

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

**DATE:** October 11, 1996  
**TIME:** 9:00 a.m.  
**PLACE:** Lanai Public and School Library  
Lanai Library Meeting Room  
Fraser Avenue  
Lanai City, Lanai

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**PRESENT:**

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

**STAFF:** Dean Uchida  
Dave Parsons  
Michelle Bradley  
Sherrie Mendez

**GUESTS:** Linnel Nishioka, Peter Garcia, Juliet Begley, Cindy Arisa, Ron McOmber, Craig Nakamura, Bob Donovan, Steve Knight, Ken Saben, Everett Kaneshige, Andrew Daymude, and Mike Elroy

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.

Chair Michael Wilson commenced the meeting of the Board and Land and Natural Resources at 9:10 a.m.

*Approval of the minutes of September 13, 1996:*

**The minutes of the meeting of September 13, 1996 was unanimously approved as submitted (Matsumoto/Kennison)**

**Motion to add on items E-1 and E-2 (Yuen/Kennison)**

**Vote: all in favor.**

**ITEM J-1 Issuance of lease by direct negotiation, Manele Boat Harbor, Island of Lanai**

Dave Parsons briefed the Board and gave the staff recommendation that the Board authorize the issuance of a lease and non-exclusive easement by direct negotiation subject to terms and conditions.

Craig Nakamura introduced himself as the attorney representing Lanai Company. He said the proposed addition to the boat harbor is the result of a master plan that's been deemed the best use of the harbor by the Manele Small Boat Harbor Advisory Committee. Lanai Company proposes to develop as well as make improvements to the site by installing utility lines for water, telephone and electricity to help address safety issues. Nakamura said there will be a paved and landscaped parking lot, a picnic area, a walkable surface on the pier and improved boat wash area. He said Lanai Company will dedicate five (5) slips to the State and seven (7) slips to be offered to individuals on the waiting list at market rates.

Bob Donovan clarified different areas on a map that was displayed. He said that since some of the land is submerged State lands, Lanai Company was required by statute to go to the legislature for authorization by concurrent resolution. They expect the project to be completed in May or June. Member Matsumoto was concerned about the timing of the anticipated improvements. Donovan assured him that it would be completed and said the preliminary engineering work has been completed.

There was a discussion about the boundaries of the property between the State land and the Lanai Company. It was confirmed that the area that is subject to a lease is the submerged land and the easement is for the access to go in and out. Lanai Company would not have any kind of land title except for access easement. Donovan said the company will be responsible for the long term maintenance of the area. He said the roadway is not within the State Executive Order but that it will be realigned and put within the State boundary.

Cindy Arisa testified the project would be beneficial to the tourist and residents of Lanai. She felt it was an opportunity for new businesses and job opportunities for the residents. Arisa felt the new marina would be a significant economic benefit for the entire island.

Ron McOmber testified his concern was that "the 2-1/2 years of work on the master plan was for naught". He talked about the Kuhn family who obtained a 35 year lease to build a building, completely against what the harbor advisory committee understood was going to happen. McOmber could not understand how the 35 year lease was signed as it had not come before the Land Board.

McOmber said Lanai Company is going to control 19 of the 24 slips and that it will be a commercial operation for them. He said the Lanai people will not benefit from this and what Lanai needs is a secured boat storage area. McOmber said if Lanai Company wants to do something for the people of Lanai, they should do something positive and commit to do some of the things the advisory committee came up with in the master plan.

There was a discussion about the demand for a trailer boat area and whether the boaters could form an association to lease land from the State and build their own trailer area. McOmber said there would probably be enough interest but talked about the cost. Member Matsumoto felt that Lanai Company is proposing to meet many of the objectives in terms of roads and utilities. McOmber said there is an access corner [of land] that is not being used for anything, why not plan for a boat storage area?

McOmber said he was not here to stop the project but to let the Board know that the boaters have concerns. He said that after working on the master plan for 2-1/2 years and worked on it as a community, someone should listen. McOmber stated that, "as long as the big bucks are going to step in here to do this, can we have some help with that?" He said the Lanai people "are not getting a fair shake on this" and it is not equitable.

Steve Knight introduced himself as Vice-President of Punihiki Corporation which has run the Expedition passenger ferry for the past 8 years. He said the harbor has been in dire need of improvements for a long time and they installed a solar powered lighting system for the safety of their passengers. Knight testified that the project is a positive one and that he supports it. He said the present condition of the harbor is a liability to the State and felt with all of the improvements that are proposed, it would be a "tremendous benefit for the local people".

Ken Saben, a boat owner, testified in favor of the project.

There was a discussion about the 5 slips designated for people on the waiting list and the question was whether the residents of Lanai could have first preference. Parsons said this issue was raised in the CDUA hearing and at that time, it was determined to be unconstitutional to direct priority use by geographic residents.

A discussion took place regarding parking stalls. It was not certain how many stalls would be available and whether the County would require a certain amount of parking.

Parsons said as far as future dock expansion plans, the Expeditions has proposed to construct a dock at their expense. He said under the administrative rules, the Boating Division can approve the construction of a berthing facility which would give them preferential use of it for the term of their permit and there would be a reduced fee based on the cost of the dock. Parsons said within boating's own development plans, a proposal to offer it as a concession was made but at the time, it was believed that the cost was not financially acceptable. He estimates the "bare bones" minimum cost to develop a trailer storage area would be approximately \$50,000.

Donovan approximates the cost of the whole project to be \$800,000 to 825,000. Member Matsumoto asked if any consideration was given to incorporate the trailer storage area. Donovan explained that it was discussed at advisory meetings and it was estimated to cost \$80,000 for approximately 26 to 30 spaces. He said Lanai Company could not see spending \$80,000 and not have any return on their investment although he agrees there is a need for it. He saw it as an opportunity for someone else to do it. Member Matsumoto felt that if the grading was done at the same time it was being developed, it would keep the cost down. Donovan said the bulk of the cost would not be the grading but in the preparation and the paving materials.

**Unanimously approved as submitted (Kennison/Nekoba).**

***ITEM D-10 Conservation District Use application (KA-2819) for a radio tower at Haupū Ridge, Koloa, Kauai, TMK: 3-4-6: 1***

Uchida briefed the Board. He said the Division of Forestry and Wildlife's concern was the potential impact of the possible night time aerial collisions of the threatened and endangered birds with the tower or its guy wires. The District Wildlife Manager does not believe it to be a significant problem. The other concern was the nesting burrows on the project site but the manager feels confident that the proposed tower would not pose a significant problem. The U.S. Fish and Wildlife Service had concerns about the quality of the environmental assessments which were done. Since then, the applicants have done additional work to address the concerns. The Wildlife Service believes that the project will not affect any federal endangered or threatened plants. Uchida said a public hearing was held on August 22, 1996. No one other than the applicant and his agents were present at the hearing. University of Hawaii and Brigham Young University investigators concluded that if the project is constructed with mitigative measures to prevent erosion, it would be consistent with the objective of the Protective subzone.

Uchida said comments and concerns from the Sierra Club on Kauai were the aesthetic impact of the 250 foot tower on the ridge and the availability of the draft EIS on Kauai. They also asked why a decision that would affect Kauai was held on Lanai. He said 6 individuals sent letters indicating their concern for the aesthetic impact of the tower.

Uchida stated the staff's recommendation that the Board approve Stangl Broadcasting's CDUA for a radio tower at Haupū Ridge subject to conditions.

Everett Kaneshige introduced himself and Andrew Daymude of The Keith Companies. He said he referred the letter from Fish and Wildlife to Phil Bruner, the consultant oncologist to review the conditions. Bruner's comments were that the conditions were warranted based on the fact that there was no evidence of impact to the site of the nesting colony. The inspections occurred during the time of the year when burrows and birds would have been present at the site.

It was clarified that the lease is a 20 year lease with a 20 year option, or possibly 30 year option with a 3 month monitoring period.

Chair Wilson asked if there was a preference to proceed with the project with conditions or to have the matter deferred until the Board is able to get more information from Fish & Wildlife and the Forestry Division. Kaneshige said they would prefer to go forward with the project due to the particular application deadline otherwise they would have to withdraw and file a new application. He said they do not have a problem with the conditions as they are willing to work with the division. Chair Wilson said the conditions were made with the understanding that they could be modified as the Forestry Division sees fit. Kaneshige agreed, but said he did not feel comfortable with Condition 5, Page 2 to modify the tower so there would be no guy wires. He didn't think from an engineering stand point that it would be feasible.

Daymude addressed the concern regarding the aesthetics of the tower and showed photographs from 2 different vantage points from a highway on Halfway Bridge and from a park. He explained that they were able to super impose the actual tower with a computer to show what the proposed tower would look like.

**Motion to approve with amendment that the applicant work with the Kauai DOFAW Wildlife Biologist in developing a monitoring plan, approved by DOFAW for monitoring impacts on the birds both prior and subsequent to construction of the antenna tower and that the applicant is required to remove the tower and restore the area to the satisfaction of the department, if the tower and/or antennas are abandoned (McCrorry/Nekoba).**

**Vote: all in favor.**

After a short recess, the meeting was resumed at 11:07 a.m.

***ITEM K-1 Lease, Keahole-Kona International Airport, Hawaii (Federal Aviation Administration)***

Peter Garcia briefed the Board that the FAA is requesting a lease for the construction installation, operation and maintenance of an Air Traffic Control Beacon Interrogator-4.

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

**ITEM K-2 Consent to sublease, Kahului Airport, Maui (Host International, Inc./Host Kahului Joint Venture Company)**

Garcia briefed the Board and said the staff's recommendation is that the Board approve the Consent to Sublease of Lease No. DOT-A-892-14 subject to terms and conditions.

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

**ITEM K-3 Issuance of revocable permit, Hana Airport, Maui (County of Maui Police Department)**

Garcia briefed the Board on the issuance of a revocable permit.

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

**ITEM K-4 Amendment No. 6 to Lease No. DOT-A-84-22, Kahului Airport, Maui (Alamo Rent-A-Car, Inc.)**

Garcia stated that Alamo Rent-A Car, Inc. is in need of additional space and is willing to invest in renovations to improve the area. The staff's recommendation is that the Board approve Amendment No. 6 to Lease No. DOT-A-84-22.

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

**ITEM K-5 Authorizing the Department of Transportation to dispose of highway remnants, Pali Road, Oahu, (Salvation Army)**

Garcia briefed the board and said the staff's recommendation is that the Board authorize the Department of Transportation to sell the subject remnant parcels to the Salvation Army subject to conditions.

There was a discussion about why the parcel was not put out to public auction. Garcia said the parcels are severely sloped and the soil in the area tends to shift. On that basis, the City and County, Land Utilization Department does not consider the parcels as separate lots for development purposes and requires that the parcel be sold only to the adjoining owner, the Salvation Army. A condition is to be included in the conveyance documents requiring the buyer to consolidate the subdivided parcels with their own property prior to issuance of the deed.

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

**ITEM K-6 Construction right-of-entry agreement, Sand Island container facility, Honolulu Harbor, Oahu (Sea-Land Service, Inc.)**

Garcia said the applicant wants to relocate, reinstall and reconstruct the facility from the existing site to the new location. The applicant shall be responsible for the maintenance, reconstruction and repair of all underground utility lines. The staff recommendation is that the Board approve the issuance of his Construction Right-of-Entry Agreement subject to terms and conditions.

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

**ITEM D-1 Time extension request to initiate construction of a single family residence at Niu Valley, East Honolulu, Hawaii (CDUP #OA-2179)**

Uchida said the applicant has requested time extensions a number of times because of pending divorce proceedings and various problems with the Board of Water Supply and the Department of Health. He said based on the staff's observation, the applicant seems to be sincere in trying to complete the work. The staff's recommendation is that the Board approve the sixth (6th) time extension subject to conditions.

**Motion to approve as submitted (Nekoba/Kennison).**

**Vote: 5 in favor, 1 oppose (Matsumoto).**

**ITEM D-2 Request authorization to cancel General Lease No. S-5059, and authorization for issuance of a direct lease to Ka Imi Naauao O Hawaii Nei for cultural and education purposes, for Lot 13, Puu Ka Pele Park Lots, Waimea, (Kona) Kauai, Hawaii TMK: 1-4-2: 20**

Uchida briefed the Board and said the staff's recommendation is that the Board cancel General Lease No. S-5059 and authorize the direct issuance of a lease to Ka Imi Naauao O Hawaii Nei subject to terms and conditions.

There were a number of questions from the Board members in regards to what the long range plans were, what the rental amount is, what does the organization do that would be positive for the public to warrant a reduced rent, or make the cabins available to the general public operating through a concessioned camp ground operator. Uchida said based on all of the members' comments and questions, he asked the item be deferred to gather more information.

**Motion made to defer Item D-2 (Matsumoto/McCrory).**

**Vote: all in favor.**

**ITEM D-3 Issuance of land patent in confirmation of land commission award No. 10374: 1 and 2 to Nalawaia, Kahului 1, North Kona, Hawaii, Portions of TMKs: 3rd/7-5-19: 05 and 7-5-16: 33**

Uchida briefed the Board and stated the staff's recommendation that the Board authorize issuance of a land patent in confirmation of land Commission Award 10374: 1 and 2 to Nalawaia.

**Unanimously approve as submitted (Yuen/Matsumoto).**

**ITEM D-4 Mutual cancellation of General Lease No. S-5248, Lot A, Block 48, Waiakea Industrial Lots, Waiakea, South Hilo, Hawaii , TMK: 3rd/2-2-58: 17**

Uchida said the lessee requested cancellation of the General Lease due to the poor economy and personal hardship. He said the property is currently vacant and unimproved. The staff's recommendation is that the Board approve the mutual cancellation, approve the retention of all sums paid under the general lease and terminate all rights and obligations of the lessee effective immediately.

There was a discussion on the recommendation of the "termination of all rights and obligations of the lessee..." which Linnel Nishioka clarified that it would release the lessee of any obligation to pay rent after June 24, 1996. Member Yuen clarified that the State will be losing 3-1/2 months rent in addition to the period of time it would take to put the parcel up for auction. Uchida felt with a mutual cancellation situation, the State should not suffer a loss. There was a discussion about performance bonds and what the requirements were. Uchida said his Division is in the process of setting up a tracking procedure to make sure everything is in place by a certain time. Chair Wilson asked whether there was an inventory of pending performance bonds after 4 years. Uchida said the Division does not have a workable computer system that can track the bonds efficiently. A discussion took place regarding the possibility of a customized data base to monitor the performance bonds to be able to track them in a more efficient manner.

**Motion to approve the mutual cancellation of General Lease No. S-5248 to Nelson and Clara C. Rego effective immediately in the manner specified by law and providing that the lessees pay all of the outstanding rent owned the State through October 11, 1996, approve the retention of all sums paid under General Lease No. S-5248 and terminate all rights and obligations of the lessee effective immediately (Yuen/Nekoba)**

**Vote: all in favor.**



***ITEM D-5 Direct issuance of a lease to Borden/Meadow Gold Dairies, Inc. at Waimanalo, Koolaupoko, Oahu, TMK: 1st/4-1-08: 05***

Uchida amended the Character of Use from Pasture Purposes to Agricultural processing purposes. After briefing the Board, Uchida said the staff recommendation is that the Board find the area to be an economic unit in terms of its intended use, find that the area is presently unsuitable for hunting, and authorize the direct issuance of a lease to Borden/Meadow Gold Dairies for pasture purposes under terms and conditions and authorize the publication of notice of disposition in compliance with Section 171-69.

There was a discussion about the character of use and the definitions of agricultural processing purposes and pasture purposes. Nishioka said that after looking at the Statute, he had concerns with agricultural products which are modified by processing and didn't feel comfortable with this. Member Yuen said the Statute also says it has to promote competition in the agricultural industry. He talked about an individual who wants to lease state land in Kau for a dairy farm and that the Department of Agriculture is opposing it because it will cause too much competition in the milk industry. Member Yuen said the Board will have to be consistent on these decisions.

**Unanimously approved to defer item (Nekoba/Kennison).**

***ITEM D-6 Authorization to amend General Lease No. S-5353 to Dale Hardinger, Waimanalo, Koolaupoko, Oahu, TMK: 1st/4-1-08: 05***

Uchida said the lessee requests that the residential component of the lease appraisal be deleted as he has no intention of residing or constructing a residence there and that the lease be appraised on an agricultural component alone. He said the staff's recommendation is that the Board authorize the reduction in rent of General Lease No. S-5353 by removing the residential component of the lease and re-evaluate it on the basis of the agricultural component subject to terms and conditions.

Member Nekoba felt if it is an agricultural lease, whether there is a house on it or not, the value should be the same. Chair Wilson said one of the policies is to encourage residential users to use the land for agriculture. Discussion took place on whether or not the appraisal value should be placed with a house on it or not. Uchida said his staff's approach is that there should be presence in the property, but it shouldn't be a driving force in determining the value. He said he is trying to implement Federal Land Bank check and balances in his Division.

**Unanimously approved as submitted (Nekoba/Kennison).**

**ITEM D-7 Cancellation of Governor's Executive Order No. 2388 and reset aside to the Department of Education at Kalimaloa, Heeia, Koolaupoko, Oahu, TMK: 1st/4-6-04: 03**

Uchida said the Department of Education has requested the use of this lot in conjunction with the King Intermediate School site. The Department of Defense has left the site and has no further need for the lot. The staff's recommendation is that the Board recommend to the Governor the issuance of an Executive Order canceling Executive Order 2388 under terms and conditions and recommend to the Governor the issuance of an Executive Order to Reset aside the subject lands to the Department of Education under terms and conditions.

**Unanimously approved as submitted (Nekoba/McCrory).**

**ITEM D-8 Direct sale of reclaimed (filled) land at Awamoku Subdivision, Puahauula, Kaneohe, Koolaupoko, Oahu, TMK: 1st/4-4-22: 06 (Seaward of)**

Uchida said this land was filled by the federal government in World War II. He said in the early 1980s the adjacent property owners were able to purchase the filled lands makai of their property from the State. At the time of the sale, the applicant was in the process of purchasing his parcel and never received the offer to purchase the filled land. The staff's recommendation is that the Board find that the proposed disposition is not prejudicial to the best interests of the State, approve the direct sale of the subject reclaimed area to the applicant under terms and conditions and to authorize the publication of notice of disposition.

**Unanimously approved as submitted (Nekoba/Kennison).**

**ITEM D-9 Amendment of prior Land Board action dated July 12, 1996, agenda item D-17 consent, assignment, General Lease (GL) No. S-5355, Norman Miyata and Yaeko Miyata, Waimanalo, Oahu, TMK: 4-1-18: 51**

Uchida asked to defer item at the request of the applicant. There was a brief discussion on the stock in the corporation and the consent to the assignment of the shares.

**Unanimously approved to defer (Nekoba/Kennison).**

**ITEM D-11 Resubmittal - 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 and said the staff's recommendation is that the Board find the subject area to be an economic unit in terms of its intended use, and authorize the public auction sales of a lease for light industrial, commercial and/or business purposes under terms and conditions .

Member Yuen was concerned about applying percentage rent in a fair and equal way and gave an example of a super market using the parcel for warehouse purposes and that they will claim that they do not derive any income from this parcel so there is no percentage. There was a discussion on the Waiver of first year's lease rental.

**Motion to approve with deletion of Condition B-3 and the percentage rent requirement in the lease (Yuen/McCrory).**

**Vote: all in favor.**

***ITEM D-12 Request for clarification/reconsideration on a prior Board action of September 13, 1996 for public access and dedication of a road to Hale O Lono Harbor, Molokai, Hawaii, TMK: 5-1-2: 12, 23, and 30***

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Uchida said that at the September 13, 1996 Land Board Meeting, the Board required Molokai Ranch within 30 days to open ingress and egress from the harbor and a public road o Hale O Lono Harbor. He said there were discussions with the Molokai community and Molokai Ranch which have progressed but which there is no complete agreement. Uchida's staff recommendation is that the Board defer the request for thirty (30) days in order to provide additional time for a permanent roadway location and proving public access to be agreed upon between the Molokai community and Molokai Ranch.

Member Kennison said he was present at meetings with the community and the ranch and thought everything was settled. He said Molokai Ranch cannot comply because of liability. They agreed to pave a road from the Maunaloa Road to Hale O Lono. Member Kennison said the only issue is the immediate access while the road is being constructed. Uchida said there is an agreement on the permanent alignment and the timing for construction and that the community understands they cannot ask for access on this alignment while the road and fence are being constructed. The community is asking for interim arrangement for access to Hale O Lono. The agreement is twice a month, 2 weekends a month, during day light hours. Chair Wilson asked that communication measures be taken so that there is no confusion.

There was discussion about the stabilization of the surface of the paved road. Uchida said the road maintenance is in the budget.

**Unanimously approved for deferral to the next Board meeting on October 25, 1996 (Kennison/Matsumoto).**

Juliet Begley commented on the "to be distributed" item on the agenda for the Board trying not to have this type of situation.

**Item E-1 Request by Friends of Iolani Palace regarding admission fees.**

Uchida briefed the Board on the Friends of Iolani Palace's request for increases in their admission fees for children, 5-12 years of age to \$3.00, establish a \$2.00 rate per senior citizen and a rate of \$1.00 per student visiting as a group function as soon as practical.

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

**Item E-2 Approval of various grants-in-aid**

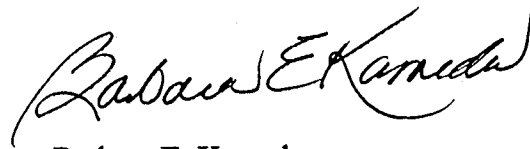
Recommendation by staff that the Board authorize the Chairman and other members of the Board to enter into a contract for the grant-in-aid proposal subject to terms and conditions for Hawaii Nature Center, Inc. and Mookini Luakini, Inc.

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

Chair Wilson asked about an audit on how funds were being utilized and was specifically concerned about the Mookini Heiau. He felt a field trip for the Board members would be appropriate.


The meeting was adjourned at 12:30 p.m.

Transcribed by:



Barbara E. Kameda

APPROVED FOR SUBMITTAL:

  
f- MICHAEL D. WILSON  
Chairperson  
Board of Land & Natural Resources