

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

DATE: FEBRUARY 14, 1997
TIME: 9:00 AM.
PLACE: LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII

PRESENT:

Members:	Michael H. Nekoba	Michael Wilson
	William Kennison	Christopher Yuen
	Colbert Matsumoto	Lynn McCrory

Staff: Michael Buck
Bill Devick
Kim Lowe
Ralston Nagata
Dave Parsons
Bill Sila
Dean Uchida
Aulani Wilhelm

Guests:	Attorney General	Glenn Koyama D23
	Cynthia Adair D24	Steve Kubota E2
	Juliet Begley D16	David Kurayama D25
	Ululani Beirne E2	Tom Machenko E1
	Dennis Chun E2	Pua Martinez E2
	Larry Cobb, DOT	Cliff Miller D25
	Robbie Dingeman	Ed Nelson B1
	Peter Garcia, DOT	Mike Nelson B1
	Debra Gorai E2	Linda Paul B1
	Sunny Greer E2	Bob Schneider D20
	Wallace Hayashi E2	Ben Shafer E2
	Philip Helfrich D23	Ed Sugei D18
	Chuck Helsley B1	Scott Vogel B1
	Mark Jeffers D22	John Michael White
	Mr. Kanaka B1	Greg Wongham D21
John Kelly B1		

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 parties present. A copy of the agenda is attached for reference.

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

APPROVAL OF MINUTES OF NOVEMBER 17, 1995 AND JANUARY 10, 1997.

**The Minutes of November 17, 1995 were approved as submitted.
(Matsumoto/Nekoba)**

**The Minutes of January 10, 1997 were approved as submitted.
(McCrary/Kennison)**

B-1 REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII FOR "ADMINISTRATIVE SERVICES TO CONDUCT THE HAWAII FISHERMEN'S FESTIVAL" UNDER THE MAIN HAWAIIAN ISLANDS MARINE RESOURCES INVESTIGATION.

Bill Devick, Acting Administrator for the Division of Aquatic Resources (DAR) amended the proposal to reduce the cost to the Division to \$10,000, which would be divided between the General Fund (\$7,500) and the Federal Fund (\$2,500). Dr. Kimberly Lowe explained the concept of the fishermen's festival, which is designed to set up a forum for fishermen to receive and give information concerning how to manage the fishery resources in a more sustainable manner. The format of the festival will include all sectors of the fishing community, commercial, recreational, subsistence, and people who fish with pole, line and net. Dr. Lowe responded to questions regarding expected participation format and community involvement. Dr. Lowe noted that the steering committee has members from almost every fishing sector, OHA, Waianae Harbor Master, Hawaiian Dive Council, Sea Grant, and that the editor from Hawaii Fishing News has already put out an announcement for the festival and will be updating fishermen.

Mike Nelson, representing The Gil Fishing Association in Kona, testified that numerous politicians back the festival and asked that the Board do the same.

Ed Nelson of the Waianae Boat/Fish Club testified that the DLNR needs to get the fishermen behind their fishing programs. He said the festival is the perfect way to introduce the fishing community to department programs and to gain their support, which is needed for them to succeed. Nelson responded to questions from the

Chairperson regarding his experiences as a former bottom fisherman.

Chuck Helsley of the Sea Grant Program testified. He spoke in support of the festival and the need to educate fishermen about needing large fish to propagate the various species. He was concerned with the amendment by staff to reduce the funding.

William Aila, Harbor Master of Waianae Boat Harbor testified in support of the festival as a member of the fishing community.

Chairperson Wilson commented that DLNR is working on stock enhancement technologies which has worked in Hilo Bay. He mentioned the Governor's initiative before the legislature proposes a \$2 million increase in budget, partially so DLNR can move ahead with stock enhancement and to have better communication with the fishermen and be able to be a better job with artificial reefs. "The idea that we have is if you have got a group of healthy fishermen, especially if they are able to make a living in the habitat. It shows that you have a decent habitat, that's what we would like to move towards more in the future, but the fact that so many people have gotten together to organize this may mean that we are getting close to a turning point."

Scott Vogel of Sea Grant testified that the festival approach has a history of 20 plus years in Maine as a communication tool between all parties, and has been quite successful.

Linda Paul of the Hawaii Chapter of the American Fisheries Society also testified. "The idea of the festival was first discussed at an AFS meeting - but its taken three years because of a lack of seed money." Paul testified in support of the festival and the need for seed money.

Mr. Kanaka a fisherman from the Windward side of the island testified in support of the festival.

John Kelly of Save Our Surf testified that he was in support of the festival. His testimony was lengthy and focussed on Save Our Surf and not on the submitted item.

By a unanimous vote of the Board, the item was approved with amendment that the cost to the Division be reduced to \$10,000 to be divided between the General fund (\$7,500) and the Federal Fund (\$2,500). (Matsumoto/Nekoba)

Chairperson Wilson left the meeting and William Kennison acted as the Chairperson.

J-1 CONSENT TO ASSIGNMENT OF GENERAL LEASE, ALA WAI BOAT HARBOR, HONOLULU, ISLAND OF OAHU

Dave Parsons, Administrator of DOBOR, briefed the Board.

Member Matsumoto said in the consent to the assignment of lease to the State, which didn't seem to be a standard consent, it releases Seibu Railway from further liability under the lease, he asked whether the intent was to utilize that same consent form? Parson recommended that the standard consent forms that are presently required by the Department and recommended by the Attorney General to used.

There was no public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Nekoba/Matsumoto)**

J-2 REQUEST PERMISSION TO CONDUCT PUBLIC HEARINGS TO AMEND TITLE 13, CHAPTER 256, HAWAII ADMINISTRATIVE RULES

Parsons submitted a request for approval to conduct public hearings on proposed amendments to Title 13, Chapter 256 HRS with regards to the South Shore of Kauai Recreation Management Area and the Wailua River Restricted Area.

There was no discussion and public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Matsumoto/Nekoba)**

D-22 REQUEST FOR DIRECT LEASE TO THE STORYBOOK THEATER OF HAWAII FOR CULTURAL AND EDUCATIONAL PURPOSES, LOT 21-A, HANAPEPE, WAIMEA (KONA), KAUAI, TMK: 1-9-5: 41

Dean Uchida said that it will cost \$362,500 to restore the building after Iniki's devastation.

Mark Jeffers of Storybook Theater of Hawaii testified that they have shored up the structure, bought insurance and are ready to lease the building. He said the Children's show is broadcasted.

There was no public testimony.

**By a unanimous vote of the Board, the lease was approved.
(McCrorry/Nekoba)**

D-14 REQUEST FOR EXTENSION OF TIME - CONSERVATION DISTRICT USE PERMIT OA-2471, FLOATING DOCK FACILITIES AT HAWAII KAI MARINA, KUAPA POND, HAWAII KAI, OAHU; TMK: 3-9-8: 35

Dean Uchida briefed the Board and said this was a request for a 4th extension for the project and have indicated that they are prepared to proceed with the development.

Richard Regels who represents Nansay Hawaii said this project has been subjected to a long and involved lease fee negotiation with the landowner of the property which should be resolved within the next two months. Regels said he feels it is important to maintain the Marina permit with the hope that they can resolve their business dealings with the landlord. In response to Member Matsumoto's question on the estimated value of the project, Regels said the capacity is for 80 to 120 docks which would be a 2 or 3 million dollars project.

There was no public testimony given.

**By a unanimous vote of the Board, the item was approved as submitted.
(Nekoba/Matsumoto)**

D-21 REQUEST BOARD APPROVAL, EXTENSION OF TIME, COMPLETION, TENANT IMPROVEMENTS, GENERAL LEASE NO. S-5261, SAND ISLAND BUSINESS ASSOCIATIONS, SAND ISLAND INDUSTRIAL PARK, HONOLULU, OAHU, TMK: 1-5-41

Dean Uchida, Administrator of the Land Division requested the withdrawal of the item so that staff could return with a "tighter proposal" and allow the staff more time.

Greg Wongham testified against the two year extension that the Sand Island Business Association (SIBA) is seeking. He had lengthy testimony regarding his experience at Sand Island and alleged illegalities and improprieties. Acting Chairperson Kennison asked Wongham to address the substance of the agenda item.

Member Matsumoto provided his understanding that the State has a landlord/tenant relationship with SIBA rather than the partnership described by Mr. Wongham. Member Matsumoto and Wongham discussed the specific relationship of the BLNR and SIBA, as agreed to in the Master Lease.

In response to Member Matsumoto's inquiry on whether he had any comments on the proposed extension, Wongham stated that he would be opposed to any

extensions granted to SIBA until the investigation of their "illegal" activities has been completed, among other demands.

**By a unanimous vote of the Board the item was withdrawn.
(Matsumoto/Nekoba)**

D-23 CONSERVATION DISTRICT USE APPLICATION TO CONSTRUCT A MARINE LABORATORY AND SUPPORT FACILITIES AT THE HAWAII INSTITUTE OF MARINE BIOLOGY'S EXISTING RESEARCH/EDUCATIONAL COMPLEX LOCATED AT COCONUT ISLAND, KANEOHE, OAHU, TMK: 4-6-01: 01 & 51

Staff stated that the application is for three structures at Coconut Island and that the City & County had concerns regarding the wastewater system.

The applicant Glenn Koriyama (contractor) explained the staging area for construction. He stated that the use of the Heeia Kea pier may impact commercial users of the pier. The contractor has a preliminary agreement with Kaneohe Marine Base to use their dock for construction materials. Philip Helfrich, project manager, also spoke to the Board.

Board members suggested to Mr. Helfrich and Mr. Koyama that boaters in the area be kept informed of the new aquatic traffic.

There was no discussion or public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Nekoba/McCrory)**

D-20 DIRECT SALE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITY PURPOSES AT PUUWAAWAA, NORTH KONA, HAWAII, TMK: (3) 7-1-2-5

After the staff presentation, Bob Schneider, representing the applicant, asked the Board to approve the easement.

There was no discussion or public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Matsumoto/Nekoba)**

NOTE: Member Yuen later in the meeting (after D-19) requests from staff that they supply him with the findings of the Planning section, (which were not included with

the staff's submittal) where they conclude that no CDUA was required for that proposed easement extension.

E-2 RESUBMITTAL - POLICY TO EXTEND THE FEBRUARY 15, 1997 BUILDING REQUIREMENT DEADLINE FOR APPLICABLE KAHANA VALLEY RESIDENT LESSEES

Staff stated that this proposal was a follow-up of the January 23rd meeting for deferral at which two representatives of Housing, Finance & Development Corporation Wallace Hayashi and Dennis Chun were present. Public testimony was extensive and Ralston Nagata stated that the extension would be needed by the following week.

Member Nekoba discussed with staff and Hayashi how sweat equity would be documented and valued with regard to the \$50,000 budgets.

Chairperson Wilson returned to Chair the Board meeting.

Nagata stated that the Board may have made decisions on individual terminations and except for approximately 6 families, they are on schedule.

Debra Gorai testified in support of the extension and asked for a 25 hour waiver to extend beyond the first year. Ben Shafer testified that his waiver was extended a couple of years and that he supported the extension.

Pua Martinez testified and requested for the extension. Ululani Beirne testified in support of the extension. She did not support the recommendations of the submittal. Ms. Beirne brought along her mortgage slip to show that she has made six payments of \$415, but has yet to receive any of the principal for payments of construction. She objected to HFDC's remarks regarding budgets and stated that she needed to have her funds released now, and that others in Kahana have the same problem.

Ms. Beirne asked the Board to help them in Kahana. Member Nekoba expressed concern with how the approvals from HFDC worked. Discussion ensued regarding Beirne's payments without receipt of construction funds. Hayashi stated that the payments must be for insurance. Ms. Beirne reminded the Board that Bank of Hawaii is just a "pass through" for the funding, HFDC has control of the money.

Stephen Kubota testified as a representative of Ahupuaa Action Alliance (AAA) and native tenant rights. He spoke about termination of leases which is why AAA is concerned (Kahana is the last undeveloped ahupuaa on Oahu).

Sunny Greer spoke before the Board regarding the Thorn-Evans family and their decision to place the home in another family member's name. She supported the extension.

Member Nekoba commented that since people are very close to meeting the conditions, but will not meet these conditions by February 18th, he wanted to amend the recommendation so that conditions will be used as a guideline for lease extension rather than a hard and fast rule that if they didn't meet them by February 18th (that their) leases are terminated.

Nagata suggested that individual tenants could bring such concerns to the Board. Member Nekoba moved to approve E-2 with an amendment that the conditions are to be used as a guideline.

By a unanimous vote of the Board, the item was approved with amendment that the conditions be used as a guideline. (Nekoba/Kennison)

*E-1 ESTABLISHMENT OF A CURATOR AGREEMENT AT KUKANILOKO
BIRTHSTONES STATE MONUMENT, WAHIAWA, OAHU*

Tom Machenko representing the Hawaiian Civic Club of Wahiawa testified that for the past 47 years their organization has taken care of Kukaniloko. They appreciate that the Board has recognized them officially. A Board member praised the civic club for their work.

There was no public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Nekoba/Kennison)**

*D-24 CONSERVATION DISTRICT USE APPLICATION FOR A SINGLE FAMILY
RESIDENCE AT KANEOHE, OAHU, TMK: 4-4-38: 02*

Uchida said there is a concern for erosion run-off and explained that the applicant indicated that the new house was for their family, while the second house on the lot was for other family members. He said staff recommendation is the Board's approval with 22 conditions.

Applicant Cynthia Adair testified that it was not their intention to subdivide the lot.

Member Yuen asked whether she understood that she can build on more than one existing zoning without subdividing or doing a CPR. Ms. Adair said yes. Member Yuen provided an example. In the County of Hawaii, a 30,000 square feet lot with residential zoning on 10,000 square feet of it, that the owner can put 3 houses on that lot without rezoning or without subdividing. If you want to have separate ownership, either a subdivision or a CPR report would be needed. He considered this a loop hole to get around subdividing land, particularly in the agricultural area. Ms. Adair noted that they had no desire to build on the R5, because that would impact the neighbors. Member Yuen expressed concern that the next time staff looks at something like this, that drawing the line between urban and conservation zoning should not give her another chance to build another house. Ms. Adair indicated that they did not intend to use the property for rentals or other commercial purpose.

There was no public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Nekoba/Matsumoto)**

*D-16 CONSERVATION DISTRICT VIOLATION AT PUU PAPAA, WAIMANALO,
OAHU; TMK: 4-4-12: 2*

Member Nekoba wondered if \$2,000 is the maximum fine that could be imposed by the Board. Uchida answered yes. Member Nekoba felt that GTE knew that it was violating the law, but chose to do so, and that \$2,000 was a small sum to pay for that activity. Staff stated that DLNR has to notify GTE of a violation, and if nothing is done to correct it from that date, other fines may accrue. However, GTE ceased to use the facility once they were notified of the violation by DLNR. Chairperson Wilson was not convinced that this interpretation by staff of the law was correct.

Member Yuen expressed his concern with calculating the amount of a fine. He expressed the need to have the authority to make violation fines fit the offense to strengthen the deterrent effect of the fine. Nekoba stated that they could ask GTE to dismantle it, which would be costly to GTE.

Randal Hammet, architect for GTE Mobilnet stated that it was not their intent to build something and hope that they didn't get caught. He explained the violation was discovered in December and GTE Mobilnet applied for the permit in August. Hammet admitted guilt in building it but said they intended to get the approvals.

Dwayne Tanouye, Director of the GTE Mobilnet Network Operations, said that they are a subsidiary of GTE and NOT related to Hawaiian Telephone. He said, with

regard to the process, he was the one at fault. He said they have been on the most aggressive build-out schedules in Mobilnet's 10 years putting up close to 30 cell sites in the past 2 to 2 1/2 years, whereas they did 3 sites a year before. After questioning by Members Nekoba and Yuen, Tanouye stated that it was his responsibility and he is prepared to dismantle the site if that was what the Board wished.

Juliet Begley, a member of the audience, suggested to the Board that the administrative costs of \$94 appeared to be minimal and that might be an area where a significant charge could be added. Staff was instructed by the Chairperson to supply a breakdown of those costs.

Member Nekoba moved to defer the submittal until the Attorney General renders an opinion regarding the maximum fine that the Board may apply for "willful" violations.

By a unanimous vote of the Board, the item was deferred. (Nekoba/McCrory)

D-18 AMENDMENT OF PRIOR BOARD ACTIONS DATED SEPTEMBER 29, 1995 (AGENDA ITEM F-12) AND AMENDED ON JUNE 28, 1996 (AGENDA ITEM D-7) DIRECT ISSUANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITY PURPOSES TO MR. DAVID CREEKMORE, ET. AL., SITUATED AT WAIOHULI-KEOKEA, KULA, MAKAWAO, MAUI, TMK: 2ND/2-2-04 PORTION OF PARCEL 66

Staff presented their recommendations. Ed Sugei, the attorney representing the owners, testified before the Board that the new lessee for the easement is "Association of the Owners of Views at Kokea."

There was no discussion or public testimony.

By a unanimous vote of the Board, the item was approved. (Yuen/Kennison)

D-1 REQUEST FOR RIGHT-OF-ENTRY FOR ROAD CONSTRUCTION PURPOSES AND AUTHORIZATION TO CONVEY SAME TO THE COUNTY OF HAWAII, KALAOA, NORTH KONA, HAWAII, TMK: 7-3-10: ABUTTING 37

There was no discussion or public testimony.

By a unanimous vote of the Board, the item was approved. (Yuen/Kennison)

D-2 DEPARTMENT OF HEALTH REQUEST AUTHORIZATION TO ISSUE REVOCABLE PERMIT TO THE HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL, OLD HONOKAA HOSPITAL, HONOKAA, HAWAII, TMK: 4-5-10: 27

There was no discussion or public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Yuen/Kennison)**

D-3 ASSIGNMENT OF GENERAL LEASE NO. S-5052, LOT 4, PUU KA PELE PARK LOTS, WAIMEA, KAUAI, TMK: 1-4-02: 30

There was no discussion or public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(McCrory/Nekoba)**

D-4 REQUEST FOR EXTENSION OF CONSTRUCTION DEADLINE, SPECIAL SALE AGREEMENT NO. S-5598, LOT 99, HANAPEPE TOWN HALL LOTS, FIRST SERIES, HANAPEPE, WAIMEA (KONA), TMK: 1-9-10: 50

Member McCrory questioned the applicant's financing and said that there are no more extensions. Member Matsumoto asked whether the payments to the State were current and staff said they were.

There was no public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(McCrory/Matsumoto)**

D-5 AMENDMENT TO PRIOR BOARD ACTION OF JANUARY 12, 1996 (AGENDA ITEM F-20) FOR THE ISSUANCE OF A RIGHT-OF-ENTRY TO THE DEPARTMENT OF HAWAIIAN HOME LANDS TO A 12.00-ACRE PORTION OF THE STATE OWNED LANDS AT HANAPEPE, KAUAI, HAWAII, TMK: 4TH/1-8-07: 03 (PORTION)

There was no discussion or public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(McCrory/Matsumoto)**

D-6 EXTEND IMPROVEMENT DEADLINE AND CONSENT TO SUBLEASE THE PREMISES DEMISED UNDER GENERAL LEASE NO. S-5186, LOT 2, BLOCK 40, WAIAKEA, SOUTH HILO, HAWAII - TMK: 3RD/2-2-37: 96

Staff requested that submittal be withdrawn because of a problem of interpretation of the improvement condition on the lease and requested additional time to examine the issue.

There was no public testimony.

**By a unanimous vote of the Board, the item was withdrawn.
(Yuen/Kennison)**

D-7 REQUEST TO AMEND THE BOARD'S SEPTEMBER 13, 1996 AGENDA ITEM D-12 APPROVAL REGARDING THE DIRECT ISSUANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT FOR DRAINAGE PURPOSES ON GOVERNMENT LAND, IDENTIFIED BY TMKS: 5-3-02: 72 AND 5-3-09: 07, SITUATE AT KAUNAKAKAI, ISLAND OF MOLOKAI

There was no discussion or public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Kennison/Yuen)**

D-8 GEORGE A.K. AND MARTHA S. KRUSE REQUEST FOR EXTENSION OF THE DEFAULT DEADLINE FOR GENERAL LEASE NO. S-5078, LOT 48, PUU KA PELE PARK LOTS, WAIMEA

Members McCrory and Matsumoto spoke about the gap in coverage for liability insurance. In addressing this concern, the Board required that if the lessee is successful in securing insurance, the insurance coverage must be retroactive, so that the State will not be exposed.

Board amended the staff recommendation by adding, the requirement of General Lease No. S-5078 and such coverage shall be retroactive from the time the prior policy expired.

There was no public testimony.

By a unanimous vote of the Board, the item was approved with amendment to add the requirement of General Lease No. S-5078 and such coverage shall be retroactive from the time the prior policy expired. (McCrory/Matsumoto)

*D-9 FORFEITURE OF GENERAL LEASE NO. S-4639, THOMAS KASECKY,
KA'APAHU, HAMAKUA, HAWAII - TMK: 3RD/4-4-11: 33*

Uchida said Kasecky cannot obtain insurance. Kasecky called to say he was working on it but has not brought anything in yet, this has gone on for six months. Uchida said he has been notified.

There was no public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Yuen/Kennison)**

*D-10 REQUEST FOR AN ISSUANCE OF A REVOCABLE PERMIT BY LEROY AND
ROSA HOOPII, HUSBAND AND WIFE, FOR PASTURE PURPOSES ON
GOVERNMENT LANDS, IDENTIFIED BY TMK: 3-1-02 POR. 16, SITUATE AT
KAHAKULOA, WAILUKU, MAUI*

Staff requested that this item be withdrawn because no mention is made in the submittal about the CDUA requirement for the revocable permit.

There was no discussion or public testimony.

**By a unanimous vote of the Board, the item was withdrawn.
(Kennison/Matsumoto)**

*D-11 WITHDRAWAL OF LANDS FROM THE HONOLULU WATERSHED FOREST
RESERVE BY GOVERNOR'S EXECUTIVE ORDER AND RESET ASIDE TO THE
DIVISION OF STATE PARKS, STATE OF HAWAII, FOR THE MAKIKI VALLEY
STATE PARK AND THE PUU UALAKAA (ROUND TOP) STATE PARK, AT
MAKIKI AND TANTALUS, HONOLULU, OAHU, TMK: 1ST/2-5-09: 08
(PORTION), 2-5-20: 04 (PORTION), 2-5-20: 05 (PORTION), 2-5-19: 03
(PORTION), 2-5-19: 04 (PORTION)*

Uchida said two areas are being set aside, one area is 110 acres and the other area is 104 acres.

There was no public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Nekoba/McCrory)**

D-12 DEPARTMENT OF HEALTH REQUEST APPROVAL OF AMENDMENT NO. 10 OF LAND OFFICE DEED LOPP-OA-06, WAIKIKI, HONOLULU, OAHU, TMK: 1ST/2-6-03: 24

Member Matsumoto expressed concern regarding the \$1,700 month cost for 439 square feet for the lease. Uchida said the site is the corner where Beachwalk turns off of Kalakaua. He said Department of Health (DOH) doesn't care how much it costs because these are federal funds.

There was no public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Nekoba/McCrory)**

D-13 REQUEST BOARD APPROVAL FOR THE DIRECT ISSUANCE OF AN AFTER-THE-FACT PERPETUAL NON-EXCLUSIVE EASEMENT TO THE BOARD OF WATER SUPPLY, CITY AND COUNTY OF HONOLULU, FOR WATERLINE PURPOSES IN CONJUNCTION WITH THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES (DAGS) JOB NO. 12-16-7023 AT THE WAIANAE INTERMEDIATE SCHOOL, AT WAIANAE-KAI, WAIANAE, OAHU, TMK: 1ST/8-5-28: 42

There was no discussion or public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Matsumoto/Nekoba)**

D-15 DIRECT LEASE TO QUALIFIED WAIMANALO PERMITTEES OF AGRICULTURAL REVOCABLE PERMITS

There was no discussion or public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Nekoba/Matsumoto)**

D-17 REQUEST FOR TIME EXTENSION OF NOTICE OF DEFAULT AFFECTING GENERAL LEASE NO. S-5076, HELEN S. VIERRA AND THOMAS W. VIERRA, LOT 46, PUU KA PELE PARK LOTS, WAIMEA (KONA), KAUAI, TMK: 1-4-2: 36

Staff stated that this submittal is similar to D-8. Again the Board has concerns

about the "gap" in insurance coverage.

There was no public testimony.

By a unanimous vote of the Board, the item was approved with amendment that the new liability coverage shall be retroactive from the time that the policy expired. (McCrorry/Nekoba)

D-19 REQUEST FOR CONSENT TO DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM REVOCABLE PERMIT NO. 014, PORTION OF THE HAWAII FILM STUDIO, SITUATE AT KAPAHULU, WAIKIKI, OAHU, HAWAII, TMK: 1ST/3-1-42: 09 (PORTION)

Staff stated that the filming is for "George of the Jungle".

There was no public testimony.

By a unanimous vote of the Board, the item was approved as submitted. (Nekoba/Matsumoto)

NOTE: After the item is approved Member Yuen comments on D-20, and requests a copy of the Planning section of the submittal which is not in his Board packet.

E-3 REQUEST FROM THE BIG ISLAND FARM BUREAU TO USE THE OLD KONA AIRPORT STATE RECREATION AREA IN KAILUA-KONA, HAWAII, FOR A BIG ISLAND FARM FAIR

Staff requested an amendment to the agreement so that there would not be \$100 a day charge.

Member Yuen pointed out that this site will not be available next year.

There was no public testimony.

By a unanimous vote of the Board, the item was approved with the amendment that there will be no \$100 a day charge. (Yuen/Nekoba)

K-1 LEASE - VENDING MACHINE AGREEMENT, HONOLULU INTERNATIONAL AIRPORT, OAHU, KAHULUI AIRPORT, MAUI, HILO INTERNATIONAL AIRPORT AND KEAHOLE-KONA AIRPORT, ISLAND OF HAWAII, AND LIHUE AIRPORT, KAUAI (SMART CARTE INC.)

There was no discussion or public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Matsumoto/Nekoba)**

K-2 ISSUANCE OF REVOCABLE PERMIT, 39/40 AND 52, HONOLULU HARBOR, OAHU (TROPICAL TASTES OF HAWAII, INC.)

There was no discussion or public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Nekoba/Matsumoto)**

K-3 ISSUANCE OF REVOCABLE PERMIT, NEAR PIER 42, HONOLULU HARBOR, OAHU (GUTTER GUYS, A HAWAII GENERAL PARTNERSHIP)

Member Matsumoto inquired about the inconsistent use as he assumed that the applicants were a gutter manufacturing company. Garcia agreed but said that they are trying to get as much revenue as they can since there were many empty spaces and would continue the practice until they have a harbor use.

There was no public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Nekoba/Matsumoto)**

K-4 AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO DISPOSE OF HIGHWAY REMNANT, HANA BELT ROAD, MAUI, FEDERAL AID PROJECT NO. 32-A(1) (STEPHEN WICKES)

There was no discussion or public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Nekoba/Kennison)**

*K-5 ISSUANCE OF REVOCABLE PERMIT, PIER 18, HONOLULU, OAHU
(DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF
CONSERVATION AND RESOURCE ENFORCEMENT) - (RESUBMITTAL -
DEFERRED ITEM)*

Chairperson Wilson said it was not to his understanding that DOCARE would necessarily have to relocate. Larry Cobb, Property Manager of the Department Of Transportation (DOT) said it was his understanding that those activities should be conducted from recreational boating facilities because that's the market they serve. He said DOT doesn't have any particular objection to DOCARE occupying space in the commercial harbors, but they feel that they would be better located within their own facilities. Cobb explained the reason for the deadline is that there is a problem with Harbor Patrol's location and that they have to vacate a trailer. He said there are penalties involved in their continued occupancy at the present location and so the Harbor Patrol has to move. Member Matsumoto said both DOT and DLNR have problems and asked whether based on Cobb's knowledge of the facilities that are available, whether the problem can be cured in this time frame. Cobb said it's a possibility, but didn't know what was available. Member Nekoba stated that the problem is that DOT's Harbor Patrol and DLNR's Marine Patrol, doesn't get along.

*K-6 ISSUANCE OF REVOCABLE PERMIT, KAHULUI HARBOR, MAUI
(DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF
CONSERVATION AND RESOURCE ENFORCEMENT) - (RESUBMITTAL -
DEFERRED ITEM)*

There was no discussion or public testimony.

**By a unanimous vote of the Board, the item was approved as submitted.
(Kennison/Matsumoto)**

*K-7 ISSUANCE OF LEASE BY DIRECT NEGOTIATION, PIER 38, HONOLULU
HARBOR, OAHU (PIER 18 DEVELOPMENT, INC. DBA PIER 18 MARINE
SERVICE) - (RESUBMITTAL - DEFERRED ITEM)*

Peter Garcia explained the reasons behind certain lease rent increases. In response to Member Nekoba's question of why the rent was waived for the first five years, Garcia said because of the construction, the Statute authorizes that whenever there is construction goin on a State property that the rental can be waived up to one year. He said the Department waives the rental until the building is completed or that there is beneficial occupancy for one year, whichever is first.

Member Matsumoto's understanding is that the reason this is a direct lease as opposed to an auction, is for competitive reasons. The Department has made a

decision that there is not enough competition in this area, providing this service and that the concern is that if it went out to open bid then the existing marine repair facilities would be able to acquire the site. Garcia said it would create a monopoly in shipping operations and by doing this, it would encourage competition. He said this is to develop and operate a marine repair facility, primarily for the benefit of the commercial fishing industry. Garcia said the applicant is trying to create a fishing village and that all of the fishing vessels are at that location.

Conversation between Garcia and Cobb took place as they tried to recall terms at which various marine repair facilities operate under RP and lease, etc. Chairman Wilson thought that IF direct negotiation made sense for marine repair facilities then it should be applied unilaterally. He did not understand how some have gone to bid, while others have been directly negotiated. Cobb said DOT advertised but that the only company that responded was the applicant. He said the notice was general on space availability in the commercial harbors on a wide variety of terms and conditions and for a wide variety of uses connected with the maritime industry. Cobb said in the 2020 Master Plan, there are plans for different operations and uses within the commercial harbors.

Garcia explained that because of the squeeze for harbor revenues and that DOT has to give 20% off the top, Tom Fujikawa is looking for ways to increase revenues. He said there are only 2 ways to increase revenues and that is by land rent and increasing harbor fees by 45%. Garcia said this is to "balance the books" and trying to create an interest in properties for more income. He said the tenants would have to pay fair market rent.

Member Matsumoto said he would like to know about the market of invited potential investors. He said a project of this scale might not be limited to the local investors, that it might be something outside investors would be interested in. Member Matsumoto said he is trying to make sure from a public standpoint, that there is no question on what motivates this direct lease, as opposed to competitive bid basis. He felt it would be appropriate for the Land Board to openly discuss this matter.

There was no public testimony.

**By the unanimous vote of the Board, the item was approved as submitted.
(Nekoba/Matsumoto).**

D-25 APPROVAL OF LETTER OF INTENT BETWEEN NEW OJI PAPER COMPANY, LTD. AND STATE OF HAWAII REGARDING THE INVITATION TO BID (IFB) TO LEASE 5,136 ACRES OF HAMAKUA, NORTH HILO, HAWAII, (TO BE DISTRIBUTED)

Uchida stated that the lease is for 55 years. Staff stated that Oji/Marubeni will post a bond for \$3.5 million and give \$30,000 for state forestry training and education programs for local residents. He said that the whole process has been to stimulate economic growth in the area. Uchida said the submittal listed all the areas of agreement between the State and New Oji Paper Co., Ltd. and that the staff were still working on the specific language. The staff recommendation is that the Board approve the letter of intent and return later with the written lease agreement for the final approval.

Michael Buck stated that the long term growth would be 10% of the total, that the State would supply the seedlings and the company would plant and care for them the first 2 years, then turned it over to the State. The State would own all right of harvest, and Oji would pay no rent where the long term growth trees are grown. These trees are to be visual screens around the farming areas, near the highways.

In response to Member Nekoba, Buck explained that the estimates from planting, forest tending, and assuming there would be about 20,000 acres tree plantation, there would be about 55 direct jobs. He said this, according to DBEDT has a 2.3 multiplier effect and the actual investment in Kawaihae is about \$3.5 million which would provide another 75 jobs. Buck noted that the operation is basically wood chips for export to their paper mill in Japan. The actual plant would be logs going there, chipped and stored, and improvement to the facilities (to accommodate the ships). The Kawaihae facility is on State lands controlled by DOT. Buck noted that among the issues to coordinate through the Office of Planning with the different departments, is a scenario where infrastructure will support the industry. The New Oji Co. doesn't have immediate use of the site, but 5 years from now they need some sort of assurance that they will have the ability to export the wood chips. Discussions also involved the by-pass road, Waimea and Hawaiian Homelands, and other issues involving the Kawaihae site. The applicant needs the information to make plans. The Chairman noted trying to provide facilities for Oji Paper at the Kawaihae area is a major focus in the department's work with DOT. In response to Member Yuen, Buck commented that New Oji has not totally discounted the potential of chipping on site the smaller type, but at this point plans on taking the logs to Kawaihae where the climate is conducive for wood chip drying.

Member Yuen said he had a number of questions to ask but plans to make a motion to defer this because of his policy of wanting to have some kind of written submittal that both the Board and the public can look at in advance. He said it is only fair to the public, especially when making a major decision like this.

He asked to have a copy of the Environmental Assessment (EA) before the next meeting along with a copy of the best management practices. He said he was very pleased with the inclusion of the long term growth areas in the negotiations because it did involve longer rotation and a spin off effect in terms of economics, to have a lumber operation rather than a wood chip operation.

In response to Member Yuen, Buck said the major maintenance on tropical (woods) is within the first two years and dwindles afterwards. Buck did not know what Pru Timber pays for rental as it is proprietary information, but said that it is not a straight rental, that there are some options on timber.

John Michael White, Oji's Land Consultant clarified that it is Oji Paper Company Marubeni Corporation now, no longer New Oji since the merger in October 1996 with Kanzaki Paper Company. He said they are the largest paper company in Japan and the third largest in the world. White said he has worked with the company for approximately 25 years, since the mid-70's. He said with him are David Kuriyama and Cliff Miller of McCorriston, Miho, Miller and Mukai, the counsel for Oji and Marubeni. They have negotiated with Mr. Agaran, Mr. Uchida and Mr. Buck, the terms of the letter of intent. Oji plans to plant a species of eucalyptus trees similar to what is in the area now, similar to what was harvested some years ago, planted back in the 1930's. White said a different species might be considered, depending on the elevation of where the trees will be planted.

Member Yuen asked whether it is replanted after it is cut or is it a regenerating process. White said through experimentation sometimes they are able to improve on the species through tree genetics and that they have not decided on the method. He said they are looking at whichever would yield the highest volume and the highest quality of chips. Buck stated that companies favor stump regrowth.

White said the projection and the presentation that was made to the State in response to the IFP, could be as early as 6 years, but for conservative projection purposes its based on an 8 year cycle. He said at approximately 3,125 acres average per year, a 24,000 acre plantation on the sustainable basis would continually revolve every eight years.

White said the particular criteria that are necessary to sustain the growth makes the project feasible in the Hamakua area. He said in terms of infrastructure the only thing that would be built are the access roads and fortunately, there are some road systems in the former sugarcane lands now. White said those lands have gone fallow for the past couple of years and since the drainage systems have not been maintained for a number of years, they are in dire need of maintenance management repair. White said most of those roads would be used, but that additional road systems would have to be built.

In response to Member Matsumoto's question with regards to the maintenance activities, White said they met with County Council about aerial spraying of herbicides, that was published in the newspaper. He said their proposal that was submitted some time ago precluded the use of any aerial herbicide spraying, that it is a given that it will not be done and that it is not part of Oji's program.

In response to Chairperson Wilson's query of the clearing strategy, White said they have discussed with the County Council and the Councilmember from Hamakua District, the possibility of doing some burning. White said Mayor Yamashiro does not want it in the solid waste disposal facilities. He said they have not decided what or how it should be done. Oji expects that the local contractors will be retained with tractors and equipment to clear the area. White said the ideal time to have done any planting would have been immediately after the cane was harvested, because it seems that the longer the time span goes on, the more difficult it is to clear the land.

White said in response to Member Matsumoto's query of their time table, Oji/Marubeni is very anxious to move forward on the project. He said since February of last year, Oji/Marubeni have been working with State staff to try and finalize the terms. White said the senior management of Oji/Marubeni are due to in to Hawaii in a week, hoping to execute a non-binding letter of intent. The signing of the letter of intent even though is non-binding on either party, actually outlines all the hard line items and begins the due diligence period which involves Oji/Marubeni retaining consultants to do a level I environmental assessment and to address all the issues that have been raised. White said when the due diligence period is completed, Oji/Marubeni will come back to the Board for approval, and as soon as that lease agreement is executed, Oji/Marubeni plans immediately to move forward with this project.

White said the estimated net plantable area comprises of approximately 5,100 acres of which 10% or 500 acres, are allocated to long term growth. Oji/Marubeni would actually be paying rent on the net plantable area, exclusive of the 10% long term growth area. Buck said approximately 4,300 acres are not plantable areas.

White said the final lease document will incorporate some kind of a planting schedule which was submitted to the State a year ago in the comprehensive program which outlines the planting. At the end of an eight year cycle they would begin harvesting the first trees that were planted. New seedlings would be put in and they would go onto the second 3,000 acres, then the third and etc. During a 25 year cycle there would be 4 actual plantings, growth period, harvest for chip trees, the pulpwood trees, compared to one single harvest of the long term growth. He said it is Oji/Marubeni's goal to have a consistent sustainable project and to keep their operations going for the total term of 55 years.

White said the number of jobs will increase in proportion to the amount of work and it will increase when harvesting takes place. He said there will be more jobs created when the processing facility is done. White said Oji/Marubeni has proposed to build a \$3.5 million processing and loading facility at Kawaihae Harbor. He said it would be impractical for Oji or other companies to ship logs away from Hawaii, that the processing should be done here. Oji/Marubeni intends to build a facility unless someone builds one first and if they do, then its possible that they will work together to share a common facility. White said the best place to do chipping and to store the chips is Kawaihae because of the dry climate. He said chipping in the field works, but the weather can be inclement in the area and when chipping in those areas, the mud, rain and fog can be so bad that the operation can be shut down for an indeterminant period of time.

White said Oji/Marubeni has had discussions with Tom Fujikawa of the Harbors Division and Rick Egged who have expressed interest.

White said \$20 or \$30 million is invested into the project before the first harvest takes place and because the harvests are on an annual sequential basis. Seven or eight years of investment is always in the ground even though 3,000 acres are harvested, they still have another 21,000 acres ahead of them. White said all the work has been done and already planted, it is a substantial operation that requires experienced people. White said the proposal to the State outlines Oji Paper Co. has ongoing operations in other countries and attested to the fact that they are experts in what they do. He said they are in areas where they are highly respected, are good employers, with clean facilities, and good operations.

White said the EA was done by the State of Hawaii, to evaluate the State's land and the result as one of the uses is for forestry use. Member Yuen asked whether there was something that does detail what the use of herbicides and pesticides would be? Buck said Oji/Marubeni submitted the actual forestry management plan with all the numbers.

Member Yuen said he wants to defer this matter to the February 28th meeting. Buck said he has accepted an invitation by Senator Soloman and Representative Takamine to talk to the Hamakua Community on February 24th concerning all forestry issues, specifically Oji. Member Yuen said he would like to have materials available for the public to know what the State is planning to do since this is a major decision. Member Matsumoto had some concerns with delaying it mainly because he felt this is an exciting opportunity for the State of Hawaii, as the landowner and also for the State in general for economic diversification. He has heard of Oji Paper in the past and knows that they are a very good company. Member Matsumoto felt for their executives to come to Hawaii for this project is probably a big investment for them in terms of total asset base and said he did not want to give them the wrong kind of signal in terms of the State's interest in their

investment. He stated that the staff has probably tried to do the best job possible negotiating the terms of the letter of intent and felt sure that the final lease documents will address any other concerns that might not have been addressed in the letter. He said he would trust the Chairman to make sure that is the case. Member Matsumoto preferred not to have a deferral of this item.

White reiterated that the letter of intent is a non-binding document, that it will move this project to the next phase of due diligence phase and to negotiate the terms of the lease itself. He said the lease is a comprehensive, binding document, subject to Board approval which he understands would not be signed until it goes before the Board again.

Member Yuen said he looks at the signing of the letter of intent as the State's decision to lease the property. He said it is the Board's responsibility to make the decision and as a Board member, he has to make a responsible decision. Member Yuen said he didn't want to vote on this item today because the Board is being presented with this without a workup (in a timely manner). The attorney from McCarriston Miho Miller Mukai said that they have been negotiating with the State for over a year and this is not something that has been slapped together in the last couple of days. He said they are simply asking the Board to give the Chairperson the authority to finalize a non-binding letter of intent which would then be used by both sides to negotiate further. Further, it is subject to approval by the Attorney General, then by the Board.

Member Yuen still looked at this as being the approval to sign a letter of intent, which means that the Board is willing to lease the land (for that purpose). As far as due diligence, the Board could have issued a right of entry quite some time ago. He said the Board members are all very interested in the project and wants to see it go forward but he said, if he has to make a decision, he wants to feel he had enough time.

Member Nekoba agreed with Member Yuen that it is a "big matter" and said for something like this, the Board should have had a briefing but because this is a non-binding letter, in a depressed area which will create jobs, and it is a long term business, this will just move it along. He said it is not cut in stone, and would not want to delay the process. Member Nekoba said Hawaii has a poor reputation for being an anti-business State and needs to attract more foreign or U.S. business interests to do business and create new industries [in Hawaii]. He said this is the first viable one he has heard of yet. Member Nekoba said he is disappointed that the Board did not have a briefing on something of this magnitude but would like to move forward on this.

White asked if it was possible to authorize the Chairperson to finalize the letter of intent, knowing the letter of intent is non-binding to move the project forward.

Member Yuen said the State is leasing the bulk of State lands at Hamakua for 35 to 55 years and although it is an opportunity, other opportunities are being closed off. He said he would like to give people a chance to know what it is that is being proposed.

Chairperson Wilson said the letter of intent represents a very thoughtful, progressive concept in terms of pursuing the timber industry on the Hamakua coast. He said there are aspects of it that can be expressed to the Community as being progressive, with long term growth areas, with a performance bond, the integration of best management practices, and a number of things that could make the Community feel that they have been very well represented in these negotiations and that they are dealing with a responsible company. Chairperson Wilson said the long term success of the industry seems to be to some extent on how its accepted by the Community. Buck said the State now has information to go out to the public (with) and if in dealing with the community in the due diligence that there are some things that are wrong, then the State has the right to pull out during the 90 day period.

Member Yuen said if it can be understood that this is not a final commitment by the Board on the project, that the only thing that needs to be worked on are a few details, that the only thing the Board is doing is authorizing the Chairperson to sign a non-binding letter of intent, which is meant to move the process forward and it is an expression of the State's interest in having this project, he would then be willing to pass the amended submittal.

Member Matsumoto didn't think it necessary to have a public meeting because the letter of intent is what triggers Oji's expenditure of money to get serious about this deal to hire consultants. He said otherwise, Oji would not go through with this, they are going to say why should we hire all those consultants when we don't even know if we are going to get a contract and so it is not commercially realistic to expect them to do this on that basis. Member Matsumoto said the issues have been raised in terms of the Board's public responsibility and the Board should have talked about why an RP was not initially authorized.

Member Yuen made a motion to defer action until the 28th and to authorize the Chairperson to execute a non-binding letter of intent along with the general terms outlined in the staff submittal with the understanding that this is not a final commitment on the project by the Board and that it is an expression of deep interest by the State in pursuing it, but that there has not been an opportunity for the public to comment on the specifics of the letter of intent. Member Kennison seconded the motion.

Member Yuen clarified with Buck that Buck's function was to make people know that the final decision is not something that is being "crammed down their throat".

Buck agreed.

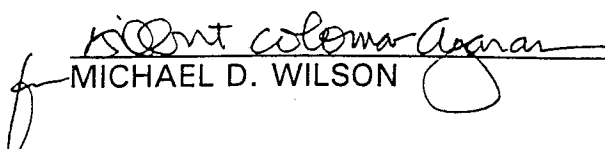
The item was approved as amended and Dean Uchida was instructed by the Chairman to review the language of the amendment with Member Yuen.

1. The final non-binding letter of intent is subject to the review and approval if the Department of the Attorney General;
2. That this action does not signify a final commitment by the Board of Land and Natural Resources for this project;
3. That the Board's action on this matter is an expression of interest by the State in moving this project to the next (due diligence by both parties) step in the process;
4. The final general lease document will be approved by the Board of Land and Natural Resources prior to execution of the lease

**By a unanimous vote of the Board, the item was approved as amended.
(Yuen/Kennison)**

That ended the meeting of the Board of Land and Natural Resources.

APPROVED FOR SUBMITTAL:



MICHAEL D. WILSON

