

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

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**DATE:** September 27, 1996  
**TIME:** 9:00 a.m.  
**PLACE:** County Council Room  
25 Aupuni Street  
Hilo, Hawaii 96720

**PRESENT:**

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

**STAFF:** Dean Uchida  
Charlene Unoki  
Michelle Bradley

**GUESTS:** Dawn Chang, Sandra Schutte, Pat Tummons, Peter Garcia,  
Gunner Schull, Nahekeaopono Ka'iuwailani, Rick Warshauer,  
Elizabeth Lee Loy, Linda Dela Cruz, Keikialoha Kekipi,  
Sandra Schutte, Manu Meyer, Amy Evans, Charles Trommer,  
Allan Almeida, Pudding Lassiter, Mike McElroy, Clayton Goo,  
Aoki, Trisha Sears, Steve Sommer, and Siim Siitam .

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.

The Chairperson commenced the meeting of the Board of Land and Natural Resources at 9:15 a.m.

***ITEM D-1 Assignment and Consent to Mortgage of General Lease No. S-4787 between Alan Curry, Assignor to Alfredo J. Nazaire, Precy S. Nazaire and Rudolfo S. Nazaire, Assignees, Kau and Nukakaia, Kau, Hawaii, TMK: 3rd/9-4-05: 16.***

Dean Uchida, Administrator of the Land Division presented the staff recommendation that the Board consent to the assignment of General Lease No. S-4787 from Alan Curry, Assignor to Alfredo J. Nazaire, Precy S. Nazaire and Rudolfo S. Nazaire, Mortgagees and Alan Curry Mortgagee, subject to the provisions.

**Unanimously accepted as submitted (Yuen/Matsumoto)**

***ITEM D-14 Assignment of General Lease No. S-5187, Portion of the Government (Crown) Land of Waiakea, Waiakea, South Hilo, Hawaii, TMK: 3rd/2-1-09: 42***

Uchida briefed the Board members and stated the staff recommendation that the Board consent to the subject assignment of General Lease No. S-5187 without revision to the basic rent subject to provisions.

Member Matsumoto questioned whether Texaco and Aloha Petroleum were going to operate separately on the site or not. He said the lease was originally issued to one operation and that the rent was determined on that basis. He felt if there were going to be 2 operations, then an adjustment in the rent was in order.

Gunner Schull introduced himself and other representatives from Aloha Petroleum. He said Texaco will continue to operate as one operator and that it is a joint venture operation. Schull said each corporation will have one-half interest in the lease, that it will be a single operation run by Texaco and that the storage facility will be jointly owned.

**Unanimously accepted as submitted (Yuen/Kennison)**

***ITEM D-3 Direct sale of utility easement to GTE Hawaiian Telephone Company Inc. for a portion of a fiber optic telecommunications system that will be attached to existing Hawaii Electric Light Co., Inc. overhead pole lines that affects state owned lands within TMKs: 3rd/2-5-01: 06; 2-5-02: 14; 2-6-18: 01 & 04; 4-4-15: 02, 04 & 08; and 4-4-16: 03 & 05 North and South Hilo, Hamakua, Hawaii***

Uchida briefed the Board members on the item and stated the staff recommendation that the Board authorize the direct issuance of perpetual, non-exclusive easements for utility transmission purposes subject to terms and conditions.

**Unanimously accepted as submitted (Yuen/McCrory)**

**ITEM D-4 Assignment of General Lease No. S-5227 between Davelin L. Knight, assignor to Leilani K. Holt, assignee, Lot 4, Phase III Miloli'i-Ho'opuloa Lots, Ho'opuloa, South Kona, Hawaii, TMK: 3rd/8-9-04: POR. of 07**

Uchida said because of economic hardship of Ms. Knight it is difficult for her to continue the land rent payments or obtain construction financing to build a house. He said the staff recommendation is that the Board consent to the assignment of General Lease No. S-5227 from Davelin L. Knight, unmarried, Assignor to Leilani K. Holt, wife of Emerald K. Holt, Assignee, subject to terms and conditions.

**Unanimously accepted as submitted (Yuen/Kennison)**

**ITEM D-5 Lease - Public auction, portion of General Lyman Field, same being portion of Lot 19-A, Waiakea, South Hilo, Hawaii; TMK: 2-1-12: 41**

Uchida briefed the Board members and that the staff recommendation that the Board find the subject area to be an economic unit in terms of the intended use and authorize the public auction sale of a lease for light industrial, commercial and/or business purposes under the terms and conditions.

There were concerns by the Board about the economic situation in Hilo and how the rent was going to be determined by the type of operation that was going to be on the site. It was suggested by the Board that a market study be conducted and this item be brought back to the Board.

Nahekeaopono Ka'iuwailani testified and felt that long term leases on state land are in conflict with RSVP. Rick Warshauer testified about extending the forest reserve boundaries. Elizabeth Lee Loy and Linda Dela Cruz testified on their concern of Hawaiian Homelands lands.

**Unanimously accepted to be withdrawn (Matsumoto/Yuen).**

**ITEM D-6 Request for a direct issuance of a perpetual, non-exclusive easement for new water storage tank purposes, and an immediate right of entry for site control purposes over, under, across and on government lands identified by TM: 3-6-01: 14, situate at Kealaloloa, Ukumehame, Maalaea, Maui**

Uchida stated the recommendation by staff that the Board authorize the direct issuance of a perpetual non-exclusive easement to the County of Maui for construction and maintenance purposes covered under the terms and conditions, to approve the construction right of entry subject to terms and conditions.

Keikialoha Kekipi did not feel it was appropriate to talk about a parcel located in Maui, in Hilo. Chairman Wilson explained that a member of the Board is from the island of Maui and that if the subject was controversial, it would have been discussed on the island of

Maui. Pat Tummons asked if condition 8 could be reviewed by Historic Preservation Division.

**Motion to accept with amendment to condition 8 that the Preservation Plan be approved by Historic Preservation Division (Kennison/Matsumoto)**

**Vote: all in favor.**

Member Yuen suggested in the future that it should be stated that the Historic Preservation Division reviews and approves preservation plans and not just assumed that it will be.

***ITEM D-7 Request for cancellation of revocable Permit No. S-6580 and reissuance of a revocable permit to Edwin L. Kekahuna, for General Agriculture use of government lands identified by TMKs: 3-1-04: 39, 41, and 121 situate at Kahakuloa Homesteads, Kahakuloa, Maui***

Uchida said the staff's recommendation is that the Board find that the general agriculture use is exempt from obtaining a negative declaration pursuant to Section 11-200-8 (1), exempt classes of action, of the Environmental Impact Statement Rules, approve the cancellation of Revocable Permit No. S-6580 effective from the date of the new subject permit, authorize the issuance of a revocable permit to Mr. Edwin L. Kekahuna covering the subject State property under the terms and conditions.

**Unanimously accepted as submitted (Kennison/McCrory)**

***ITEM D-8 Hawaii Army National Guard request for a right of entry to conduct engineering studies of state lands identified by TMK: 3-8-08: 01, situate at portion of Pulehunui and Waikapu, Maui***

Uchida briefed the Board members and stated the staff's recommendation that the Board authorize the issuance of a right of entry to the Hawaii Army National Guard for engineering, environmental and soils testing studies on State lands under the conditions.

**Unanimously accepted as submitted (Kennison/Matsumoto)**

Member Yuen requested item D-2 be taken at this time.

***ITEM D-2 Amendment to Conservation District Use Permit HA-1447 to construct a new entrance, trails, parking, rain shelters, after-the-fact diversion dams, utility poles, related improvements, master plan improvements, and management plan at the Hawaii Tropical Botanical Garden, South Hilo, Hawaii***

Uchida briefed the Board members and gave the staff's recommendation that the Board approve specific land use elements, as proposed by Hawaii Tropical Botanical Garden. Specific land use elements include 1) new garden entrance, 2) elevated trails, 3) parking

areas for garden and visitor center employees, 4) utility poles, line and equipment, 5) highway improvements along Mamalahoa Highway and 6) signage with conditions.

Member Yuen clarified that the access trail may cross state remnants in three possible areas. Uchida said there are concerns about the exact locations of the access trail on state land. He said this has gone through an extensive review process at the County level and through the mediation process and the CDUA process. The water commission has not granted permanent resolution to the dam and Uchida said the dam is important for the long term plan for the park improvement because it is tied to the need for water. He said the staff recommends deferment for nine months until the applicant resolves the two outstanding issues of water use and property ownership.

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After a short break, the meeting was reconvened.

The following people testified against the project due to traffic problems, entrance gate, water usage, parking, public access, installation of utility poles, fencing, and property ownership: Nahekeaopono Ka'iuwailani, Manu Meyer, Rick Warshauer, Ed Johnston, Keikialoha Kekipi, and Pat Tummons.

The following people testified in support of the project: Amy Evans, Charles Trommer, Pudding Lassiter.

Allan Almeida submitted testimonies and read names of those people in support of the project.

Sandra Schutte addressed the public hearing concerns saying modifications to the entrance gate for the public to carry kayaks through the gate were made, pollution of the streams from the cesspool were tested and found to be non-contaminated, water usage is less than the estimated amount projected, and other water sources from the stream. She said regarding the Long Term Improvement and Management Plans, the Garden is not looking for the expansion of the Garden but looking to address safety issues by closing vehicular access. The elevated trail is designed to be a walking trail to allow reasonable access for Garden visitors and to allow disability access.

Schutte said Mr. Lutkenhouse met with the Executive Board of the community association in August and is waiting for the association to submit names of people to serve on the community advisory board. She said that in the Master Plan the most viable element are the greenhouses because the Garden is already implementing a program with orchids as they want it to be a repository for endangered orchid species.

Schutte said the staff recommendation to defer the Master Plan and the Management Plan will provide more time for the Garden to keep working with the community so that their concerns can be addressed.

Schutte said the Mediation Agreement provided for the State to survey and resolve the question of ownership within 6 months or within a reasonable time. She said there is only one abstractor who does survey work. Schutte said she received from Dawn Chang a copy of the abstract, a map and Hawaiian documents that are currently being translated. She said the State acknowledges that the abstract was not complete and that they had more work to do. Schutte said at that point the Board [of the Garden] did not have enough information to make a decision and so the matter was deferred. She stated that the Garden is committed to work out long term solutions on the remnant parcel as soon as surveyors and abstractors are able to complete their work and in the meantime, the Garden would like to resolve the safety issue.

Schutte understands that it is not possible for the Board to make a decision today on those portions of the Kahalii stream that may be affected by the trail but asked if the Board would consider the immediate right of entry to construct its walking trail over the remnant. She suggested to expedite the easement issue that Mr. James Murray work with the State abstractors to survey those areas. Schutte requested that the Board accept the staff recommendation with the conditions stated but that if the Board deferred action on the long term improvement that the archaeological work condition is irrelevant.

Schutte addressed the issue of a cross-walk across the Mamalahoa Highway and said under the Hawaii County Code, a cross-walk can only be established if authorized by ordinance. She said the County does not favor the establishment of a cross-walk in the area but she said the Garden is willing to work with the County. Schutte said it is not the intention of the Garden to have buses coming to the Garden. She said the Garden will landscape as much as the area as possible .

**Motion to approve:**

- 1) the CDUA for the walking trail without construction on State land;
- 2) approve new garden entrance;
- 3) utility poles, lines and equipment with minimal disturbance to the vegetation,
- 4) highway improvement
- 5) signage with specific objections to the "no trespassing" signs not to be placed at specific locations as circled on the plan
- 6) proposed greenhouses

**Motion to deny:**

- 1) proposed parking improvement on the Mamalahoa Highway side
- 2) future fencing along the Donkey Trail
- 3) proposed bridge construction
- 4) proposed restroom construction
- 5) after-the-fact dam allowing a nine month period to submit a proposal to withdraw water from the streams acceptable to BLNR and CWRM

**Additional conditions:**

- 1) applicant obtain appropriate authorization from BLNR for the disposition of any state owned lands affected by this approval
- 2) appropriate archaeological work to be conducted and approved by the Historic Preservation Division prior to proceeding with the proposed landscaping improvements on Parcel 22.
- 3) the public has a right of entry to the North Bay shoreline of Onomea Bay along the existing access from Donkey Trail to the Bay.

(Yuen/Kennison)

Vote: all in favor.

***ITEM D-13 Approval in principle to the conveyance of Village 3, "Villages of La'i'opua" master planned community project to the Department of Hawaiian Home Lands, being Lot 17, File Plan 2128, portion of the government land at Kealakehe, North Kona, Hawaii, TMK: 3rd./7-4-21: 09***

Uchida briefed the Board and said the staff recommends that the Board approve in principle, the conveyance in fee simple of Village 3, being Lot 17 as shown and described on File Plan 2128, entitled the "Villages of La'i'opua, Phase 1", to the Department of Hawaiian Home Lands by its Hawaiian Homes Commission under the terms and conditions listed. Uchida clarified the "approve in principle" is similar to a preliminary approval and the action will provide the staff with authority to proceed with other functions during the valuation process.

Linda Dela Cruz spoke in behalf of the Kawaihae Homeowners Community Association in Kona who requested deferment of the item and that the Board hold a meeting in Kona. She said some of the concerns of the association are the rubbish and the sewage dump in their community and the parcel being part of the ceded land trust. Chair Wilson explained that the idea is to transfer land to HHL to use for development of homes but that the transaction has not taken place because HHL and HFDC have not been able to agree on the scope of work to be provided to the contract appraisers to determine the value of the land. There was discussion about whether the rubbish dump area is on HHL land and Mike McElroy understands that it is on government land and not HHL land. He said that HHL can begin construction on that parcel since the major roads and utilities to the property are available to the parcel. Clayton Goo's response to Board member Matsumoto's inquiry on the availability of those homes to Native Hawaiian beneficiaries on the waiting list was to have homes on those parcels by 1998.

Elizabeth Lee Loy testified that the beneficiaries did not have the opportunity to meet with the parties before the project began and that they should have been able to voice their opinion. Chair Wilson said in his discussions with Chairman Watson that Watson was concerned about and wanted to focus on trying to develop ways to put the beneficiaries on the land as quickly as possible. Since the parcel was identified by the State for residential purposes and the infrastructure leading up to the property was there, a transfer would be

made after the valuation of the land so that HHL could expedite building the homes for the beneficiaries.

**Unanimously accepted as submitted (Yuen/Kennison)**

***ITEM D-21 Request for a direct issuance of a perpetual non-exclusive easement for the purpose of installing and maintaining an underground fiber optic cable system, and an immediate right of entry for site control purposes over, under, across and on government lands identified by TMKs: 2-2-07: 01, 05, & 11, situate at portion of Kula, Makawao, Maui***

Uchida said the staff recommendation is that the Board authorize the direct issuance of a perpetual non-exclusive easement to GTE Hawaiian Telephone Company for underground fiber optic cable purposes under the terms and conditions.

**Unanimously approved as submitted (Kennison/McCrory)**

***ITEM D-30 Cancellation of revocable permit #S-6581 to Kau Agribusiness Company, Inc. and Kawaihae Ranch, as Co-tenants and the reissuance of one revocable permit to Kau Agribusiness Company, Inc. and one revocable permit to Kawaihae Ranch***

Uchida briefed the Board and stated that the staff recommendation is for the Board to find that the macadamia orchard and pasture use is exempt from obtaining a negative declaration, approve the cancellation of Revocable Permit #S-6581 effective June 30, 1996, and authorize the issuance of one revocable permit to Kau Agribusiness Company, Inc. and a second revocable permit to Kawaihae Ranch, covering the above-referenced State lands with terms and conditions.

Keikialoha Kekipi asked when it would go to public auction. Uchida said it would probably be auctioned later but for now, instead of breaking the permit, the land division recognizes that they are good tenants and they have made substantial financial commitments, so it is in the best interest of all parties for the issuance. Chair Wilson advised Kekipi if he was interested in leasing the land, he should contact the land division.

**Unanimously approved as submitted (Yuen/McCrory)**

***ITEM D-38 Conservation District Use Permit KA-1939 for a single family residence, at Haena, Kauai, TMK: 5-9-2: 83; Applicant: R. Stephen Sommer***

Uchida said the staff's recommendation is that the Board rescind the erroneous declaration that CDUP KA-1939 is void, impose a fine of no more than \$500 for beginning work prior to approval of final construction plans in violation of condition 8 and allow an extension of two years from the date of this approval to complete all work and construction on the project.



There was a discussion about the misunderstanding of the declaration that the permit was void on the basis that no work was initiated within one year of the approval date and imposing a fine for beginning work without construction plan approval.

Trisha Sears testified that the house was not built because of illnesses and deaths in her family and she has since sold her property to Stephen Sommer.

There was a discussion about the compliance of the condition to initiate work on the property within a time period and complete the house within a three-year completion deadline. The Board also discussed the Board's authority to reinstate a permit that was rendered null and void by a prior Chairperson. Dawn Chang advised the Board that this matter be referred to the Attorney General's office because of consistency in granting extensions of time for permits.

Sommer read from the Board submittal, page 3, "Rescinding the erroneous declaration that the permit is void and imposing a fine for beginning work without construction plan approval should correct procedural errors related with this permit. The Board would then be able to consider Mr. Sommer's request for extension. The Board may grant extensions of time for a permit pursuant to Section 13-5-43 (d), Hawaii Administrative Rules. Denial of the extension request would not benefit the State or any other party. Repeating the CDUA process for the same structure would be redundant and wasteful. Staff, therefore recommends approval of the time extension."

Siim Siitam testified in behalf of Ms. Sears on the work done on the first year and the illness and deaths in her family. He believed if her letter of explanation in the third year to the Chairperson was more thorough, the Chair would have granted an extension.

**Unanimously approved to defer item (McCrorry/Kennison)**

***ITEM D-24 Resubmittal - lease at public auction for parcel B and road easement, portions of Nanawale Forest Reserve, Part 3, Kaniahiku, Puna, Hawaii; TMK: 3rd/1-4-34: 27***

Uchida briefed the Board and submitted the staff's recommendation that the Board find the area in question to be an economic unit in terms of the intended use, find that the subject area is not suitable for hunting, nor will it become so during the term of the lease, authorize the public auction sale of a lease covering the subject area for Intensive Agriculture - Flora, Foliage, and Orchard cultivation purposes, subject to terms and conditions.

Keikialoha Kekipi said that the land in question, transferred by executive order may be a Mahele grant to his family but he is not sure of the particular property because it is hard to determine. He would like to defer the case until the property issue can be clarified.

**Unanimously approved to defer until the property issue is clarified (Yuen/Matsumoto).**

***ITEM D-20 Request by the Veterans of Foreign Wars for cancellation of revocable Permit No. S-4892 and the direct issuance of a general lease for Eleemosynary purposes involving state land identified by TMK: 3-9-07: 03, Portion Waiohuli-Keokea Beach Homesteads, Kihei, Maui***

Uchida briefed the Board, stated the staff recommendation that the Board find the subject area to be an economic unit in terms of its present and intended use, find that the club house activity use is exempt from obtaining a negative declaration, exempt Classes of Action of the EIS Rules, authorize the cancellation of Revocable Permit No. S4892 with the termination date to coincide with the issuance date of the subject lease, authorize the direct sale of a lease to the Veterans of Foreign Wars, Wilbert Wa Hu Tom Post No. 3850, covering the above described area for eleemosynary (Club activity) use under the terms and conditions, grant a waiver of the performance bond provision contained in the lease document with the understanding that the State reserves the right to reactivate or reimpose the performance bond, if necessary, at any time throughout the terms of the subject lease.

**Unanimously approved as submitted (Kennison/McCrory)**

***ITEM D-29 Cancellation of State land from Governor's Executive Order No. 794 to Hawaii Army National Guard; issuance of Governor's Executive Order to the State of Hawaii, Department of Education for the expansion of Iao Intermediate School and other uses; and request for immediate right of entry for site control purposes at TMK: 3-4-09: 04, situate at Wailuku, Maui***

Uchida said the staff's recommendation is that the Board approve of and recommend to the Governor the cancellation of Executive Order No. 794 to the Hawaii Army National Guard, subject to the disapproval of the Legislature at its next regular or special session, approve and recommend to the Governor the issuance of an Executive Order setting aside the above described 2.660 acres of land to the Department of Education for the expansion of Iao Intermediate School and other purposes, subject to conditions, authorize the State of Hawaii, Department of Education, a Right of Entry for site control purposes and immediate use, subject to conditions.

**Unanimously approved as submitted (Kennison/Matsumoto)**

***ITEM D-9 Request for second Grant of Easement over, under and across a portion of government land of Kealakehe, being Lot 12, File Plan 2128 (Kealakeha High School), "Villages of La'i'opua" master planned community project at Kealakehe, North Kona, Hawaii, TMK: 3rd/7-4-21: 04***

Uchida stated the staff recommendation that the Board find that the area in question to be an economic unit in terms of the intended use, authorize the direct grant of the above-described easement to the Water Commission of the County of Hawaii (Commission) under terms and conditions, authorize the granting of a right-of-entry to the Water

Commission of the County of Hawaii (Commission) covering the above-described area for water meter box purposes at Kealakehe High School subject to terms and conditions.

**Unanimously approved as submitted (Yuen/Matsumoto)**

***ITEM D-10 Request for authorization to accept the donation of 1.991 acres of land situate at Hookena School lot addition, portion of Kealikauhako, South Kona, Hawaii, TMK: 3rd/8-6-10: 12 from County of Hawaii and subsequent set aside to Department of Education, State of Hawaii***

Uchida's staff recommendation is that the Board approve and authorize the acquisition of approximately 1.991 acres of fee simple land gratis and accept the generous donation of the land from the County of Hawaii by "Quitclaim Deed" subject to terms and conditions, authorize the Department of Accounting and General Services and/or its agents and consultants to subdivide and consolidate the parcels of land and to obtain a right-of-entry and construction right-of-entry from the land owner for site inspection, survey, and other purposes to expedite the master plan of the new Hookena Elementary School campus, upon completion of the land acquisition, approve and recommend to the Governor the issuance of a Governor's Executive Order to set aside the land to be under the control and management of the Department of Education for educational purposes subject to terms and conditions.

**Unanimously approved as submitted (Yuen/Matsumoto)**

***ITEM D-11 Amendment to terms and conditions of revocable permit No. S-6074 and conservation district use application KA-1844/A to Kauai Mountain Tours, Inc., Waimea, Kauai***

Uchida requested the withdrawal of this item.

**Unanimously approved to withdraw (McCrorry/Kennison)**

***ITEM D-12 Authorize implementation of an application and qualification questionnaire process for prospective bidders interested in leases sold at public auction (statewide)***

Uchida briefed the Board and recommended that the Board authorize the implementation of an Application and Qualification Questionnaire process, as detailed in Exhibits "A" and "B" for the purpose of screening and evaluating the qualifications of prospective bidders for State agricultural and pasture leases sold at public auction, delegate the Chairperson the authority to revise, change and amend the foregoing Application and Qualification Questionnaire processes as he sees fit to best serve the interest of the State.

Member Yuen requested the deferment of this item to the end of the agenda as he had a number of concerns.

Chair Wilson suggested moving up Mr. Garcia's agenda items.

**ITEM K-1 Consent to assignment of leases, Honolulu International Airport, Oahu, and Kahului Airport, Maui (MJR Corporation/DFS Hawaii)**

Peter Garcia briefed the Board and gave recommendation that the Board approve the Consent to Assignment of Lease No. DOT-A-95-9 and DOT-A-96-3.

**Unanimously approved as submitted (Yuen/Kennison)**

**ITEM K-2 Consent to assignment of lease, Kahului Airport, Maui (Papillion Helicopters, Ltd./Thomas Leroy Hauptman)**

Garcia gave the staff recommendation that DOT respectfully recommends that the Board approve of the Consent to Assignment of Lease Nos. DOT-A-87-31 and DOT-A-90-22 .

**Unanimously approved as submitted (Yuen/Kennison)**

**ITEM K-3 Issuance of revocable permit, Kawaihae Harbor, Hawaii (HT&T Company, Inc.)**

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

**Unanimously approved as submitted (Yuen/Matsumoto)**

**ITEM K-4 Consent to assignment of lease, near Pier 33, Honolulu Harbor, Oahu (H&W Distributors, Inc./H&W Foods Acquisition Corp.)**

Garcia briefed the Board and stated the recommendation that the Board approve the Consent to Assignment of lease near Pier 33 subject to terms and conditions.

**Unanimously approved as submitted (Matsumoto/Kennison)**

After a short break the meeting was reconvened at 1:25 p.m. at Liquor Commission, Room 230, 101 Aupuni Street, Hilo Lagoon Center.

**ITEM D-15 Department of Labor and Industrial Relations request for approval of license agreement covering placement of temporary multi-media, touch-screen kiosk at the KTA Super Stores, Hilo, Island of Hawaii, TMK: 3rd/2-4-40: 13**

Uchida briefed the Board and stated the recommendation that the Board approve the license agreement covering placement of temporary multi-media, touch-screen kiosk at the KTA Super Stores.

**Unanimously approved as submitted (Matsumoto/Yuen)**

**ITEM D-16 Amend of prior Land Board action of February 10, 1996, agenda Item F-11, public auction, Pasture lease, upper Pouhale, Ewa, Oahu, TMK: 9-4-12: 11**

Uchida said the staff recommendation is that the Board amend its prior Board Action of February 10, 1995 to remove the Percentage Annual Rental Provision, change effective annual rental to read the highest annual rental that is bid at public auction, remove the Annual Statement requirements that the lessee would have subject to under a Percentage Rental Provision.

**Unanimously approved as submitted (Matsumoto/McCrory)**

**ITEM D-17 Forfeiture of General Lease No. S-4637, Panaewa Farm Lots, 2nd Series, Waiakea, South Hilo, Hawaii, TMK: 2-4-49: 4**

Uchida requested the withdrawal of item.

**Unanimously approved to withdraw (Matsumoto/Kennison)**

**ITEM D-18 Assignment to General Lease No. S-5226, Lot 3, Milolii-Hoopuloa Lots, Phase 3, Hoopuloa, South Kona, Hawaii, TMK: 8-9-04: POR 7**

Uchida stated the staff recommendation that the Board consent to the subject assignment of General Lease No. S-5226 without revision to the basic rent.

**Unanimously approved as submitted (Yuen/Matsumoto)**

**ITEM D-19 Assignment of General Lease No. 3162, Lot 29, Ocean View Lease Lots, Waiakea, South Hilo, Hawaii, TMK: 3rd/2-1-07: 28**

Uchida briefed the Board and gave the staff recommendation that the Board consent to the assignment of General Lease No. 3162 between Hiroo Hayashi, Personal Representative of the Estate of Clarence Tatsuka Ohama, Deceased, Assignor to Hiroo Hayashi, single and Kinue Sakaitani, wife of Terry Sakaitani, Assignees, subject to terms and conditions.

**Unanimously approved as submitted (-----) (break in tape)**

**ITEM D-22 Amendment of seven (7) prior Board actions for public auction sales of pasture leases, Island of Hawaii and Kauai**

Uchida briefed the Board and stated the staff recommendation that the Board amend its actions of July 14, 1995, March 24, 1995, June 14, 1996, August 9, 1985, April 8, 1988, February 8, 1991, March 12, 1993, which authorized the public auction sale of a government lease for pasture purposes on the Island of Hawaii, Tax Map Keys (3) 1-2-06: 5 and 77, (3) 4-5-11: 6 and 7, (3) 2-4-06: 12 and 13 and 2-4-07: 37; and the Island of Kauai Tax Map Keys (4) 1-8-05: 8, (4) 2-3-07: 13, (4) 3-9-04: 1, (4) 4-4-04: 05.

**Unanimously approved as submitted (Matsumoto/McCrory)**

**ITEM D-23 Amendment of seven (7) prior Board actions for public auction sales of agricultural leases, Island of Hawaii, Maui and Kauai**

Staff's recommendation was that the Board amend its actions of February 9, 1996, April 12, 1990, January 28, 1994, February 25, 1994, June 25, 1993, and October 14, 1994, Island of Hawaii Tax Map Keys (3) 2-2-56: 20, (3) 5-5-04: 51; Island of Maui Tax Map Keys (2) 1-2-02: 27, (3) 2-2-15: 16, (2) 2-9-05: 20 and 32, (2) 2-9-06: 21, 22, and 23; and Island of Kauai Tax Map Key (4) 4-6-05: 7 and 8.

**Unanimously approved as submitted (McCrorry/Kennison)**

**ITEM D-25 Resubmittal - Lease at public auction for Puuepa 2, Kokoiki Government Tract, Kokoiki, North Kohala, Hawaii; TMK: 3rd/5-5-05: 1**

Uchida stated the staff's recommendation that the Board find the area to be an economic unit in terms of the intended use, authorize the public auction sale of a 15-year pasture lease covering the previously described State-owned public lands subject to terms and conditions.

**Unanimously approved as submitted (Yuen/Kennison)**

**ITEM D-26 Resubmittal - lease at public auction for portion of Lot 1-B, Hienaloli 1st, North Kona, Hawaii; TMK: 3rd/7-5-10: 16**

Uchida stated the staff's recommendation that the Board find the area to be an economic unit in terms of the intended use, authorize the public auction sale of a 15-year pasture lease covering the previously described State-owned, public lands subject to terms and conditions.

**Unanimously approved as submitted (Matsumoto/McCrory)**

Member Matsumoto inquired whether there were plans for a public announcement of the public auctions. Uchida said his division will prepare for it.

**ITEM D-27 Sale of lease at public auction and interim revocable permit for pasture purposes, government land at Laupahoehoe, North Hilo, Hawaii; TMK: 3rd/3-6-01: 8**

Uchida stated the staff recommendation that the Board find the area to be an economic unit in terms of the intended use, find the subject area is not suitable for hunting, nor will it become so during the term of the lease, and authorize the sale of a lease at public auction covering the subject area for pasture purposes under the terms and conditions.

**Unanimously approved as submitted (Yuen/Matsumoto)**

**ITEM D-28 Sale of lease at public auction and interim revocable permit for intensive agriculture purposes, Lot 10, Panaewa Farm Lots, 2nd series, Waiakea, South Hilo, Hawaii; TMK 3rd/2-4-49: 24**

Uchida briefed the Board and stated the staff's recommendation that the Board find the area to be an economic unit in terms of the intended use, find the subject area is not suitable for hunting, nor will it become so during the term of the lease, and authorize the sale of a lease at public auction covering the subject area for intensive agriculture purposes under the terms and conditions.

**Unanimously approved as submitted (Yuen/Matsumoto)**

**ITEM D-31 Issuance of land patent in confirmation of Land Commission Award 3503 to J.D. Kau, Omao, Koloa, TMK: 2-7-04: 37**

Uchida briefed the Board and said the staff's recommendation is that the Board authorize issuance of a Land Patent in confirmation of Land Commission No. 3503 to J. D. Kau subject to terms and conditions.

**Unanimously approved as submitted (McCrorry/Kennison)**

**ITEM D-32 Second amendment to prior Board action of December 14, 1984 agenda Item F-12, public auction sales, Agricultural Lease, Lot 25, Waimanalo Agricultural Subdivision, Waimanalo, Oahu, TMK: 4-1-27: 30**

Uchida briefed the Board and said the staff's recommendation is that the Board amend its action of December 14, 1984 with provisions.

**Unanimously approved as submitted (Matsumoto/Kennison)**

**ITEM D-33 Amendment to prior Board action of March 24, 1994, agenda Item F-8, public auction, Lot 45, Waimanalo Agricultural Subdivision, Waimanalo, Oahu, TMK: 4-1-27: 01**

Uchida's staff recommendation is that the Board amend its prior action of March 24, 1994.

**Unanimously approved as submitted (Matsumoto/Kennison)**

**ITEM D-34 Request amend prior Land Board action dated April 23, 1993, agenda Item No. F-4, public auction, Lot 18, Hauula Homesteads, Hauula, Oahu, TMK: 5-4-14: 03**

Uchida's staff recommendation is that the Board amend its prior action of April 23, 1993.

Member Matsumoto asked why the auction hadn't taken place if the item was approved in 1993. Uchida said some of the leases were withheld because of the Percentage Rent

requirements and was not sure why there was no action taken. Matsumoto's assumption is that when the auction is approved that it will take place within a reasonable time period, not 3 years later.

**Unanimously approved as submitted (Matsumoto/Kennison)**

***ITEM D-35 Resubmittal: Request authorization to waive performance bonds requirements in General Lease Nos. S-5214, S-5328 and S-5168 at Waimanalo, Koolaupoko, Oahu, TMK: 1st/4-1-18: 40, 47 and 4-1-27: 18***

Uchida briefed the Board and stated that the staff recommendation that the Board waive the performance bond requirements contained in General Lease nos. 5214 and 5328, to Green Thumb Incorporated and General Lease No. S-5168 to Akamai Landscape and Maintenance Service, Inc., subject to terms and conditions.

Member Matsumoto could not understand the justification of waiving the bond because the lessee experiences cash flow problems. Uchida explained the difficulties some of the tenants are experiencing and said his staff is trying to be more diligent in the collection area and not be in a position where the delinquencies are in large amounts before any action is taken. Member Matsumoto's concern was the practice of waiving Performance Bonds so readily, particularly if the reason is that they are going through economic difficulties. McCrory said she was strongly in favor of not releasing Performance Bonds.

Pat Tummons testified she agreed with McCrory's concern especially when the reason for seeking the waiver is "economic hard times". She commented that the State auditor issued a report on the performance bond.

**Motion made to deny request to waiver Performance Bonds (Matsumoto/McCrory).**

**Vote: all in favor.**

Uchida asked whether it was the Board's position not to grant waivers for Performance Bonds and it was concurred by the Board that it be based on a case-by-case basis. He clarified on the State auditors report on the Land Division releasing the bonds in which they were advised by the auditors not to release the bond until a new security bond was in hand. Member Yuen suggested looking into changing the annual rent into monthly rent along with a smaller Performance Bond with the idea that if they go into default it can be caught more quickly.

***ITEM D-36 Resubmittal: Request an issuance of a revocable permit to Kapolei Golf Course for parking lot purposes on government land situate at Honouliuli, Ewa, Oahu; TMK: 9-1-016: 25 (POR)***

Uchida briefed the Board and stated the staff's recommendation that the Board authorize the issuance of a revocable permit to Kapolei Golf Course subject to terms and



conditions. Member Matsumoto asked how the rent was determined. Uchida was not sure whether it was done by his staff and requested the Board defer the matter until he could look into the matter.

**Unanimously approved to defer (Matsumoto/McCrory).**

***ITEM D-37 Resubmittal: Staff request authorization to sell at public auction industrial lease covering government land at Moanalua, Honolulu, Oahu, TMK: 1-1-64***

Uchida briefed the Board and stated the staff's recommendation that the Board find the area to be an economic unit in terms of the intended use, authorize termination of the revocable permits encumbering the premises, termination date to be set by the Chairperson, and approval of the public auction sale of leases covering the subject area for commercial business purposes under the terms and conditions.

Member Yuen questioned whether percentage rents were appropriate for any leases. He believed that the percentage rent would not be in the best interest of the State because it penalizes the larger businesses who would not be interested in bidding on the lease. There was a discussion on how the State should sell leases at public auctions. Member Matsumoto supported percentage rents where it was consistent with what other landowners were receiving. He said there is a trust obligation to insure that the State is receiving a fair return on the land especially for commercial, retail and urban uses.

**Motion made to approve the sale of the leases without the percentage rents (Yuen/Matsumoto).**

**Vote: 3 no, 2 yes.**

Chair Wilson stated the motion failed and asked for another motion.

**Motion to approve item as submitted (Matsumoto/Kennison).**

**Vote: all in favor.**

***ITEM D-12 Authorize implementation of an application and qualification questionnaire process for prospective bidders interested in leases sold at public auction (statewide)***

Member Yuen asked who would be on the screening committee. Uchida said the intention is to draw assistance from the Farm Bureau and Federal Land Bank; and Hawaii Association of Conservation Districts. Member Yuen said he had a problem with a screening committee being empowered to qualify or disqualify applicants without any set standards. There was a discussion on the pre-qualification process of the prospective bidders. Chair Wilson recommended for the initial application of this process, the Land Board be the formal body to disqualify any applicant. Member Yuen suggested simplifying the process for the applicants.

Pat Tummons asked whether the screening process discussed would involve rule changes or modification of the rules. Chang thought this would apply to internal management and that it would not be in the rules but she said she would check into the matter.

There was a discussion about the application and it was concurred that people would need assistance and once the applicant goes through the application process, the applicant would have a better idea of what it's going to take and that it would be more beneficial to them.

**Motion to approve the implementation of pre-qualification process with amendments to set standards for qualifying prospective bidders, for the initial application of the process the Board be the formal body to disqualify any applicant, and to simplify the application process for information requested (Kennison/Matsumoto).**

**Vote: all in favor**


The meeting was adjourned.

Transcribed by:



Barbara E. Kameda

APPROVED FOR SUBMITTAL:



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MICHAEL D. WILSON  
Chairperson  
Board of Land & Natural Resources