

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

DATE: FRIDAY, OCTOBER 8, 1999
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII

The meeting was delayed due to a lack in quorum. Chairperson Timothy Johns called the meeting of the Board of Land and Natural Resources to order at 10:11 a.m. The following were in attendance.

MEMBERS:

Mr. Timothy Johns
Mr. Colbert Matsumoto
Ms. Kathy Inouye

Mr. William Kennison
Ms. Lynn McCrory

STAFF:

Mr. Dean Uchida, Land Division

OTHERS:

Ms. Dawn Chang, Department of the
Attorney General
Mr. Louis Santiago, D-7
Mr. Chester Koga, D-10
Mr. Cheryl Connet, D-4

Mr. Peter Garcia, Department of
Transportation
Mr. Brian Miskae, D-3
Mr. Trae Menard, D-8
Mr. Rodney Funakoshi, D-11

**ITEM D-7: RESUBMITTAL - AMENDMENT OF PREVIOUS BOARD ACTION AND
CONSENT TO ASSIGNMENT OF LEASE, GENERAL LEASE (GL) NO.
S-5001, MS. MARY LOO WOO, TRUSTEE FOR BANKRUPTCY OF
RUS SHO DEN, INC., A HAWAII CORPORATION, AS ASSIGNOR, TO
PUBTIME, INC., A HAWAII CORPORATION, AS ASSIGNEE,
WAIAKEA, SOUTH HILO, HAWAII, TMK: 3RD/2-2-32: 10**

Mr. Dean Uchida, Administrator for the Land Division recommended that the Board amend the previous Board action and consent to the assignment of GL No. S-5001. He recalled that this item was before the Board 3 times for an assignment of the lease to Mr. Louis Santiago, from Rus Sho Den, Inc., who filed for bankruptcy in September 1999. The trustee has agreed to let the lease go, otherwise the lease will be terminated. Mr. Uchida said to secure the premises would be costly to the State and felt that it would be in everyone's best interest to continue operations and assign the lease to Mr. Santiago. Mr. Uchida said the staff is recommending an amendment to the previous forfeiture action and consent to the assignment to Pubtime Inc., subject to terms and conditions. One of the conditions is that Mr. Santiago agree to take over the special installment agreement without any interest or penalties and a 30-day period to finalize assignment.

Mr. Louis Santiago testified that he has an executed copy of the quitclaim assignment of lease from Ms. Mary Loo Woo, bankruptcy trustee for Rus Sho Den, Inc., which assigns the lease to Pubtime Inc. He was concerned about vandalism and security of the premises. Mr. Santiago asked the Board to consider the assignment of lease as he hoped to be open for business that evening.

There was a brief discussion about amending the recommendation due to Mr. Santiago's request to begin operations that evening.

The Board amended the staff recommendation by adding condition 9 to read:

9. That the Board delegate to the Chairperson, the authority to issue right-of-entry to Pubtime, Inc., for immediate occupancy of the property should Pubtime Inc. provide all of the necessary documentation, as required by the Department, to operate on the premises.

Unanimously approved as amended (McCrorry/Kennison).

ITEM D-3: COUNTY OF MAUI REQUEST FOR CONSENT TO ENTER INTO A LEASE AND SUBLEASES ON STATE LAND UNDER EXECUTIVE ORDER NO. 16-2, TMK: 4-6-01: 09, LAHAINA, MAUI

Mr. Uchida said this request is from the County of Maui for consent to enter into a lease and sublease involving the Lahaina Court House facility. He recalled for the Board a prior Board action in December 1997 allowing the County of Maui to proceed with issuing leases subject to certain conditions that the Board imposed. Since then, the County of Maui has worked with the Lahaina Restoration Foundation to be the lessee of the property and also entered into a sublease agreement with the Lahaina Restoration Foundation, Lahaina Art Society and Lahaina Town Action Committee. All three entities are doing things to fulfill the performance requirements outlined by the Board in 1997. Another requirement they fulfilled was that the County provide some storage space for the Department's Division of Boating and Ocean Recreation. The final performance requirement was that some acknowledgement of the State's land contribution be noticed or be put in publications. Mr. Uchida said to date, the staff has

not seen any acknowledgement to that effect and recommends that the Board approve the consent to lease, subject to the condition to provide the acknowledgement of the use of State land before finalization of documents.

Mr. Brian Miskae, Executive Assistant to Maui Mayor James Kimo Apana testified that he reviewed and concurred with the staff report. He assured the Board that they will work on the acknowledgement immediately.

There was a brief discussion about the design of the sign and the acknowledgement on the literature.

Unanimously approved as submitted (Kennison/McCrory)

ITEM D-10: CONSERVATION USE PERMIT (CDUP) APPLICATION OA-2938 FOR AT&T'S PROPOSED JAPAN-U.S. CABLE NETWORK

Mr. Uchida presented the staff submittal and said the purpose is to develop and install a transpacific submarine fiber optic cable that will link Japan with Hawaii and California. He said the application was sent around to various agencies for comments. The Division of Aquatic Resources indicated concern about the immediate construction impacts and expressed the need to address some type of long term planning for these types of cable easements. Mr. Uchida said the Board asked staff to look at developing a policy in developing corridors for this type of cable landing facility and that they have been working on it but the Land Division is not prepared to come forward with the policy at this time. He said rather than penalizing the applicant, the staff decided to process the CDUP. Mr. Uchida said based on the criteria for uses on conservation district land, staff is recommending that the Board approve the CDUP for the Japan-U.S. Cable Network landing at Makaha Beach, Waianae, subject to conditions.

Mr. Chester Koga, representing AT&T said that he has been working with the Land Division staff and has developed a set of criteria for the selection of cable landing sites. He explained about the "cable encased in an armor protection". He said to protect the cable in the near shore area, the cable which is approximately 1-3/4 inch in diameter will be encased in a 4 inch cast iron jacket. This is a method of protection from anchor drops that could hook onto the cable, particularly in the Makaha area where there are a number of recreational boaters and dive tours. Mr. Koga said the timeframe would be 3 to 4 days to move the sand, 1 day to install the cable and 1 day to restore the beach. There will be no coral damage as the coral begins a mile offshore.

Unanimously approved as submitted (Inouye/McCrory).

ITEM D-8: CDUP APPLICATION MA-2928 FOR KANAIO TRAINING AREA FENCE CONSTRUCTION AT MAKAWAO, MAUI, TMK: 2-1-02:01

Mr. Uchida presented the staff submittal recommending that the Board approve the CDUP for the training area for fence construction filed by the Hawaii Army National Guard in Maui for protection and recovery of federally listed endangered species at the Kanaio Training area. He said the Kanaio Training area was in place in the fifties and there were a series of different permits issued to the National Guard for training and live ordinance removal. Mr. Uchida said there is a need for the fencing due to the ongoing presence in the military area.

Mr. Trae Menard representing the National Guard said the area was used for training and live fire training. He said the area has been cleaned and the guard would like to cease all live fire training and restrict it to ground maneuver training. Mr. Menard said the purpose of the fence is to protect the endangered plants not only on their land but on the adjacent lands also. The National Guard also wishes to obtain an executive order for the land to justify a continuation of federal funding for land management operations for the entire area. These operations include alien grass suppression, weed surveys, endangered species recovery and management.

Mr. Uchida said an executive order is possible and that the land can be set aside as a result of today's action.

Unanimously approved as submitted (Kennison/McCrory).

ITEM D-4: REQUEST BY THE DEPARTMENT OF THE NAVY, PACIFIC DIVISION, TO AMEND GL NO. S-3852 AND FOR A RESTRICTIVE USE EASEMENT, KEKAHA, WAIMEA, KAUAI, TMK: 1-2-02: POR.1

Mr. Uchida presented the staff submittal recommending that the Board amend GL No. S-3852 to add the requested 14.3 acres and to authorize the issuance of a term, non-exclusive easement for the blast zone subject to conditions. He said this is to add 2 storage areas for high explosives in the magazine facilities. Mr. Uchida explained that the military put the bunkers in and that there were no easements given for the blast zone at the time. He said the Land Division is house cleaning while adding the 2 storage areas and giving control of the easements of the surrounding lands for the blast zone. Mr. Uchida noted that the area was previously under lease to Kekaha Sugar.

In response to Member McCrory's question in reference to Mr. Mike Nugent's memo with regard to extension of the term of lease and removal of the restriction on the type of ordinance that can be tested, Mr. Uchida said that it would be brought before the Board at a later date. He said on the table today is the adding of the 14 acres and giving the Navy an easement for the 171 acres.

Member McCrory referred to Purpose No. 2 defining the area as limited to agricultural, such as the growing of crops and the grazing of cattle. She asked whether the definition could accommodate the wetland around the base in the arch as a natural site for possible tourist attraction and about access to the easement area. Member McCrory understands that the public access was only to be excluded at the time of launch. Mr. Uchida explained that the

matter before the Board is not about the launch but a blast zone for storage area and a safety zone around the bunkers.

Ms. Cheryl Connet, representing the Department of the Navy concurred with Mr. Uchida's response. She said whenever there is ordinance in the magazines, there should be no public entry. Mr. Uchida asked how the Navy planned to keep the public out of the area. Ms. Connet said they will post signs but noted that people very seldom go up into that area since most of the area is wasteland.

Unanimously approved as submitted (McCrorry/Kennison).

ITEM D-11: CDUP APPLICATION OA-2930 FOR THE PROPOSED HART STREET WASTEWATER PUMP STATION FORCE MAIN REPLACEMENT PROJECT, OFFSHORE, TMKS: 1-5-34: 4 & 8 AND 1-5-41:111

Mr. Uchida presented the staff submittal recommending that the Board approve the request from the City and County of Honolulu's Department of Design & Construction for the Hart Street Wastewater Pump Station Force Main Replacement project located offshore, subject to 18 conditions. He explained and referred to exhibit 9 showing how the drilling rig will be put into a hole to pull the pipe through to use the cable corridor easement to minimize the impact of drilling. Mr. Uchida said the existing line will be left in place.

Mr. Rodney Funakoshi, Wilson Okamoto & Associates said they have reviewed the staff report and concur with the recommendations.

Unanimously approved as submitted (McCrorry/Kennison).

ITEM D-1: ISSUANCE OF REVOCABLE PERMIT TO MR. GARY RODRIGUES, POR. KAPAA HOMESTEADS, 1ST & 3RD SERIES, KAWAIHAU, KAUAI, TMK: 4-6-8:23 & 24

Mr. Uchida presented the staff submittal recommending that the Board consent to the issuance of a revocable permit to Mr. Gary Rodrigues in Kapaa, Kauai. He explained that the property is irregularly shaped, hard to access and has been a problem for the State to maintain. Mr. Rodrigues has offered to take the property back on a conservation management agreement. He has agreed to maintain the property, secure it and keep unauthorized activities out.

Mr. Uchida requested that staff recommendation be amended by replacing the word [easement] with management to read: "...the subject area for conservation management ...".

Mr. Uchida noted that consideration is given if a property has potential for revenue use as opposed to locking it up, as in this case, the land has no resource value and presents a problem for security and maintenance.

Unanimously approved as amended (McCrorry/Kennison).

ITEM D-2: ISSUANCE OF REVOCABLE PERMIT TO MR. KENNETH K. & MRS. SYLVIA K. YASUTAKE, HANAPEPE, WAIMEA, KAUAI, TMK: 1-9-2: 14

Mr. Uchida presented the staff submittal recommending that the Board authorize the issuance of a revocable permit to Mr. & Mrs. Yasutake, Hanapepe, Kauai, subject to conditions.

Unanimously approved as submitted (McCrorry/Inouye).

ITEM D-5: RESCIND PRIOR BOARD ACTION OF MAY 13, 1988 (AGENDA ITEM F-11), PERPETUAL, NON-EXCLUSIVE EASEMENT FOR UNDERGROUND TRANSMISSION CABLE AT KEAWAULA, WAIANAЕ, OAHU, TMK: 8-1-01:PORTION OF 7 AND 23

Mr. Uchida presented the staff submittal recommending that the Board rescind a prior Board action of May 1988 for non-exclusive easement for underground transmission cable in Waianae.

Unanimously approved as submitted (Inouye/McCrorry).

ITEM D-6: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT - JOB NO. 16-OC-F, OAHU (HALAWA) DEEP MONITOR WELL, HONOLULU, HAWAII

Mr. Uchida presented the staff submittal recommending that the Board award the contract and authorize the Chairperson to sign the necessary documents.

Unanimously approved as submitted (Inouye/Kennison).

ITEM D-9: CONSENT TO ASSIGN GL NO. S-3762, MR. HENRY H. MIYAMOTO AND MR. CLYDE H. MIYAMOTO, ASSIGNOR, TO MR. HENRY H. MIYAMOTO, AS TRUSTEE OF THE HENRY H. MIYAMOTO TRUST DATED 9/3/99 AND MR. CLYDE H. MIYAMOTO, WAIMANALO, OAHU, TMK: (1) 4-1-10: 46

Mr. Uchida presented the staff submittal recommending that the Board consent to assignment of GL No. S-3762 from Mr. Henry H. Miyamoto and Mr. Clyde H. Miyamoto to the Henry H. Miyamoto Trust dated September 3, 1999, subject to conditions.

Unanimously approved as submitted (Inouye/Kennison).

**ITEM K-1: APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT,
INCONSISTENT USE, KAHULUI, MAUI (TRI ISLE, INCORPORATED)**

Mr. Peter Garcia, Property Management Officer for the Department of Transportation briefed the Board and recommended approval of the issuance of a revocable permit non-conforming use to Tri Isle, Inc. on Maui.

Unanimously approved as submitted (Kennison/Inouye)

**ITEM K-2: REPORT ON REVOCABLE PERMITS RENEWED BY THE
DEPARTMENT OF TRANSPORTATION FOR CONSISTENT USES**

Mr. Garcia said Item K-2 is a report on revocable permits and does not require any Board action.

No action taken.

**ITEM K-3: ISSUANCE REVOCABLE PERMIT, NEAR PIER 60, HONOLULU
HARBOR, OAHU (MR. CHARLES P. VARNEY, JR.) TMK: 1-2-23-57**

Mr. Garcia briefed the Board and recommended that the Board approve the issuance of a revocable permit to Mr. Charles Varney, Jr.

Unanimously approved as submitted (Inouye/McCrory).

**ITEM K-4: LEASE, HILO INTERNATIONAL AIRPORT, ISLAND OF HAWAII
(UNITED PARCEL SERVICE COMPANY) TMK: (3)-2-1-12**

Mr. Garcia briefed the Board and recommended that the Board authorize the issuance of a lease to United Parcel Service Company.

Unanimously approved as submitted (Kennison/Inouye).

**ITEM K-5: RESUBMITTAL - BAGGAGE CAROUSEL ADVERTISING
CONCESSION, HONOLULU INTERNATIONAL AIRPORT, OAHU,
KAHULUI AIRPORT, MAUI, LIHUE AIRPORT, KAUAI AND HILO
INTERNATIONAL AIRPORT AND KONA INTERNATIONAL
AIRPORT, ISLAND OF HAWAII (TO BE DISTRIBUTED)**

Mr. Garcia stated that Item K-5 is listed as a resubmittal but that there were no changes in the original submittal. He requested that this item be withdrawn because it will not be brought back before the Board.

Unanimously approved to withdraw (Kennison/McCrory).

ITEM D-12: BOARD BRIEFING BY LEGAL COUNSEL HALE OPIO KAUAI, INC. V. STATE OF HAWAII, CIVIL NO. 96-0161, FIFTH CIRCUIT COURT, STATE OF HAWAII, REGARDING SETTLEMENT OFFER (CHAPTER 91 PROCEEDING)

Unanimously approved to move into executive session (Inouye/Matsumoto).

The meeting was reconvened at 11:55 a.m.

ITEM A-1: MINUTES OF AUGUST 13, 1999

Unanimously approved as submitted. (Kennison/Matsumoto).

There being no further business, Chairperson Johns adjourned the meeting at 12:10 p.m.

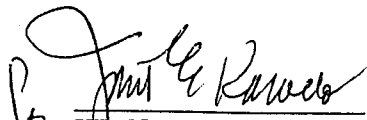
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kimberly C. Keliihoomalu

Approval for submittal:



TIMOTHY E. JOHNS
Chairperson

Board of Land and Natural Resources