gordan Graus said in addition to the value of FAD for fisheries, their activity is principally to identify what the impacts of FAD are on existing populations and to develop a means to make an accurate assessment.

Unanimously approved as submitted (Yuen/Nekoba).

Item B-3 Request for approval to amend/extend an agreement with the University of Hawaii, Hawaii Institute of Marine Biology

Devick said this request to amend/extend an Agreement between the Board of Land and Natural Resources and the University of Hawaii and the staff's recommendation is that the Board authorize the Chairperson to negotiate and subject to approvals, execute the amendment through June 30, 1997.

Dr. Graus said this project will educate the young people to sustain resources in Kaneohe Bay.

Unanimously approved as submitted (Nekoba/McCrory).

Item B-4 Request for approval to enter into an agreement with the University of Hawaii, Hawaii Institute of Marine Biology

Devick stated that this is a request to enter into an agreement with the University of Hawaii to establish a joint marine mammal research and education project. The staff's recommendation is that the Board authorize the Chairperson to negotiate and subject to necessary approvals, execute the agreement with the University of Hawaii for fiscal year 1996-1997.

Dr. Graus said the marine mammals are among the most vulnerable and this project will ensure more effective decision-making to properly manage the habitat and the mammal population.

Unanimously approved as submitted (Matsumoto/Kennison).

Item E-4 Request by the Friends of Malaekahana State Park (Friends) to terminate lease to the Ko'olauloa Hawaiian Civic Club and issue a new lease to the Friends (to be distributed at meeting).

Ralston Nagata briefed the Board. He said in September 1995, the Friends of Malaekahana on behalf of the Ko'olauloa Hawaiian Civic Club submitted a request to extend their lease to 30 years. He said it is a general practice that a non-profit organization lessee be granted a 10 year lease and that consideration of a substantially longer term be granted after completing regulatory requirements. The staff's recommendation is that the Board, concurrently with the termination of the existing lease to the Ko'olauloa Civic Club, approve a ten year lease to the Friends of Malaekahana.

Ipolani Tani introduced herself as the Executive Director of Friends of Malaekahana. She talked about what the Friends of Malaekahana as a non-profit organization has accomplished in terms of working for the preservation of cultural and educational programs, working with schools and what their future plans were. Tani said they view themselves as "partners" with the State. She said their problem is that Castle and some other foundations are hesitant to grant them more funds because of the short term lease that expires in April 1997. Tani asked the Board for support for the extension of the lease.

There was a discussion about renting cabins that are done on a first come first serve basis. Tani explained that there are programs that teach ukulele, hula, lei making and etc. She said it's run by a management team that is composed of 3 individuals and that there are nine (9) Board members. She said the Board member consists of people whose backgrounds are from economic development, cultural preservation, law and planning.

Nagata explained that the lease is to the Ko'olauloa Hawaiian Civic Club but that the Friends operate the facilities for the civic club. He said it gives them exclusive control for the leased area for the period of the lease but it is supposed to be utilized for public recreation for the component to be in focus.

There was a discussion about the parking area and access to the park. Nagata explained that the State's intention was to acquire and develop the entire area but ended up with only one side because of the existing residents in-between. Later, the State was not in financial position to develop the parcel on the Kahuku end of the bay. Access was made available when the civic club took the lease.

Member Matsumoto felt that the programs and the cultural activities were good but could not understand why they had to lease 34 acres. He said the beach front is a prime area and felt it should be made available to the public. Nagata said in addition to the cabins, the Friends have incorporated a camp ground area so that there are public opportunities. He said the cabins are being incorporated to the overall recreational scheme.

Member Matsumoto recollected that the whole area was condemned for park purposes and that the State had a plan for a huge recreational area. It seemed to him that by leasing this area to a private organization, they are permitted to run the park and set the rules for public accessibility. Nagata said in the lease document, it gives the general public accessibility for recreational use.

Member Matsumoto commented that the Division must have had a master plan to go the Legislature to ask for appropriate money to condemn the area and asked whether the master plan was being scrapped. Nagata said the State abandoned the aspect of the plan that included the tented portion. Member Matsumoto asked whether the Friend's proposed plans were consistent with the Division's master plan. Nagata said as long as the Friends remained focused on public recreation and the cultural aspect that Tani mentioned was fulfilled, he felt it works hand in hand with public recreation.

Member Matsumoto felt from Tani's comments that they [Friends] intended to draw up their own master plan and wondered whether the proposed lease would require their master plan to be consistent with the State's master plan for the overall area. He felt if the area was developed in a separate manner, eventually there will be problems integrating the 2 areas. Nagata said that is why his staff is recommending the lease be for 10 years. He said because the State had not acquired the lot, there is no master plan, that it was more of a conceptual plan. Nagata said as it turned out, all of the lots were not acquired and at this juncture, the State has no plans to do so. He said parts of the plans were to create cabin rentals.

Tani said she understood that the State went into public partnership because of the cost of upgrading and maintaining buildings. She said their "term of a 'master plan' is, which of these cabins should be set aside for handicap access, otherwise, tear it down and build something else." Tani said when they [Friends] talk about vision, they look at the outside of the park and see how it fits into the whole community.

There was discussion about the State relinquishing control and the concern of maintaining public accessibility. Member Nekoba felt that a non-profit organization is an "interim fix" who is willing to provide manpower to make the park more usable. He suggested that a member from the State Parks Division become a DLNR representative to be on the Board of Directors. Tani concurred.

Member Matsumoto recollected that when he worked at the Legislature in 1979, Nagata came before the Legislature to ask for appropriation and the concept was to tear down the existing houses on the property, so he was surprised that the State is trying to give renewed life to the houses that were condemned. This was a pet project of Andy Anderson and there was a lot of public controversy about the State condemning these parcels but it was with the vision of extending the kind of park that existed on the Laie side. Member Matsumoto asked what happened to that vision. Nagata said he thinks the State ran out of money to acquire the large portion of the land and to tear down and construct new structures, so in the absence of that, he said they are trying to do the next best thing with the non-profit private organizations.

Tani said there are many families that use the facilities for family reunions that are affordable and for this reason the Friends are investing to build these facilities. She said kupuna and handicapped people would not be able to participate in these family activities if it weren't for these facilities. Tani said there is a demand for this type of facility.

Dawn Wasson testified on behalf of the Ko'olauloa Hawaiian Civic Club. She read several testimonies objecting to the cancellation of the lease between DLNR and the Ko'olauloa Hawaiian Civic Club because of many unanswered questions and were concerned about financial matters and responsibilities. They requested deferment of the decision until all parties could come to an agreement.

Wasson talked about bones found in the Malaekahana Park and how reinterment took place without notifying the Ko'olauloa Hawaiian Civic Club. She said there are concerns about internal problems, the usage of non-profit status, and possibly impropriety with funds and grants given to the Ko'olauloa Hawaiian Civic Club. Wasson asked the Board to defer the decision so both parties could settle their differences.

A dialogue took place refuting some of the comments made in the testimonies. Verla Pualoa Moore talked about the conflict of interest and about "embezzlement" and financial statements not being turned over. She said those statements are not true and went on to explain that audit reports were turned over to the Ko'olauloa Civic Club. Moore said Dawn Wasson and her group in May 1994 offered half million dollars for the park. She said, "we turned it down then, we'll turn it down now, we will not be bought out..." Moore stated, "There is a problem in the club."

Kalani Wilson briefed the Board on how the park concept came about and talked about the problems in the civic club. He asked the Board to consider the recommendations to conduct an investigation on the financial actions of the park, open the bid for the park to all other non-profit groups, and to release any evidence of wrong doing to the attorney general's office.

Member Matsumoto had concern about the controversy between the factions of the Hawaiian Civic Club. He said this is a 34 acre, prime beach front property that was intended for public recreational use and felt that the property has not lived up to expectations of what the parcel was intended for. He said the public that pays for the property is the loser during the period when the park is not being operated in the way it should operate. Member Matsumoto found it troublesome that the State is taking the position that it's not able to operate this park as it was intended when it was acquired. He said the best thing to do is to ask for other fees and put it out to some private, qualified entity who has the best plan to operate the park to benefit the public. Member Matsumoto said he would be in favor of terminating the existing lease but felt it premature to issue the lease to a new entity without having gone through the proper RSP process.

There were discussions on the termination of the lease, condemning the structures, going through the RSP process and the controversy between the two groups. Member Yuen said there has to be an entity that is responsible, cohesive and has a common vision and purpose for the park.

Chair Wilson excused himself at 12:45 p.m. and asked Member Yuen to assume charge of the meeting.

Motion made to table Item E-4 (Matsumoto/Nekoba)
Acting Chair Yuen clarified that the motion was to defer the item and that the Board is not acting on the item.

Vote: all in favor.

Item D-17 Request for authorization to cancel Revocable Permit No. S-5230 and to the re-issuance of a new revocable permit to Kurisu and Fergus for commercial and landscaping purposes on government lands identified by TMK; 4-5-001: 049, situate at Lahaina, Maui, Hawaii

Dean Uchida briefed the Board and stated the staff's recommendation that the Board find that the commercial and landscaping uses are exempt from obtaining a negative declaration, approve the cancellation of Revocable Permit No. S-5230 with the Russell H. Harriman Trust effective August 29, 1996, and authorize the issuance of a revocable permit to Kurisu & Fergus for commercial and landscaping purposes under terms and conditions.

Unanimously approved as submitted (Kennison/Nekoba).

Craig Nakamura introduced himself as an attorney on behalf of the applicant. He showed a map of the location of the property and explained about the property adjacent to Front Street where several commercial shops are located and the area on the ocean side where the land lock is and where no one else has access to the property. There was a discussion about the monthly rent of the property and the appraisal of the property. Uchida suggested an amendment to the monthly rent section of the submittal.

Motion to cancel Revocable Permit No. S-5230 and the re-issuance of a new revocable permit with amendment that the monthly rent section of the submittal should be replaced with, "To be determined by staff appraiser based on the value of the adjoining mauka fee simple lands recently sold (Kennison/Nekoba).

Vote: all in favor.

Item D-5 Certification of election and appointment of soil and water conservation district directors (term ending 6/30/98)

Uchida said under Chapter 180, DLNR is responsible for administering the Soil and Water Conservation District Directors. His staff's recommendation is that the Board certify the elections and appointment of those persons recommended as directors of their respective Soils and Water Conservation Districts.

Unanimously approved as submitted (Kennison/Nekoba).

Item D-6 Certification of election and appointment of soil and water conservation district directors
(Terms ending 6/30/99)

Uchida amended Item D-6 by adding names to the list and to correct Valerie Mendes' term to expire June 30, 1998 instead of June 30, 1999.

Unanimously approved as amended (Kennison/Nekoba).

Item D-3 Conservation District Use Application OA-2812 to construct an off-site drainage outlet at West Loch, Pearl Harbor, Ewa, Oahu, Hawaii offshore of TMK: 9-1-10: 15

Uchida said the purpose of the project is to provide a common drainage outlet to handle storm water runoff from properties in the area, including the proposed Gentry East Development. He said the application was sent for comments to other divisions and City and County of Honolulu and that no one had any significant concerns. Uchida said the U.S. Fish and Wildlife Service's concern was the potential impact to the Pearl Harbor National Wildlife Refuge. He said those comments have been incorporated into the recommendation. Uchida said the staff's recommendation is that the Board approve Gentry Homes' application to construct a drainage outlet works with the West Loch of Pearl Harbor subject to terms and conditions.

Uchida presented written testimony from the Sierra Club who had concerns about the degradation of coastal waters.

Fred Rodriguez introduced himself representing the applicant. He said the project is on federal land and the portion that comes before the Board is the discharge of materials into West Loch which is in the Conservation District. Rodriguez stated that the 18 conditions listed by the Land Division have been reviewed and that they concur with them. He said with the various permits they applied for, all of the conditions will be met by the end of the year. Rodriguez said at present there is a final draft between the Corporation Council of the City and County of Honolulu and the legal council for Gentry Homes. It will be signed by the Mayor in the dedication of the maintenance portion of the drainage facility. This will then allow the easement agreement.

Unanimously approved as submitted (Nekoba/McCrory).

Item E-2 Resubmittal: request of Kahuku High School and Intermediate to extend its permit for an alternative education center at Kahana Valley State Park, Oahu

Ralston Nagata presented the resubmittal for the extension of their present permit. The staff's recommendation is that the Board approve a Special Use Permit to Kahuku High and Intermediate School to use the Community Center at Kahana Valley State Park and a small adjoining lot for five (5) years from September 1, 1996 to June 30, 2001 as a site for an Alternative Education Center subject to conditions.

Garth Spurrier testified in favor of the extension.

Unanimously approved as submitted (Nekoba/McCrory).

Item E-1 Resubmittal: approval for installation of a plaque to commemorate the world record duration for motorless flight at the Nuuanu Pali, Oahu

Nagata briefed the Board on the resubmittal for installation of a plaque by the National Soaring Museum. The staff's recommendation is that the Board approve the installation of the plaque commemorating the record setting glider flight subject to conditions.

Dave Luehring testified in favor of the installation.

Unanimously approved as submitted (Nekoba/Matsumoto).

Item E-3 Approval to engage the services of a consultant to redesign the brochure for the State Park System

Nagata briefed the Board for the approval to engage services of a consultant to redesign the brochure for the State Park system.

Unanimously approved as submitted (Kennison/Nekoba).

Item J-3 Grant of Non-exclusive easement, Keehi Boat Harbor, Island of Oahu (Hawaiian Electric Company, Inc.)

Dave Parsons briefed the Board on the purpose to construct, reconstruct, use, maintain and repair electric transmission and distribution poles, overhead and guy wires, anchors and/or underground power lines and the right to trim any trees in the way of its lines. The staff's recommendation is that the Board authorize for the Chairperson to execute the Grant of Non-exclusive Easement subject to terms and conditions.

Unanimously approved as submitted (Nekoba/McCrory).

Acting Chair Yuen noted that Member Matsumoto was recused.

Item H-1 Authorization to enter into an aqua culture extension service contract

John Corbin briefed the Board on the aqua culture production extension program that provides direct "hands on" assistance to enhance industry production and increase aqua farmer's efficiency. The staff's recommendation is that the Board authorize the Chairperson to negotiate and subject to Governor's approval, enter into the contract.

Unanimously approved as submitted (Kennison/Nekoba).

Item C-1 Request to assess a rental fee for forestry facilities at Keanakolu, Humuula Tract, Hilo Forest Reserve

Mike Buck briefed the Board on the request to assess rental fees for two forestry cabins that the Division has invested \$40,000 to repair and refurbish. The staff's recommendation is that the Board approve assessment fees of \$30 per day for the Bunkhouse cabin and \$15 per day for the Ranger cabin with a \$40 refundable deposit.

There was a discussion about the cost of maintaining the cabins and Buck guessed that it costs about \$10,000 a year. The cabins are well utilized by the public and run on an honor system. Buck said this is not a money making venture.

Unanimously approved as submitted (Matsumoto/Kennison).

Item C-2 Master's report on public hearing to withdraw State-owned land from the Olaa Forest Park Reserve for lease to the Volcano Art Center

Buck briefed the Board of the withdrawal of 7.32 acres from the Olaa Forest Park Reserve. He said there were 9 people who testified in favor of the withdrawal at the public hearing. He said the staff's recommendation is that the Board accept the Master's Report, approve the withdrawal of 7.32 acres of government land situated at Olaa Summer Lots, grant to the Volcano Art Center an immediate right-of-entry for the purposes of initiating plant and archaeological surveys and noxious weed removal work, and request that during the lease negotiation period, a site improvement and management plan be submitted for review by both the Divisions of Land Management and Forestry and Wildlife.

Marilyn Nicholson introduced herself representing the Volcano Arts Center (VAC) saying she would answer any questions. There were no questions asked.

Merry Glass testified and said, "It is our hope that the Board will consider the needs of all of Hawaii's citizens before needlessly removing this facility from our use." She talked about not being able to use the cabin. She said, "A satisfactory solution would be to lease the parcel with the requirement that one acre be set aside, including the cabin, with its current access to Kalanikoa Road. The Art Center would meet its need for access and frontage and the cabin can have privacy and separation. The lease rents should cover any maintenance costs on the cabin."

Nagata said the cabin for State Parks is not feasible and has been a problem as it is only moderately used. Nicholson said the VAC has no firm plans on the use of the cabin. Nagata understood that the VAC wanted to use the cabin for operational purposes. There was discussion about the cabin and the use of it. Buck and Nagata noted that there are reservations for the use of the cabin through the end of 1996 and asked that the reservations be honored.

Unanimously approved as submitted (McCrorry/Nekoba).

Item D-21 Resubmittal: Request Land Board approval for reduction in area and monthly rental, Revocable Permit S-6849, Haitsuka Brothers, Limited, and issuance of a Revocable Permit to Hidano Construction, Inc., Keehi Industrial Lots, Kalihi-Kai, Oahu, TM: 1st/1-2-23: 63

Uchida noted that this item has been before the Board a number of times. He briefed the Board on what should have been the Keehi Industrial Park development that has ceased because of the State's financial difficulty. He said at the June 14, 1996 Land Board meeting, a request to reduce the land area and rental was deferred as the Board was concerned over the loss of revenue. The staff showed lots to other interested companies on the waiting list and Hidano Construction expressed an interest. Uchida said a few days ago, he was informed by Hidano Construction Company that they were no longer interested in the property. He said the staff feels it is unfair to Haitsuka Brothers to charge them the higher rent. The staff requests that the Board amend Revocable Permit No. S-6859, issued to Haitsuka Brothers, Ltd., to approve the new area, rental and collateral security deposit changes under the terms and conditions.

Uchida said this is a problem area because of the flooding that occurs during the different tides. He said the Land Division has been unsuccessful in finding a tenant and is hoping that DOT will consider releasing the Department from the bond commitment.

Milton Haitsuka introduced himself as Vice President of Haitsuka Brothers and that he had no testimony but was willing to answer any questions.

There was a discussion about the flooding of the area during the different tide changes and how the problem could be resolved. Haitsuka said in a normal high tide, half of their area is covered, and if there is a storm associated with the high tide (Iniki), they have had 14-15 inches of water in their office on the first floor. He said other tenants are affected also.

Unanimously approved with the removal of Sections B and C of the recommendation (Nekoba/McCrory).

After a short break, the meeting was reconvened at 1:30 p.m.

Item D-26 Resubmittal: request Board authorization to cancel General Lease No. S-5395, John Estores, Lot 22, Waimanalo agricultural subdivision, Waimanalo, Oahu, TMK: 4-1-27: 20

Uchida said John Estores purchased the property at a public auction on May 31, 1995. The lessee was required to provide a conservation plan within six (6) months because of the hilly terrain of the property and the possible damage to the lots below. To date he has not complied. In January 1996 he was found to be constructing a 15x15 foot floor area structure without posting a building permit and no conservation plan in place. He was sent a Notice of Default for non compliance in March and April 1996. The sixty (60) day cure period on the breach expired on June 9, 1996, with no resolution of the lease default. Uchida said during the break, Estores explained that he did not receive the lease [documents] until December 1995. Uchida said part of that problem was due to the Land Management's delay in the issuance of the documents. He said Estores indicated that he wants to retain the lease and to rectify any outstanding amounts due. Uchida said although Land Division's

recommendation was for the cancellation of the lease, under the circumstances, he requested the withdrawal of the cancellation portion but asked that the Board require the lessee to immediately pay all outstanding rents and obligations owing the State, require the lessee to immediately contact the U.S. Natural Resource Conservation Service and develop a Conservation Plan within a six (6) month time frame. Failure to comply will result in the matter being brought back to the Board for termination.

John Estores said he is a part time farmer and has taro and banana growing on the property. He testified about problems with erosion and asked the land agent to check the problems. Estores said he received the lease [documents] on January 4, 1996. He said he understood all of the requirements and said he is willing to abide by them.

Motion to approve with the lessee to immediately pay all outstanding rents and obligations owed to the state, lessee to immediately contact the U.S. Natural Resource Conservation Service and develop a Conservation Land Plan, and within a six month period obtain an approved Conservation Land Plan (Nekoba/Matsumoto).

Vote: all in favor.

Member Yuen stated that since Items D-7 through D-11 are closely related, they would be addressed together.

Item D-7 Housing Finance and Development Corporation request dedication of a portion of Government land of Kealakehe to the County of Hawaii and issuance of a right-of-entry to reconstruct, maintain, and repair public roadways and other infrastructure improvements such as sewer lines, sidewalks, etc., within the "Villages of La'i'opua" master planned community project situate at Kealakehe, North Kona, Hawaii, TMK 3rd/7-4-08: 17 (Portion)

Item D-8 Request for set aside of a portion of government land of Kealakehe to Department of Transportation, State of Hawaii and issuance of a right-of-entry for public roadways and related infrastructure purposes developed and constructed in conjunction with the "Villages of La'i'opua" master planned community and a right-of-entry over, across and under easement 1, File plan 2067 for access and utilities purposes at Kealakehe, North Kona, Hawaii, TMK: 3rd/7-4-08:17 (Portion)

Item D-9 Housing Finance and Development Corporation request for set aside of a portion of government land of Kealekehe to County of Hawaii; Grant of Easement to the County of Hawaii over easement 1 of File 2128 and Easement 2 of File plan 2067; and issuance of a right-of-entry to reconstruct, maintain, and repair sewer lines, drainage ways, access and utilities easements within the "Villages of La'i'opua" master planned community project at Kealakehe, North Kona, Hawaii, TMK: 3rd/7-4-08 (Portion)

Item D-10 Housing Finance and Development Corporation request for set aside of a portion of government land of Kealekehe to water commission of the County of Hawaii and issuance of a right-of-entry to operate, maintain, reconstruct, replace and repair a potable water system within the

Item J-1 Request for authorization to enter into a project cooperation agreement (PCA) between the Department of the Army and State of Hawaii for construction of the Kahului Light Draft Navigation

Dave Parsons briefed the Board and stated the staff's recommendation that the Board authorize the Chairperson to execute the Project Cooperation Agreement subject to terms and conditions.

Unanimously approved as submitted (Kennison/Matsumoto).

Item J-2 Request for authorization to enter into a lease agreement for storage space, Division of Boating and Ocean Recreation, Maui District Office, Wailuku, Island of Maui

Parsons stated the staff recommendation that the Board approve the lease for storage space subject to terms and conditions.

Unanimously approved as submitted (Kennison/Nekoba).

Item J-4 Issuance of revocable permit, Maalaea Boat Harbor, Island of Maui (Smith's of Maui, Inc.)

Parsons gave recommendation that the Board approve the issuance of this revocable permit subject to terms and conditions. He explained that this particular rental is addressed in the Administrative Rules and has a specific rate of \$1.00 per sq. ft for assigned space.

Unanimously approved as submitted (Kennison/Nekoba).

Item J-5 Vehicular parking control contract, Ala Wai Boat Harbor, Island of Oahu

Parsons requested the withdrawal of this item because the notice was not posted at the Lt. Governor's office on time.

There was a discussion about the issue of control parking rates and Parsons said they intend to address the issue and that any modifications to the existing parking plan will be at the sole cost of the successful bidder.

Unanimously approved to withdraw (Nekoba/Matsumoto).

Item J-6 Termination of Revocable Permit No. B-94-59, Ala Wai Boat Harbor, Island of Oahu (Herbert M. Suzuki)

Parsons briefed the Board and stated the staff's recommendation that the Board approve the termination of the revocable permit subject to terms and conditions.

Unanimously approved as submitted (Nekoba/Matsumoto).

Item J-7 Declaratory ruling on Department's determination that the Zodiac Pro-jet Water craft is classified as a "Thrill Craft" as defined in Section 200-23, Hawaii Revised Statutes

Parsons requested the item be deferred as the Findings of Facts was not complete per the Hearings Officer and he intends to have it ready for the September 13 Board meeting.

Unanimously approved to withdraw (Kennison/Nekoba).

Item K-1 Consent to assignment of leases No. DOT-A-73-32 Honolulu International Airport (Continental Air Lines, Inc./Continental Micronesia, Inc.)

Peter Garcia briefed the Board and stated the staff's recommendation that the Board approve the Consent to Assignment of Lease No. DOT-A-73-22.

Unanimously approved as submitted (Nekoba/Matsumoto).

Item K-2 Issuance of revocable permit Harbors Division, Pier 2 Shed, Hilo Harbor, Hawaii (HT Moving and Storage Co.)

Garcia gave the staff recommendation that the Board approve the issuance of the revocable permit subject to terms and conditions.

Unanimously approved as submitted (Kennison/Nekoba).

Item K-3 Issuance of revocable permit Harbors Division, Pier 35, Honolulu Harbor, Oahu (City and County of Honolulu, Department of Waste water Management, Division of Treatment and Disposal)

Garcia stated the staff recommendation that the Board approve issuance of the revocable permit.

Unanimously approved as submitted (Matsumoto/Nekoba).

Item K-4 Report on revocable permits issued by the Department of Transportation for consistent uses

Garcia said this item is a report on revocable permits issued by the Department and requires no action by the Board.

Item K-5 Restaurant and Lounge concession lease, Molokai Airport

Garcia briefed the Board and stated the Department of Transportation requests approval to readvertise the Restaurant and Lounge Concession at Molokai Airport.

Unanimously approved as submitted (Kennison/Nekoba).

Garcia commented on an article in the Pacific Business News regarding this issue and pointed out that they focused on the percentage rental of the alcohol beverages and failed to mention the bulk of the business that is the food portion.

Item K-6 Fixed-base facilities lease Kahului Airport, Maui (Helicopter Consultants of Maui, Inc.)

Garcia said the recommendation is that the Board approve the issuance of the lease to Helicopter Consultants of Maui, Inc.

Unanimously approved as submitted (Kennison/Matsumoto).

Item K-7 Consent to sublease, Honolulu International Airport, Oahu (DFS Hawaii, a Division of DFS Group L.P./Roberta Fithian DBA Tiare Enterprises, Inc.)

Item K-8 Consent to sublease, Honolulu International Airport, Oahu (DFS Hawaii, a Division of DFS Group L.P./Roberta Fithian DBA Tiare Enterprises, Inc.)

Garcia briefed the Board on both Items K-7 and K-8 and stated the staff's recommendation that the Board approve the Consent to Sublease of Lease No. DOT-A-96-2 and DOT-A-96-1 subject to terms and conditions.

Unanimously approved Items K-7 and K-8 as submitted (Nekoba/McCrory).

Item K-9 Amendment No. 1 to Lease No. DOT-A-95-1, Honolulu International Airport, Oahu (Greeters of Hawaii, Inc.)

Garcia's staff recommendation is that the Board approve the Amendment No. 1 to Lease No. DOT-A-95-1.

Unanimously approved as submitted (Nekoba/McCrory).

Item K-10 Report on revocable permits issued by the Department of Transportation for consistent uses.

Garcia said this item is a report on revocable permits issued and required no action by the Board.

Item K-11 Motor Coach Ground Transportation Services (Airport shuttle bus) contract, Kahului Airport, Maui

Garcia briefed the Board and said the staff's recommendation is that the Board approve advertisement of the Motor Coach Ground Transportation Services (Airport Shuttle Bus) contract at Kahului Airport.

Unanimously approved as submitted (Kennison/Nekoba).

Item K-12 Revocable Permit, Kahului Airport, Maui (Western Pcs II Corporation)

Garcia recommended that the Board approve the granting of the revocable permit.

Unanimously approved as submitted (Kennison/Nekoba).

Item K-13 Duty Free concession, Honolulu International Airport, Oahu

Garcia briefed the Board and stated the recommendation that the Board approve the concession.

Member Yuen asked why the submittal was not given prior to the meeting and listed as "to be distributed". He preferred the submittals be given prior to meetings, especially if it's a major or controversial item. He felt there was not sufficient time for the general public or the Board members to look at it. Garcia stated that the Department was eager to get approval of the Board and that the material was not prepared in time to have it distributed prior to the Board meeting.

There was a discussion of how the annual rental was determined. Garcia said they have had complaints in the past of having only one operation so the Department opened it to two operations. When one of the operations got into trouble, the operation that was successful took over. The Legislature then decided and it is stated in the statute, that there would be one operation only. Garcia said the percentage rate is dependent on the type of operation it is and the 20% rate is a standard rate for an operation such as DFS.

Member Yuen said he was still "on the warpath" [about the submittal being distributed prior to the presentation] and preferred this matter be deferred until Monday. Member Nekoba said he understood how Member Yuen felt but since he was not going to be able to be on Kauai on Monday, he wished to go ahead with the decision.

Motion to approve as submitted (Nekoba/Kennison).

Juliet Bagley said she had the same concerns [as Member Yuen] as she felt there are a number of people who would have testified on this issue. She said she worries about the fact that the State is constantly having to generate revenues exclusive for this particular type of situation. She did not believe by going into bonds for revenue and expanding the airport would rid the deficit of the State. Member Matsumoto said her concern is a legislative problem on how money should be appropriated.

Vote: 3 oppose, 2 yes.

Acting Chair Yuen said the motion did not pass and asked if there was a motion to defer item until Monday.

Member Kennison said he could not be at Monday's meeting. Deputy Attorney General Linnel Nishioka advised that this meeting could not be adjourned because technically it is not on the agenda, that this meeting has to be ~~reset~~ to be continued on Kauai to discuss the item.

recessed

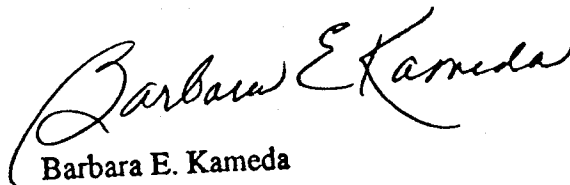
Motion made to ^{recess} ~~reset~~ the Board meeting in Kauai on Monday, August 26, 1996
(Nekoba/McCrory).

Vote: all in favor.

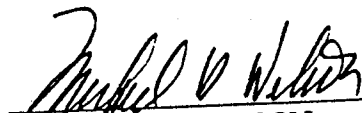
Meeting was ~~adjourned~~ ^{recessed until Monday, August 26, 1996, in Kauai.}

All written testimony and tapes of 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 persons present. A copy of the agenda is attached for reference.

Transcribed by:


Barbara E. Kameda

APPROVED FOR SUBMITTAL:


MICHAEL D. WILSON

Chairperson
Board of Land & Natural Resources