

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

DATE: December 13, 1996
TIME: 9:00 a.m.
PLACE: Board Room
Kalanimoku Building, Room 132
1151 Punchbowl Street
Honolulu, Hawaii 96813

Chairperson Michael D. Wilson called the meeting of the Board of Land and Natural Resources to order at 9:49 a.m. The following were in attendance:

MEMBERS:

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

STAFF:

Mr. Dean Uchida, Land Division	Mr. Ralston Nagata, State Parks
Mr. David Parsons, DOBOR	Mr. Paul Conry, DOFAW

OTHERS:

Ms. Linnel Nishioka, Esq. Deputy Attorney General	Mr. Peter Garcia, State Department of Transportation
Mr. William Yuen, Esq., KSBE, D-20	Mr. Reese Liggett, Sierra Club, D-20
Mr. Mark Morita, D-20	Ms. Suzan Harada, D-20
Mr. Robert Miller, Esq., Waialae Iki V, D-20	Mr. Randy Brooks, Waialae Iki V, D-20
Mr. Philip Whitesell, D-20	Mr. Doug White, D-20
Mr. Gerald Bluehdorn, D-20	Mr. T.J. McAniff, D-20
Ms. Mabel Kekina, D-20	Mr. Pasqual _____, D-20
Mr. Earl Hiromoto, D-20	Ms. Annette Hee, UH Women's Campus Club, D-20
Ms. Sandra Schutte, Esq., D-11	Ms. Lynn Lee, D-11
Mr. Ed Johnston, D-11	Mr. Diane Ley, Big Island Farm Bureau, E-1
Mr. Steve Sommer, D-16	Mr. Bert Kobayashi, Esq., DFS Hawaii, K-5
Ms. Patricia Provalenko, USCOC, D-7	Mr. Colin Love, Esq., J-2
Mr. John Reed, DFS Hawaii, K-5	Mr. Brian Minai, D-12
Mr. Tony Takitani, Esq., K-5	Mr. Brian Takeda, RM Towill, D-17
Mr. Colin Nakagawa, D-12	Mr. Rodney Teixeira, D-5
Mr. Allen Hoe, Honolulu Polo Club, D-15	Mr. John Lehnert, D-14
Ms. Laura Banta, D-17	
Mr. Jim Brock, D-6	
Mr. Nobu Shinohara, D-18	

Business:

Approval of the minutes of May 24, 1996 and November 8, 1996:

The minutes of the meeting of May 24, 1996 was unanimously approved as submitted (Kennison/Nekoba) (Because they had not been present at the May 24, 1996 meeting, Members Matsumoto and McCrory abstained from voting).

The minutes of the meeting of November 8, 1996 was deferred at the request of Member Yuen (Yuen/McCrory).

ITEM D-20 ENFORCEMENT FOLLOW-UP: CDUA OA-1121 FOR THE CONSTRUCTION OF A WATER RESERVOIR AND ACCESSORY IMPROVEMENTS AT WILIWILINUI RIDGE, EAST HONOLULU, OAHU; TMK: 3-5-24: POR.

3

Mr. Uchida provided background leading to the subject submittal. Mr. Uchida stated that a major concern of both Kamehameha Schools/Bishop Estate (KSBE) and the Waialae Iki V (WIV) community, regarding liability, had been addressed by the passage of Act 151 by the 1996 Legislature. Mr. Uchida asserted that KSBE, however, still refuses to abide by the Board's order of November 17, 1995 and allow for overflow parking along the Board of Water Supply (BWS) access road. He therefore recommended that the Board revoke the CDUP and require KSBE to remove the water tank and road which had been approved by the CDUP.

Mr. William Yuen, representing KSBE, testified that KSBE should not be required to provide parking along the BWS access road because: 1) KSBE felt that the requirement to provide parking represented an unconstitutional taking under the U.S. Supreme Court's decisions in Dolan v the City of Tigard and Nolan v the California Coastal Commission, both of which involved requiring public access in return for various construction permits; and 2) KSBE felt that requiring parking would constitute an unacceptable public health and safety risk. Mr. Yuen provided members with photographs of the subject area, depicting what he asserted was a roadway shoulder too narrow to accommodate parking. He further asserted that Act 151 did not provide protection for landowners who knowingly create or perpetuate a dangerous situation, and that permitting parking along this section of the road would create a dangerous condition. (Written testimony submitted.)

Mr. Reese Liggett, representing the Sierra Club (Oahu) testified that landowners have a sacred responsibility to provide public access, and that public access with inadequate parking becomes "an absurdity of a public access." Mr. Liggett stated that the Wiliwilinui Ridge trail was one of

ITEM D-20 (cont.)

the best trails on Oahu for elderly hikers and young children, provided that parking is available close to the trail head.

In response to Member Mastumoto's request for a response to KSBE's concerns, Mr. Liggett stated that the concerns seem to be an attempt by KSBE to deflect attention from the larger issue of public access. Mr. Liggett asserted that, although the paved road is only 12-ft wide, the road shoulder, at certain areas, is wide enough to accommodate a substantial amount of parking.

Member Matsumoto noted that, having seen the area, he also had some safety concerns. He stated that it would be difficult for cars to turn around in the area, particularly if other cars are parked along the shoulder.

In response, Mr. Liggett re-stated his belief that parking could be accommodated now, but, that, if the Board decided that the area was unsafe, KSBE be required to make the area safe for parking.

Member Nekoba stated that the Board has done everything possible to provide the public with access to the area. He noted that the Board did not place any limit on the number of cars allowed, and that parking on Okoa and Laukahi streets provided ample parking for hikers. He stated that the only question that the Board had to consider today was whether parking should be allowed on the BWS access road.

Mr. Liggett testified that an easement document was required in order to solidify parking on Okoa Street, and that, if parking is not allowed on the BWS road and Okoa Street, access would once again be limited to the 8-car parking area. He further stated that KSBE should be required to do their part in providing parking regardless of the parking which could be accommodated within the subdivision.

Mr. Mark Morita concurred with Mr. Liggett's testimony.

Ms. Suzan Harada testified that the public has been kept off the Wiliwilinui Ridge trail for 17 years and would not like to see this access available to hikers now changed.

Mr. Robert Miller testified that the action proposed by staff would have a detrimental effect on the community of WIV. He stated that a sizable health and safety risk would be created if no water supply was available. Mr. Miller asserted that WIV has been negotiating with the city to work out the easement issue, and that WIV was, in fact, one of the primary movers behind the passage of Act 151. He further testified

ITEM D-20 (cont.)

that representatives of KSBE were present at a site inspection on June 18, 1996 when an agreement was reached to move the chain to accommodate parking on the road shoulder; at no time, did KSBE raise any concerns with parking on the road shoulder. Mr. Miller testified that, in granting KSBE's permit, the Board's order stated that parking "shall be provided along the [BWS] access road and also along the 30-ft. wide portion of Okoa Street." He stated that KSBE did not object to the order when it was issued; it was only objecting now, one year after the order was issued. The only party to appeal the Board's order, according to Mr. Miller, was WIV.

Mr. Randy Brooks testified that he was involved in all of the negotiations between the trail groups, the state, and KSBE. He stated that the negotiation process lasted over a year and a half, and, at no time, did KSBE give any indication that they objected to the parking requirement. He stated that WIV saw the Board's order as a "three-tiered" approach -- parking, first, in the 8-car parking area, then the BWS shoulder, then the subdivision.

Member Nekoba stressed that the community of WIV would be the ones most hurt should the subject enforcement action be approved, and stated that he saw no reason to require the removal of the water tank regardless of KSBE's actions.

Mr. Miller agreed with Member Nekoba regarding the subject of the enforcement action, however, he stressed that KSBE should not be allowed to get out of a "negotiated" settlement, and should be held responsible for providing their part of the parking. Mr. Miller stressed that placing the burden of parking onto Okoa Street was neither fitting nor fair.

Mr. Miller and Mr. Brooks emphasized that WIV was moving forward with its negotiation with the city, but noted that those negotiations were based, in part, on the Board's order. In response to Member Nekoba, however, Mr. Miller clarified that the easement was not dependent on KSBE's provision of parking on the BWS access road.

Mr. Philip Whitesell, a hiker, testified that access is absolutely essential to the public's quality of life. He stated that the "real" issue was whether KSBE could, in essence deny access to a public trail by denying parking. He stated that this particular circumstance provided for an alternative - parking within the subdivision - however, if KSBE were allowed to get away with not providing parking here, there would be nothing to stop them from refusing to provide parking in other areas...areas where alternate parking may not be available.

ITEM D-20 (cont.)

Mr. Doug White, a hiker, stated that, if KSBE were allowed to get out of providing parking, fewer people would be able to get on the trail.

Mr. Gerald Bluehdorn - a hiker, testified that the Wiliwilinui trail is one of the few trails where the Koolau summit can be reached with relative ease. He testified to the need for more parking by relating his experience in trying to find parking on three occasions.

Mr. T.J. McAniff, a hiker, testified that "specious" reasons are being used by KSBE to deny access to the trail.

Ms. Mabel Kekina, a hiker, related her experiences hiking the Wiliwilinui Ridge trail.

Mr. Pasqual _____, a hunter, testified to the need for parking areas away from residential areas, especially when dogs are utilized.

Mr. Earl Hiromoto, a hiker, related his experiences hiking the Wiliwilinui Ridge trail.

Ms. Annette Hee, president and hiking coordinator of the U.H. Women's Campus Club echoed other testifiers regarding trail access.

Member Nekoba, reiterating his opinion that the community should not be penalized for the decisions made by KSBE, moved to defer action until the issue could be "separated." Member Yuen seconded the motion.

Member Kennison concurred with the motion but requested that the Board schedule a site visit in order to determine whether parking could be accommodated on the BWS access road.

Chairperson Wilson concurred with the motion but noted that a clearer definition of "access" is needed if future problems are to be avoided.

By a unanimous vote of the six members present, Item D-20 was deferred (Nekoba/Yuen).

ITEM D-11 REQUEST FOR PERPETUAL, NON-EXCLUSIVE EASEMENTS AND CONSTRUCTION RIGHT-OF-ENTRY FOR PEDESTRIAN WALKWAY, KAHALII, SOUTH HILO, HAWAII, TMK; 2-7-09: 2

Mr. Uchida testified that the submittal was a follow-up to a CDUA that the Board approved in September, 1996. He showed members a maps outlining the easement areas.

Ms. Sandra Schutte, representing Hawaii Tropical Botanical Garden, thanked the Board for expediting the disposition of the easements.

Mr. Ed Johnston testified that there was no opposition to the subject submittal. However, he requested a timeline for the delineation and identification of ownership of the other parcels; this survey was a condition of the approval of the original CDUA.

Ms. Lynn Lee, representing OHA, testified in opposition of the granting of a perpetual lease to the Botanical Garden. In response to Member McCrory's question, Ms. Lee stated that OHA would not be opposed to a lease of 35-50 years. (Written testimony submitted.)

Member Yuen stated that due to budget constraints, a timeline for the survey could probably not be given; he recommended granting the easements and dealing with the survey at a later date.

By a unanimous vote of the six members present, Item D-11 was approved as submitted (Yuen/Kennison).

ITEM D-16 CONSERVATION DISTRICT USE PERMIT (CDUP) KA-1939A FOR A SINGLE FAMILY RESIDENCE AT HAENA, KAUAI; TMK: 5-9-02: 63

In response to Member McCrory's question regarding condition #4, the applicant, Mr. Steve Sommer, stated that the new footing was for the lanai only. Mr. Sommer stated that the original infrastructure was intact and sound, and that he would be using the same floor plans and blueprints.

By a unanimous vote of the six members present, Item D-16 was approved as submitted (McCrory/Nekoba).

ITEM E-1 RESUBMITTAL - CONSIDERATION OF FUNDRAISING PROPOSALS AT OLD KONA AIRPORT AND WAILOA RIVER STATE RECREATION, HAWAII (TO BE DISTRIBUTED)

Mr. Nagata informed the Board that staff was not able to get the information needed for the submittal, and thus did not have a submittal to present to the Board.

ITEM E-1 (cont.)

Mr. Yuen noted the need for Board members to discuss matters with counsel, and recommended that, because a member of the public was present to testify, the board first take testimony from the public.

Chairperson Wilson agreed that testimony would be taken with the understanding that the Board would not be able to take any action.

Ms. Diane Ley, representing the Big Island Farm Bureau, testified that there was presently no alternate site in Kona that could accommodate the number of people and vehicles generated by the farm fair. (Background material, petition, resolution submitted.)

ITEM D-7 RESUBMITTAL - ISSUANCE OF A DIRECT LEASE TO USCOC OF HAWAII 3, INC., DBA UNITED STATES CELLULAR, FOR A CELLULAR TOWER SITE TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITY PURPOSES, AFFECTING STATE-OWNED LANDS AT HUMUULA, NORTH HILO, ISLAND OF HAWAII - TMK: 3RD/3-9-02: PORTION OF 7

In response to Member Yuen's question regarding the size of the entire parcel, Mr. Uchida stated that the tower will utilize only part of a site of approximately 900 acres.

Ms. Patricia Provalenko, representing United States Cellular testified that the tower would be placed directly behind existing towers. Responding to Member Yuen's question, Ms. Provalenko stated that the remaining area (the unused portion of the 900 acres), had been in sugar use and was presently fallow land.

By a unanimous vote of the six members present, Item D-7 was approved as submitted (Yuen/Nekoba).

ITEM K-5 CONSENT TO AGREEMENT BETWEEN THE DEPARTMENT OF TRANSPORTATION AND DFS GROUP, L.P.

Member Matsumoto recused himself from voting on the subject item and exited the meeting.

Mr. Peter Garcia presented Board members with background: the partial transfer of ownership of a majority share of DFS Group, LP to LVMH, Inc. He testified that the Department of Transportation (DOT) had no objections to the transfer of ownership. He further testified that, in accordance to the concession contracts, DFS will pay DOT a minimum of 5.4 million dollar for the transaction.

ITEM K-5 (cont.)

In response to board members' questions, Mr. Garcia stated that the 5.4 million dollars was an arbitrary amount agreed to by both DOT and DFS; DOT reserved the right to determine that the amount should be higher.

Mr. Bert Kobayashi, representing DFS Group, LP, stated that DFS agreed to the minimum payment in order to move the transaction ahead. He testified that the transfer of ownership involved a 58% share of DFS. He stated that the payment would be made to DOT at the close of the transaction. Mr. Kobayashi clarified for board members how the minimum amount was set.

Mr. John Reed, President of Duty Free, provided members with background on the transfer of ownership. He related that two of the four shareholders of DFS (holders of a 58% share) has entered into an agreement to sell their shares to LVMH/Louis Vuitton. However, the minority shareholders (holders of the remaining 42% share) have disagreed with the sale.

Mr. Tony Takitani, representing the minority shareholders, requested that the Board withhold consent of the transfer. He testified that an "arbitrator" was presently dealing with the issue of the stock transfer, and that to consent to a transaction at the present point of time would be premature. Mr. Takitani also asserted that it would be in the State's best interest to withhold consent. He stated that the prospective buyers were, in fact, a major competitor of DFS and that State revenues may be affected if the change in management affects DFS revenues.

In response to Member Yuen's question regarding the right of the State to interfere in a private business transaction, Mr. Takitani stated that the State should have the right if the State's interest are affected.

Board members discussed with Mr. Garcia the terms of the State's contract with DFS with regards to the State's prerogative to involve itself in the business transactions of private businesses. Board members noted that the State would have no real way of knowing what would happen to the State's revenues.

Mr. Kobayashi asserted that the Board's purview should extend to the valuation of the premium but not to the transfer of ownership itself. Mr. Garcia noted that the transfer of ownership, in the eyes of the State, constituted an virtual assignment of the lease and thus, was in the purview of the Board.

ITEM K-5 (cont.)

Extensive discussion ensued regarding the effect of the transfer of ownership on the revenues of DFS and the minority shareholders.

Members also discussed the impact of a deferral of the item, and the consequences of the arbitrator's decision.

Chairperson Wilson announced to the public that the Board would be resolving into executive session to discuss issues pertaining to Item E-1 and K-5 with legal counsel. Member Kennison moved to resolve the meeting into executive session; the motion was seconded by Member Nekoba. The meeting resolved into executive session at 12:44 p.m.

Chairperson Wilson reconvened the meeting at 2:40 p.m.

Member Yuen noted that the State's only real concern pertained to the gross revenues. He stated that there seemed to be enough "watchdogs" to insure that the State's revenues are not negatively affected. Members Nekoba concurred.

Member Kennison remarked that a sufficient number of questions had been raised to warrant concern, and stated that he would not be approving the recommendation.

By a vote of four to one, with Member Kennison dissenting, Item K-5 was approved as submitted (Nekoba/Yuen).

ITEM J-2 STATUS OF LEASE NO. H-83-2, HONOKOHAU BOAT HARBOR, KEALAKEHE, NORTH KONA, ISLAND OF HAWAII

Mr. Parsons presented to board members an updated status report on Kona Fuel and Marine's lease at Honokohau Boat Harbor.

In response to Member McCrory's question regarding the amount of time it would take to cancel the lease if payment is not made by the December 31, 1996 deadline, Mr. Parsons stated that cancellation would be immediate, however, it would take approximately 3-6 months to get a new operator.

Member Matsumoto reiterated his belief that the Division's accounting procedures must be improved, and delinquent accounts better handled.

ITEM J-2 (cont.)

Mr. Colin Love, representing Kona Fuel and Marine, testified that the figures given to the Board today was the first explanation of the compounded interest that Kona Fuel and Marine had seen. Mr. Love emphasized that his client had always tried to cooperate with the State, and expressed his confidence that, had the Boating Division supplied the interest calculations earlier, the problems would have never arisen.

No motion/vote was necessary.

ITEM D-12 DIRECT ISSUANCE OF A LEASE FOR AQUACULTURE PURPOSES, COVERING LOKOAKA FISH POND, SITUATE AT WAIAKEA, SOUTH HILO, ISLAND OF HAWAII - TMK: 3RD/2-1-16:1

Mr. Colin Nakagawa testified to his wish to continue the fish farm operation begun by his grandfather. Mr. Brian Minai, another family member, also stated the wishes of the family to continue the family fish farm operation.

In response to questioning by Member Yuen, Mr. Nakagawa stated that the open waters of the fishpond are currently stocked with mullet which are eventually harvested by crossnet or makaa'a. He further responded that the operations raises mullet, aholehole, golden perch and channel catfish. Mr. Nakagawa also stated that the ponds yields about 50-100 pounds per day.

By a unanimous vote of the six members present, Item D-12 was approved as submitted (Yuen/Nekoba).

ITEM D-17 CONSERVATION DISTRICT USE APPLICATION (CDUA) SH-2823A FOR FIBER OPTIC CABLE INSTALLATION AT KAUNAKAKAI, MOLOKAI

Mr. Uchida confirmed that the County had granted the necessary Special Management Area Permit.

Member McCrory requested that a condition of notification/publication in newspapers be included in the recommendation.

Ms. Laura Banta, legal counsel, testified that GST will comply with all the conditions of the submittal, including Member McCrory's request.

ITEM D-17 (cont.)

Mr. Brian Takeda, RM Towill, described the cable to members. In response to Member Matsumoto's question, Mr. Takeda stated that a portion of the cable had been damaged, and, thus, the first landing would probably take place in early January, and the end of installation in late January.

By a unanimous vote of the six members present, Item D-17 was approved as submitted (Kennison/Matsumoto).

ITEM D-15 REQUEST AUTHORIZATION TO CANCEL REVOCABLE PERMIT NO. S-6392 TO THE HONOLULU POLO CLUB, WAIMANALO, KOOLAUPOKO, OAHU; TMK: 1ST/4-1-09:262

Mr. Uchida presented background on the submittal. He testified to the importance of keeping the Inoaole Stream free of debris; he stated that the subject area was directly mauka of Bellow Air Field, and because the military was doing its part in keeping the stream clean, it was crucial that mauka owners do the same.

Mr. Uchida distributed a letter from the legal counsel of the Polo Club requesting a deferral of Item D-15, and presented photographs of the subject area.

Member Nekoba questioned whether the State could contract the stream-cleaning work and bill the tenant, or have the tenant place a deposit or post bond.

In response, Mr. Uchida, concurred that the idea was good; he stated that the City and County presently has the option of billing landowners for cleaning. Because, in the present case, the State is the landowner, Mr. Uchida testified that the requirement of a bond was, perhaps, a better avenue. Mr. Uchida stated that, outside of the stream-cleaning problem, the permittee have been good tenants.

Allen Hoe, representing the Polo Club, testified that the Club has been maintaining the area for 10 years, and that the debris problem has only happened once before. Mr. Hoe testified that the greatest contributors to the debris problem are illegal utility conduits placed below the bridge which traps debris and causes the majority of the flooding.

However, Mr. Hoe acknowledged that Club's responsibility in keeping the area clean, and confessed that the non-compliance of one of the Club's contractor led to the latest action by staff. He reiterated his request for deferral.

ITEM D-15 (cont.)

Member Nekoba questioned DOT's enforcement action's with regard to the utility conduits.

Mr. Uchida acknowledged that the problem had to be approached in totality, from the watershed to the ocean. He stated that staff was currently looking at working with the National Flood Insurance Program to address the issue.

Chairperson Wilson, while acknowledging that looking at the flood insurance program was a good idea, stressed that, because of the health and safety risks, the current problem needed to be addressed immediately.

Mr. Uchida noted that staff could would out some modification to the permit during the deferral period.

Member Nekoba moved to defer action for 30 days, and that during the 30 day period, the Board would require 1) some amendment to the lease to provide for cleaning, and 2) that the rent delinquency be cleared, 3) contact with the DOT regarding enforcement action on the utilities.

Member Yuen recommended a 45-day deferral.

By a unanimous vote of the six members present, Item D-15 was deferred (Nekoba/Yuen).

ITEM D-9 HOUSING FINANCE AND DEVELOPMENT CORPORATION'S REQUEST FOR A RIGHT-OF-ENTRY TO STATE LAND AT WAHIKULI, LAHAINA, MAUI; TMK: 2ND/4-5-21: PORTIONS OF 04 & 22

No public testimony was presented.

By a unanimous vote of the six members present, Item D-9 was approved as submitted (Kennison/McCrory).

ITEM D-1 FORFEITURE OF GENERAL LEASE NO. S-4639, THOMAS KASECKY, KA'APAHU, HAMAKUA, HAWAII - TMK: 3RD/4-4-11: 33

Based on discussion with staff, Mr. Uchida requested the withdrawal of Item D-1.

No public testimony was presented.

By a unanimous vote of the six members present, Item D-1 was withdrawn (Yuen/Nekoba).

ITEM D-2 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.)

Member Nekoba questioned why, if the golf course and parking is more or less permanent, is the Department issuing a month-to-month revocable permit instead of a long-term lease. In response, Mr. Uchida stated that the parcel was only a small part of the lands being masterplanned for Kapolei by HFDC, and that the Department was issuing a permit on a month-to-month basis because it was not involved on the overall planning. No public testimony was presented.

By a unanimous vote of the six members present, Item D-2 was approved as submitted (Nekoba/Kennison).

ITEM D-3 REQUEST TO AMEND BOARD'S APPROVAL ON DECEMBER 15, 1995, AGENDA ITEM (F-7), REGARDING THE DIRECT SALE OF NON-EXCLUSIVE TERM WATERLINE AND PUMP STATION EASEMENTS AND ISSUANCE OF AN IMMEDIATE RIGHT-OF-ENTRY FOR CONSTRUCTION PURPOSES, OVER, UNDER, ACROSS, AND ON STATE-OWNED LANDS, AND PORTIONS OF OFFSHORE SUBMERGED LANDS AT MAALAEA SMALL BOAT HARBOR, SITUATE AT KEALALOEA, UKUMEHAME, WAILUKU, MAUI

No public testimony was presented.

By a unanimous vote of the six members present, Item D-3 was approved as submitted (Kennison/Nekoba).

ITEM D-4 REQUEST AUTHORIZATION TO WAIVE PERFORMANCE BOND REQUIREMENT FOR GENERAL LEASE NO. S-4344 ASSIGNED TO KAISER FOUNDATION HEALTH PLAN, INC., PIIHONUA, SOUTH HILO, HAWAII - TMK: 3RD/2-3-27:25

Member Matsumoto noted that the original lease was issued in 1975 and that many changes to the lease "form" had been made since that time. He suggested that this might be a good opportunity to revise documents to reflect current conditions -- in essence, update the lease.

In response to Mr. Uchida's request for an opinion on Member Matsumoto's suggestion, Ms. Linnel Nishioka, deputy attorney general, concurred that, because the applicant had come to the Board with a request, there should be no legal problem with updating the lease at the same time. She noted however, that the division may not require such a revision if an applicant has not come forth with a request. No public testimony was presented.

By a unanimous vote of the six members present, Item D-4 was approved as submitted (Nekoba/Kennison).

**ITEM D-5 REQUEST TO RE-OPEN LAND BOARD ACTION OF NOVEMBER 8, 1996,
AGENDA ITEM D-6 CANCELLATION OF GENERAL LEASE NO. S-3754,
RODNEY G. TEIXEIRA, WAIMANALO, OAHU, TMK: 4-1-10: 32**

Mr. Uchida presented background on the submittal. Although staff was not changing its recommendation on this item -- a recommendation which had been approved by the Board at its November 8th meeting -- the submittal was being brought back to the Board at the request of the tenant who wished to "tell his side of the story."

Mr. Rodney Teixeira testified that he had always tried to comply with the Board's requirements. He explained that he had not returned to the November 8th meeting because of heavy rains, and told the Board that he would arrange to clear the delinquencies with the help of his father.

Member McCrory noted that she would prefer not to do anything at this juncture and let the previous action stand.

No motion was made. The Board's action of November 8, 1996 stands.

**ITEM D-6 TWO (2) ASSIGNMENTS OF GRANT OF NON-EXCLUSIVE EASEMENT
UNDER LAND OFFICE DEED NO. S-27766, MAKIKI, HONOLULU,
OAHU - TMK: 1ST/2-5-05:5**

Mr. Jim Brock explained the applicant's request.

By a unanimous vote of the five members present, Item D-6 was approved as submitted (Nekoba/Mastumoto). (Chairperson Wilson was not present for the vote.)

**ITEM D-8 REQUEST FOR PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ACCESS
AND UTILITY PURPOSES, OLAA RESERVATION LOTS, PUNA,
HAWAII, TMK: 1-8-05: ABUTTING 30**

Member Yuen noted that the applicant should not have to pay to improve "paper" roads over lands owned by the State, to get to lots which had been sold by the State to the private landowners. He noted that these are roads a "there," the State has just not gotten around to "develop" them. No public testimony was presented.

By a unanimous vote of the five members present, Item D-8 was approved as submitted (Yuen/Kennison). (Chairperson Wilson was not present for the vote).

ITEM D-10 AMENDMENT OF PRIOR BOARD ACTION DATED SEPTEMBER 24, 1993
(AGENDA ITEM F-8), DIRECT LEASE TO SAVE A NATION, INC.
LOTS 3, 4, 5, WAIMANALO AGRICULTURAL PHASE II, WAIMANALO,
OAHU, TMK: 4-1-10: 79 (POR.)

Mr. Uchida noted that the applicant's representative, Mr. Bumpy Kanahale had requested a deferral on this matter until discussion with the Attorney General's office could take place.

No public testimony was presented.

Member Yuen noted that he would be amenable to deferral, however, requested that the staff research the ramifications of changing the character of use.

By a unanimous vote of the five members present, Item D-10 was deferred (Kennison/McCrory). (Chairperson Wilson was not present for the vote).

ITEM D-13 DIRECT ISSUANCE OF A PERPETUAL NON-EXCLUSIVE EASEMENT TO
THE CITY AND COUNTY OF HONOLULU, DEPARTMENT OF PUBLIC
WORKS FOR A SIDEWALK EASEMENT AT THE LAULIMA TRACT, AIEA,
EWA, OAHU, TMK: 1ST/9-9-12: 45 (PORTION)

No public testimony was presented.

By a unanimous vote of the five members present, Item D-13 was approved as submitted (Nekoba/Matsumoto). (Chairperson Wilson was not present for the vote).

ITEM D-14 CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-4093,,
CONSENT TO MORTGAGE OF GENERAL LEASE NO. S-4093 AND
EXTENSION OF TERM ON GENERAL LEASE NO. S-4093, LOT 44,
WAIMANALO AGRICULTURAL SUBDIVISION, WAIMANALO,
KOOLAUPOKO, OAHU, TMK: 1ST/4-1-27: 02

Member Matsumoto stated that assignees of lessees should be screened much in the same manner that bidders (potential lessees) are screened. He noted that present method of assignment potentially allowed for unqualified "bidders" to get State lands.

Mr. John Lehnert was present to answer questions of the Board. He testified that the parcel would be used for passion fruit and honeybee cultivation.

By a unanimous vote of the six members present, Item D-14 was approved as submitted (Nekoba/Matsumoto).

ITEM D-22 APPROVAL FOR THE STATE OF HAWAII FLOOD HAZARD MITIGATION PLAN

No public testimony was presented.

By a unanimous vote of the six members present, Item D-22 was approved as submitted (Matsumoto/Kennison).

ITEM C-1 REQUEST FOR THE BOARD TO ENACT PROVISIONS OF ACT 050 ESTABLISHING: (1) REQUIREMENTS, PROCEDURES AND A FEE FOR THE ISSUANCE OF HUNTING GUIDE LICENSES AND (2) SPECIAL CONTROLLED SHOOTING PRESERVE SHOOTING PERMITS FOR NON-RESIDENTS WHO HUNT FOR ONE DAY OR LESS

No public testimony was presented.

By a unanimous vote of the six members present, Item C-1 was approved as submitted (Yuen/Kennison).

ITEM D-23 APPROVAL 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 (ACT 294/SLH 96); TMKS: 1ST/9-1-75: 44, 1ST/9-2-01: 01, 1ST/9-2-02: 01, 1ST/9-2-04: 05

Mr. Uchida displayed a map depicting the lands slated for the exchange.

No public testimony was presented.

By a unanimous vote of the six members present, Items D-23 and D-24 were approved as submitted (Nekoba/McCrory).

ITEM D-24 APPROVAL 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 (ACT 295/SLH 96); TMKS: 1ST/9-1-17: 04, 1ST/9-1-16: 08, 1ST/9-1-18: 01

See Item D-23.

ITEM D-18 FORFEITURE OF GENERAL LEASE NO. S-3618, LAUPAHOEHOE TRANSPORTATION CO., INC., LOT 34, KANOELEHUA INDUSTRIAL LOTS, WAIAKEA, SOUTH HILO, HAWAII, TMK; 3RD/2-2-49: 09

Mr. Nobu Shimohara testified that he is currently in the process of finding buyers for the business. He noted that a change of address resulted in mail being forward to the wrong address. Mr. Shimohara requested that the Board defer action for 90 days until a buyer could be found.

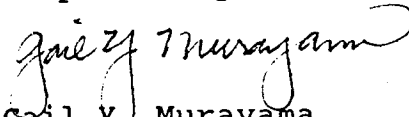
By a unanimous vote of the five members present, Item D-18 was deferred (Matsumoto/Kennison). (Chairperson Wilson was not present for the vote).

Due to the lateness of the hour, Items B-1, D-19, D-21, J-1, K-1, K-2, K-3, K-4, and K-6 were deferred.

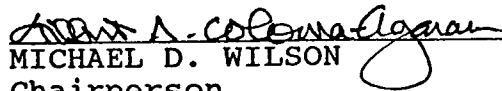
There being no further business, Acting Chair Yuen adjourned the meeting at 5:05 p.m.

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 V. Murayama
Secretary

Approved for submittal:


MICHAEL D. WILSON
Chairperson
Board of Land and Natural Resources

