

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

DATE: FRIDAY, APRIL 23, 1999
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII

Chairperson Timothy Johns called the meeting of the Board of Land and Natural Resources to order at 9:09 a.m. The following were in attendance:

MEMBERS:

Mr. Timothy Johns	Mr. Colbert Matsumoto
Ms. Lynn McCrory (excused at 10:00 a.m.)	Ms. Kathryn Inouye
Mr. Russell Kokubun	

STAFF:

Mr. Dean Uchida, Land Division
Mr. Bill Devick, Division of Aquatic Resources
Mr. Dean Nakano, Commission on Water Resource Management
Mr. Don Hibbard, Historic Preservation Division

OTHERS:

Mr. Jim Wriston (D-1 & D-17)	Ms. Julia Abben (D-8)
Mr. Earl Matsukawa (D-9)	Dr. Gordon Grau (D-11)
Dr. Frank Perkins (D-11)	Ms. Jane Ball (D-11)
Ms. Linda Paul (B-1)	

ITEM A-1: MINUTES OF FEBRUARY 26, 1999

Unanimously approved as submitted (McCrory/Kokubun).

ITEM A-2: MINUTES OF MARCH 12, 1999

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM D-1: DIRECT ISSUANCE OF FIFTEEN-YEAR LEASE FOR SUGAR CANE, DIVERSIFIED AGRICULTURAL AND AQUACULTURAL PURPOSES, KEKAHA SUGAR CO., LTD., KEKAHA, KAUAI

Mr. Dean Uchida, Administrator of the Land Division briefed the Board and amended staff submittal under lease term, changing the expiration date from December 31, 2008, to December 31, 2009. Staff's recommendation is that the Board authorize the direct disposition of a lease to Kekaha Sugar, subject to terms and conditions.

Member Matsumoto was concerned about page 5, No. 5 of the staff submittal that reads: "Another feature allows for the piecemeal return of portions of the plantation to State management." He wanted to make sure the provision did not give Kekaha Sugar the option during the term of the lease to turn back unproductive or non-revenue lands to the State to maintain. Mr. Jim Wriston, representing Kekaha Sugar, indicated that it was his understanding that they would not be able to return only unproductive or non-revenue lands to the State.

There was some discussion about the additional rent credits. Member Matsumoto was concerned about how the credits would be applied as Kekaha Sugar downsizes and releases lands. Members Matsumoto and Inouye were concerned about the infrastructure being maintained properly at the end of the lease and returned back to the State in a certain condition. Mr. Uchida indicated that one of the assumptions made when this rent credit idea was introduced was that the State would be actively seeking new agribusinesses to move onto the lands once Kekaha released the land. Thus, the new tenants would be assessed for the upkeep of the infrastructure on a pro-rata basis. Member Matsumoto asked staff to check with the Attorney General on how the entitlement to the Department of Hawaiian Home Lands will be calculated if the rent credit was applied, being that the plantation operation involves lands owned by the Department of Hawaiian Home Lands, but managed by DLNR.

Unanimously approved to amend staff submittal under lease term to change expiration date to December 31, 2009. (McCroory/Inouye)

ITEM D-17: ISSUANCE OF REVOCABLE PERMIT TO KEKAHA SUGAR CO., LTD., KEKAHA, KAUAI, TMK: VARIOUS

Mr. Uchida said Item D-17 is a follow-up to Item D-1. Staff's recommendation is that the Board authorize the issuance of a revocable permit to Kekaha Sugar covering the irrigation

water system, subject to terms and conditions.

Unanimously approved as submitted (McCrorry/Kokubun).

ITEM D-8: RESCIND PREVIOUS BOARD ACTION FOR ASSIGNMENT OF GENERAL LEASE NO. S-5042, LOT 87, KOKEE CAMP SITE LOTS, WAIMEA, KAUAI, TMK: 1-4-04:52

Mr. Uchida said on January 16, 1998, the Land Board consented to the assignment of General Lease (GL) No. 5042 from Mr. Sam Tao, Mrs. Dorothy Tao, and Ms. Grace Tao, to Mr. Albert Silva and Mrs. Barbara Silva. Staff's recommendation is that the Board rescind its prior action of January 16, 1998.

Ms. Julia Abben representing Ms. Grace Tao explained her letter dated March 8, 1999, that was included in the staff report.

Unanimously approved as submitted (McCrorry/Matsumoto).

ITEM D-18: BOARD BRIEFING BY LEGAL COUNSEL OHA V. BLNR ET. AL. REGARDING THE SUPREME COURT'S REMAND OF THE CASE TO THE BOARD (CHAPTER 91 PROCEEDING)

Motion was made to recess at 9:45 a.m., to allow Legal Counsel to brief the Board regarding OHA v. BLNR ET. AL.

Unanimously approved to recess (Matsumoto/Kokubun).

The meeting was reconvened at 10:10 a.m.

ITEM D-9: CONSERVATION DISTRICT USE APPLICATION (MA-2911) FOR NORTH WAIHEE WATERSHED MANAGEMENT SUBDIVISION, NORTH WAIHEE VALLEY, MAUI, TMK: (2) 3-2-14:1

Mr. Uchida presented the staff submittal recommending that the Board approve the Conservation District Use Application to subdivide the parcel into 2 properties for ownership and management purposes, subject to 11 conditions.

Mr. Earl Matsukawa of Wilson, Okamoto, and Associates stated that they were agency processing the Conservation District Use Application.

Unanimously approved as submitted (Inouye/Matsumoto).

**ITEM D-10: EXTENSION OF LEASE TERM AND CONSENT TO MORTGAGE
GENERAL LEASE NO. S-3857, COILA I. EADE, LEESEE, PAPAHAU,
HANA, MAUI, TMK: 1-4-03: 01**

Mr. Uchida presented the staff submittal recommending that the Board authorize the extension of GL No. S-3857 and consent to the mortgage between Coila I. Eade, Mortgagor and Bank of Hawaii, Mortgagee, subject to standard conditions.

Unanimously approved as submitted (Matsumoto/Kokubun).

**ITEM D-16: CONSENT TO DEPARTMENT OF PUBLIC SAFETY REQUEST TO
ENTER INTO A WAREHOUSE LEASE WITH WATERHOUSE
PROPERTIES, INC. AT HONOLULU, HAWAII, TMK: (1) 2-1-48:
PORTION OF 6**

Mr. Uchida briefed the Board and amended staff recommendation, adding a new condition to read: "4. The Land Board's consent shall cover the 3 year renew option, should the Department of Public Safety exercise this option on February 2002." Staff recommended that the Board consent to the Department of Public Safety's request to enter into a warehouse lease with Waterhouse Properties, Inc., subject to 3 conditions, as well as the addition of condition no. 4.

Unanimously approved to amend staff recommendation to add: "4. The Land Board's consent shall cover the 3 year renew option, should the Department of Public Safety exercise this option on February 2002." (Inouye/Kokubun).

**ITEM D-11: ALLEGED UNAUTHORIZED LAND USES AT THE HAWAII
INSTITUTE OF MARINE BIOLOGY'S EXISTING RESEARCH/
EDUCATIONAL COMPLEX LOCATED AT COCONUT ISLAND,
KANEHOE, OAHU**

Mr. Uchida presented the staff submittal recommending that the Board: A) find that the Hawaii Institute of Marine Biology (HIMB) violated the provisions of Title 13-5 Hawaii Administrative Rules, and Chapter 183C, Hawaii Revised Statutes (HRS) by failing to obtain the appropriate approvals for 11 items; B) impose a fine of \$2,000 pursuant to Chapter 183C, HRS; C) that upon payment of the fine by HIMB, within 60 days of the date of the Board's action, or by a date to be determined by DLNR in consultation with HIMB, HIMB shall submit an after-the-fact permit to determine the final disposition of the 11 structures and

facilities; and D) that in the event of failure of the permittee to comply with items B and C, the matter shall be turned over to the Attorney General for disposition including all administrative costs.

Member Inouye amended staff recommendation in section C to read: "...HIMB shall submit an after-the-fact [permit] CDUA to determine the final..."

Dr. Gordon Grau, Interim Director of HIMB, introduced Dr. Frank Perkins, Assistant Vice-President for Research and Graduate Education, and Ms. Jane Ball newly appointed Assistant Director of HIMB. He gave some background information about the alleged violations and stated that the University of Hawaii did not intend to ignore any laws or regulations. He said they are in the process of preparing a Conservation District Use Application and welcomes any input, assistance and advice that staff could provide.

Unanimously approved to amend staff recommendation, section C to read: "...HIMB shall submit an after-the-fact [permit] CDUA to determine the final..." (Inouye/Matsumoto).

ITEM D-4: DIRECT SALE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT TO GTE HAWAIIAN TELEPHONE INTERNATIONAL FOR THE INSTALLATION OF A TRANSPACIFIC SUBMARINE FIBER OPTIC TELECOMMUNICATIONS SYSTEM KNOWN AS THE SOUTHERN CROSS CABLE NETWORK, KAWAIIHAE 2ND, SOUTH KOHALA, HAWAII, TMK: 3RD/6-2-02: POR. OR 8 AND SUBMERGED LANDS

Mr. Uchida presented the staff submittal recommending that the Board authorize the direct sale of a perpetual, non-exclusive easement to GTE, and authorize a construction right-of-entry, subject to terms and conditions.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM B-1: REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT WITH THE HAWAII AUDUBON SOCIETY

Mr. Bill Devick, Acting Administrator of the Division of Aquatic Resources presented the staff submittal recommending that the Board authorize the Chairperson to negotiate, and subject to necessary approvals, execute the agreement with the Hawaii Audubon Society.

Ms. Linda Paul, Hawaii Audubon Society, explained the \$129,919.00 in-kind match and private funds that they are providing.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM D-3: RELEASE IMPROVEMENT BOND FOR GENERAL LEASE NO. S-5188 ISSUED TO LANIHAI PARTNERS L.P. FOR COMMERCIAL/ INDUSTRIAL PURPOSES AT NORTH KONA, HAWAII, TMK: (3) 7-5-9-43

Mr. Uchida presented the staff submittal recommending that the Board release the improvement bond for GL No. S-5188 issued to Lanihai Partners L.P., subject to 2 conditions.

Unanimously approved as submitted (Kokubun/Inouye).

ITEM D-6: AMEND REVOCABLE PERMIT NO. S-7120 ISSUED TO HAWAII FOREST & TRAIL AT KAHOE, HAWAII, TMKS: (3) 4-4-15-9 AND -12

Mr. Uchida presented the staff submittal recommending that the Board amend the character of use for Revocable Permit No. S-7120 from commercial tour, restricted to Hale Pohaku only, to commercial tour, subject to 2 conditions.

Unanimously approved as submitted (Kokubun/Inouye).

ITEM D-14: REQUEST RIGHT OF ENTRY BY THE COMMISSION ON WATER RESOURCE MANAGEMENT (CWRM), KONA, HAWAII, TMK: (3) 7-5-10: 16

Mr. Uchida said Item D-14 is a request for a right-of-entry by the Commission on Water Resource Management (CWRM) to install a deep monitor well for the collection of ground water and other hydrologic data from the Keauhou Aquifer System of the Hualalai Aquifer Sector on the Island of Hawaii. Mr. Clarence S. Rapoza, State lessee for the subject property has no objections to the request. Staff's recommendation is that the Board authorize the issuance of a right-of-entry to CWRM, subject to 4 conditions.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM F-1: REQUEST FOR AUTHORIZATION TO ACQUIRE 122.0 ACRES, MORE OR LESS, OF LAND THROUGH PUBLIC BENEFIT TRANSFER OF SURPLUS FEDERAL REAL PROPERTY FOR HERITAGE PARK USES, PROPOSED REUSE PARCELS P AND R LOCATED AT NAVAL AIR

STATION BARBERS POINT, BARBERS POINT, O'AHU, TMK: (1) 9-1-013: PORTION OF 001; AND SUBSEQUENT SET ASIDE OF THE LAND TO THE STATE HISTORIC PRESERVATION DIVISION OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES FOR HISTORIC PRESERVES PURPOSES

Mr. Don Hibbard, Administrator of the Historic Preservation Division presented the staff submittal recommending that the Board approve and authorize the acquisition of 2 parcels totaling approximately 122.0 acres, and approve of and recommend to the Governor the issuance of a Governor's Executive Order setting aside the subject land for historic preservation purposes, subject to terms and conditions.

Unanimously approved as submitted (Inouye/Kokubun).

ITEM D-2: FORFEITURE OF REVOCABLE PERMIT NO. S-5424, THOMAS L. NOA, SR., SITUATE ON A PARCEL OF LAND IN WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-13: 11

Mr. Uchida requested that Item D-2 be withdrawn because the permittee has paid the back rent.

Unanimously approved to withdraw (Matsumoto/Kokubun).

ITEM D-5: DIRECT SALE OF A PERPETUAL NON-EXCLUSIVE EASEMENT TO THE COUNTY OF HAWAII, DEPARTMENT OF PUBLIC WORKS FOR SEWER LINE PURPOSES AND A CONSTRUCTION RIGHT-OF-ENTRY AT WAIAKEA, HAWAII, TMKs: (3) 2-2-27-PORION OF 1 AND 2

Mr. Uchida presented the staff submittal recommending that the Board approve of and recommend to the Governor concurrence under Executive Order No. 2804, written concurrence from GL No. S-5547, authorize the direct sale of a perpetual, non-exclusive easement to the County of Hawaii, Department of Public Works, and authorize a construction right-of-entry, subject to conditions.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM D-7: AMENDMENT TO PRIOR BOARD ACTION OF OCTOBER 14, 1994 (AGENDA ITEM H-1), APPROVAL OF A LAND EXCHANGE BETWEEN THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND THE HOUSING FINANCE AND DEVELOPMENT

**CORPORTAION INVOLVING LANDS AT WAIAHOLE AND KAPOLEI
ON OAHU, TMKs: 4-8-VAR. AND 9-1-16: VAR.**

Mr. Uchida presented the staff submittal recommending that the Board amend its prior action of October 14, 1994 by relieving Hawaii Community Development Corporation of Hawaii (HCDCH), formerly Housing Finance and Development Corporation, of its obligation to transfer the Waiahole Valley Agricultural Park and Residential Lots subdivision to DLNR, and find that HCDCH has no further obligation under the Memorandum of Understanding, dated September 17, 1986, related to the Waiahole Land Exchange.

Unanimously approved as submitted (Inouye/Matsumoto).

**ITEM D-12: SET ASIDE TO THE DIVISION OF BOATING & OCEAN
RECREATION FOR BOAT YARD AND ALLIED PURPOSES AND A
MANAGEMENT RIGHT-OF-ENTRY AT WALAKEA, HAWAII, TMKs:
(3) 2-2-32-3, -4 AND -87**

Mr. Uchida presented the staff submittal recommending that the Board approve of and recommend to the Governor issuance of an executive order setting aside the subject properties to the Division of Boating and Ocean Recreation and authorize a management right-of-entry, subject to standard conditions.

Unanimously approved as submitted (Kokubun/Matsumoto).

**ITEM D-13: SALE OF THREE LEASES AT PUBLIC AUCTION FOR PASTURE
PURPOSES ON HAWAII, TMKs: (3) 2-4-76-36; 4-4-13-11; 9-6-11-2 AND
9-8-1-11**

Mr. Uchida presented the staff submittal recommending that the Board authorize the public auction sale of 3 leases for pasture purposes, subject to standard conditions.

Unanimously approved as submitted (Kokubun/Matsumoto).

**ITEM D-15: CERTIFICATION OF ELECTION AND APPOINTMENT OF SOIL AND
WATER CONSERVATION DISTRICT DIRECTORS**

Mr. Uchida said this is a request for approval of several elected and appointed positions statewide for Soil and Water Conservation District Directors. Staff is recommending that the Board appoint the respective people to their respective positions, subject to standard conditions.

Unanimously approved as submitted (Matsumoto/Kokubun).

There being no further business, Chairperson Johns adjourned the meeting at 11:10 a.m.

Tape 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.

Kim Kelihoomalau

Kimberly C. Kelihoomalau

Approved for submittal:

Timothy E. Johns

TIMOTHY E. JOHNS

Chairperson

Board of Land and Natural Resources

