

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

DATE: August 26, 1996
TIME: 9:00 a.m.
PLACE: Lihue Public Library
Conference Room
4344 Hardy Street
Lihue, Kauai, Hawaii

Attendance:

MEMBERS:

Mr. Colbert Matsumoto	Ms. Lynn McCrory
Mr. Michael Nekoba	Mr. Christopher Yuen
Mr. Michael D. Wilson	

STAFF:

Mr. Dean Uchida	Mr. Dave Parsons
Mr. Richard Waltjen, Boating Division, Kauai	Mr. Wayne Souza, Kauai District Parks Superintendent

OTHERS:

Ms. Dawn Chang, Esq. Deputy Attorney General	Mr. Peter Garcia, Department of Transportation
Ms. Ann Leighton, Hawaii Motorcycle Dealers Assn., D-6, Wailua River Water Activities Association, J-1	Mr. Larry McIntosh, Kauai Boat & Water Ski Club, J-1
Mr. Mickey Theade, J-1	Mr. William Fernandes, Kamakila Village, J-1
Mr. Walter Smith, Jr., Smith's Motorboat Service, Inc., J-1	Dr. Roger Netzer, J-1
Mr. James Youn, J-1	Tiane Cleveland, Wailua Kayak Adventures, J-1
Mr. Kimo Fernandes, Kamakila Village, J-1	Mr. Buddy Peters, Wailua Kayak & Canoe, J-1
Mr. Rick Haviland, Outfitters Kauai, J-1	Ms. Margene Rainville, J-1
Mr. Ron Takamura, J-1	Ms. Kathy Smith-Terheggen, Kauai Water Ski & Surf, Co., J-1
Mr. Bill Mustard, Boats Hawaii, J-1	Mr. Pete Fisher, J-1
	Mr. Greg Yost, J-1

Chairperson Michael D. Wilson reconvened the August 23, 1996 meeting of the Board of Land and Natural Resources at 9:17 a.m., Monday, August 26, 1996.

Business:

K-13 DUTY FREE CONCESSION, HONOLULU INTERNATIONAL AIRPORT, OAHU (TO BE DISTRIBUTED)

Member Yuen stated that he had requested that the subject item be held over to this morning's meeting as the Board had not had time to review the submittal in advance of the August 23, 1996 Board meeting. He requested that submittals, especially those concerning major issues, not be presented to the Board as "to be distributed" items.
No public testimony was presented.

By a unanimous vote of the five members present, Item K-13 was approved as submitted (Nekoba/Matsumoto).

There being no further business, the meeting of August 23, 1996 was adjourned at 9:23 a.m., August 26, 1996.

Chairperson Michael D. Wilson called the August 26, 1996 meeting of the Board of Land and Natural Resource to order at 9:23 a.m.

Business:

ITEM D-1 CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-3595 FROM LAUPAHOEHOE TRANSPORTATION COMPANY, INC. TO D.L. DOWNING, GENERAL CONTRACTOR, INC., LOT 37, KANOELEHUA INDUSTRIAL LOTS, WAIAKEA, SOUTH HILO, HAWAII, TMK: 2-2-49:11

No public testimony was present.

By a unanimous vote of the five members present, Item D-1 was approved as submitted (Yuen/Nekoba).

ITEM D-2 RESUBMITTAL -- REQUEST FOR CONSENT TO THE ASSIGNMENT OF GENERAL LEASE NO. S-5380, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-09:266

Mr. Uchida stated that items D-2, D-3, and D-4 were all consent to assignment of leases involving Act 237 leases. Act 237 allowed the permittee of record (at the time Act 237 was signed) to acquire long-term leases from the State; the subject items assigned the leases to the children of the original permittees.

ITEM D-2 (cont.)

In response to Member Nekoba's question regarding the differences between the lease rents, Mr. Uchida stated that the Act 237 leases were put to bid at the "actual use" at the time, and not the "highest and best use" of the land. Mr. Uchida expressed the division's wish to revisit other leases to determine if the lands may be put to better use. No public testimony was presented.

By a unanimous vote of the five members present, Items D-2, D-3 and D-4 were approved as submitted (Nekoba/Matsumoto).

ITEM D-3 RESUBMITTAL -- REQUEST FOR CONSENT TO THE ASSIGNMENT OF GENERAL LEASE NO. 5496, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-10:81

See Item D-2.

ITEM D-4 RESUBMITTAL -- REQUEST FOR CONSENT TO THE ASSIGNMENT OF GENERAL LEASE NO. S-5491, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-08:46

See Item D-2.

ITEM D-5 RESUBMITTAL -- REQUEST BOARD APPROVAL FOR THE DIRECT ISSUANCE OF A PERPETUAL NON-EXCLUSIVE EASEMENT TO THE BOARD OF WATER SUPPLY, CITY AND COUNTY OF HONOLULU, FOR WATER DETECTOR CHECK METER PURPOSES AT KUWILI AND LELEO, IWILEI, OAHU, TMK: 1-5-09:1

No public testimony was presented.

By a unanimous vote of the five members present, Item D-5 was approved as submitted (Nekoba/Matsumoto).

ITEM D-6 RESUBMITTAL -- APPROVAL IN PRINCIPLE TO A LAND EXCHANGE BY AND BETWEEN THE STATE OF HAWAII AND THE TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED, AT HONOULIULI, EWA, OAHU, HAWAII

Maps of the area were distributed to Board members. Mr. Uchida stated that Items D-6 and D-7 related to proposed land exchanges between the State and the Estate of James Campbell for the development of the University of Hawaii, West Oahu Campus.

Member Yuen disclosed for the record that a member of his family, in her professional capacity, was working on acquiring the necessary permits for the university site.

ITEM D-6 (cont.)

Ann Leighton, representing the Hawaii Motorcycle Dealers Association, questioned the land exchange's impact on the Hawaii Raceway Park. Mr. Uchida responded that it was the division's understanding that Campbell Estate would respect the existing lease, however any continuation of the Park would be left to Campbell.

In response to Member Yuen's question, Mr. Uchida stated the Department's role would be to ensure that the valuations of the lands proposed for exchange balance, and not to re-analyze the legislature's decision regarding the exchange.

By a unanimous vote of the five members present, Items D-6 and D-7 were approved as submitted (Matsumoto/Nekoba).

ITEM D-7 RESUBMITTAL -- APPROVAL IN PRINCIPLE TO A LAND EXCHANGE BY AND BETWEEN THE STATE OF HAWAII AND THE TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED, AT HONOULIULI, EWA, OAHU, HAWAII

See Item D-6.

ITEM D-8 RESUBMITTAL -- APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT - DSR 75728, REPAIR AIDS TO NAVIGATION, MAUNALUA BAY LAUNCHING RAMP, HONOLULU, OAHU, HAWAII

No public testimony was presented.

By a unanimous vote of the five members present, Item D-8 was approved as submitted (Nekoba/McCrory).

ITEM D-9 RESUBMITTAL -- APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT - JOB NO 63-HF-C2, REPLACEMENT OF HILO OFFICE COMPLEX, HAWAII BRANCH, HILO, HAWAII

No public testimony was presented.

By a unanimous vote of the five members present, Item D-9 was approved as submitted (Yuen/Nekoba).

ITEM D-10 RESUBMITTAL -- APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT - JOB NO. 17-HW-F HUALALAI WELL DEVELOPMENT, NORTH KONA, HAWAII

No public testimony was presented.

By a unanimous vote of the five members present, Item D-10 was approved as submitted (Yuen/Matsumoto).

ITEM J-1 REQUEST FOR AUTHORIZATION TO IMPLEMENT WAILUA RIVER NAVIGABLE WATERS AND STATE PARKS MANAGEMENT PLAN, WAILUA, KAUAI, HAWAII

Mr. Parsons introduced the proposed Wailua River Management Plan to Board members and explained the rule-making/public hearing process that would follow the adoption of the plan.

Chairperson Wilson recessed the meeting at 9:50 a.m. The meeting was reconvened at 10:00 a.m.

Mr. Parsons presented slides of the Wailua River area and major facets of the proposed plan. Discussion between Mr. Parsons and Board members relating to specific proposals in the plan followed.

Larry McIntosh, representing the Kauai Boat & Water Ski Club, testified that users of the river were in the process of forming a new organization that would encompass all activities on the river.

Ann Leighton, representing the Wailua River Water Activities Association, testified on behalf of the newly formed association. The association requested a deferral of any action by the Board due to (1) the lack of time for the community to review the proposed plan; (2) the lack of communication with the County regarding the County's role in the proposed plan; and (3) the lack of sufficient staff to enforce new rules. She stated that the community would like to work together to come up with a plan that would be fair to all users of the river, and be an active participant in the drafting of the rules.

Chairperson Wilson clarified that the Board is not presently considering any rules. He emphasized that the plan is an attempt to address the multiple-use conflicts and safety issues that have occurred on the river, and that the current process allows the public greater input than is required by law.

William Fernandes, representing Kamakila Village, testified that there is room for both tour boats and kayaks on the river and at the fern grotto. However, he stated that fees should be charged for use of the river and monies used to maintain and repair the river resource. Mr. Fernandes further testified that he had attended the first meeting of the Wailua River Water Activities Association, and that it was agreed by all to request a deferral of the proposed plan.

Mickey Theade, the owner of a commercial kayak company, expressed his concern with the plan's provision requiring kayak companies to purchase and maintain a kayak assist vessel.

Dr. Roger Netzer agreed that the plan is good attempt to get the necessary regulations in place; he stated that having the plan would focus the community and require everyone to work together. Dr. Netzer testified that most of the river's "regular" users are respectful of one another, and that it is the occasional users, the "weekend warriors," that cause most of he problems. Dr. Netzer urged the adoption of a licensing process that would require licensees to take an river education course.

Walter Smith, Jr., emphasized that the State's leases with the tour boat companies should take precedence over any new rules. He testified that other users of the river should "pay their fair share" for using the river and the fern grotto area. He encouraged the State to require insurance for all commercial users of the river. Mr. Smith also expressed his concern regarding the proposed repair site; he stated that it would be difficult to maneuver the tour boats into and out of the proposed site.

Tiane Cleveland, stated her concern with the provision allowing only three commercial kayak tour companies on the river. She stated that restricting the guided, "structured," kayak groups while not restricting the unguided kayaks seemed counter-productive. She also stated that many incidents between kayaks and boaters seemed to be intentional and not accidental. Ms. Cleveland further encouraged the use of public access T.V. to educate the "maverick" river user.

Buddy Peters stated that many of the proposed plan's ideas were good, but that more work was needed. He testified that most river users understood that accommodations must be made for the large tour boats, and that it was a few individuals that caused most of the problems. He also expressed his concern regarding the lack of parking at the kayak launching site at Kaumaulii Park.

Board members then discussed the possibility of acquiring a parcel of private land separating Upper and Lower Kaumaulii Park.

Kimo Fernandes, representing Kamakila Village, expressed his concern about the Village's ability to use its docking facilities. He stated that the Village's adventure package should include the ability to launch/land canoes and kayaks.

Margene Rainville expressed her concerns regarding the plan's water skiing provisions. She requested that skiers be allowed above the second bend in the river before 9:00 a.m. and after 4:30 p.m.

Rick Haviland, testified in support of the proposed plan. He stated that the plan should be used as a blueprint for regulations, and that the Board should accept the plan and move on to the rule-making process.

Kathy Smith-Terheggen testified that the proposed plan was unacceptable to commercial and private water skiers. She stated that the 150-ft no wake area was too restrictive, and that skiers should be allowed beyond the second bend in the river.

Ron Takamura, provided background on the drafting of the proposed plan. He stated that public safety should be the primary concern, and that the plan tries to accommodate all users of the river while insuring safety.

Pete Fisher, a private water-skier, attested to the need for carrying capacity restrictions on the river. Regarding water skiing activities, Mr. Fisher felt that the 150-ft no wake zone was excessive and stated his concern with the type (fixed vs. temporary) of buoys used to mark the no wake zone. Mr. Fisher also expressed his concern regarding private floating docks and the landowners ability to use these docks.

Bill Mustard testified that the State may have violated the provisions of Title 46, U.S. Code (Boating Safety Program) when it removed the two marine patrol positions from the island of Kauai.

Chairperson Wilson stated that the State had checked with Washington before removing the positions.

Mr. Greg Yost, a private water skier, requested a better trailer park area.

Member Matsumoto stated that the plan is a "good first start" in trying to deal with the problems on the river. He noted the effort that had gone into the plan, stressed that it would be difficult to satisfy everyone, and emphasized that the public would have ample opportunity for input during the rule-making process.

In response to Member McCrory's question, Ms. Dawn Chang, Deputy Attorney General, clarified that changes could still be made to the plan. She further stated that changes could be made throughout the rule-making process, however, if substantial changes are made after public hearings, the modified rules must be brought back to the Board and put out to public hearings again.

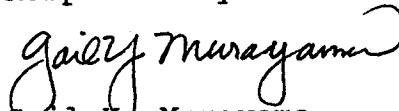
In response to Member Yuen's expressed concern regarding the proposed boat repair site, Mr. Wayne Souza (State Parks) and Mr. Richard Waltjen (Boating Division) stated that due to environmental concerns, it was decided to have one repair site for both tour boat companies.

By a unanimous vote of the five members present, Item J-1 was approved as submitted (McCrorry/Matsumoto).

There being no further business, Chairperson Wilson adjourned the meeting at 12:58 p.m.

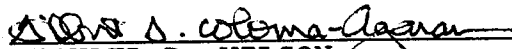
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Gail Y. Murayama
Secretary

Approved for submittal:


MICHAEL D. WILSON
Chairperson
Board of Land and Natural Resources