

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

DATE: FRIDAY, JANUARY 14, 2000
TIME: 9:00 A.M.
PLACE: COUNTY OF MAUI
PLANNING DEPARTMENT
CONFERENCE ROOM
250 SOUTH HIGH STREET
WAILUKU, MAUI, HI 96793

Chairperson Timothy Johns called the meeting of the Board of Land and Natural Resources to order at 9:11 a.m. The following were in attendance:

MEMBERS:

Mr. Timothy Johns
Ms. Lynn McCrory
Mr. Russell Kokubun

Mr. William Kennison
Ms. Kathryn Inouye

STAFF:

Mr. Dean Uchida, Land Division

Mr. Philip Ohta, Land Division

OTHERS:

Ms. Lynn Otaguro, Department of the
Attorney General
Mr. Michael Moore, D-9
Mr. Brian Takeda, D-11
Mr. Isaac Hall, D-5
Mr. Terrence Sullivan, D-17

Mr. Peter Garcia, Department of
Transportation
Mr. Michael Loo, D-14
Mr. Paul Luersen, D-1
Ms. Dorothy Bekeart, D-6

ITEM A-1: APPROVAL OF THE NOVEMBER 19, 1999 MINUTES

Unanimously approved as submitted (Kennison/McCrory).

**ITEM D-9: RECONSIDERATION OF PRIOR BOARD ACTION – FORFEITURE OF
GENERAL LEASE (GL) NO. S-4639, MR. THOMAS KASECKY, LESSEE,
FORMER KAAPAHU SCHOOL, KAAPAHU, HAMAKUA, HAWAII,
TMK: 3RD/4-4-11:33**

Mr. Uchida presented the staff submittal recommending that the Board: 1) Rescind its previous action on the forfeiture of GL No. S-4639 subject to the lessee appointing a representative with a local address to receive correspondence and manage his lease obligations; 2) Lessee shall be warned that the Board will consider any future forfeiture actions as final and not open to reconsideration; 3) All other terms and conditions of the lease shall remain the same; and 4) Such other terms and conditions as may prescribed by the Chairperson to best protect the best interest of the State.

Mr. Michael Moore, Attorney for Tsukazaki, Yeh and Moore, represented the Lessee. He requested amending his clients billing dates to coincide with the harvesting schedule as this would solve the problem of delinquent rental payments and would assist his client in paying the lease rent on time.

The Board amended the staff recommendation to add a condition no. 5 to read as follows:

5. The billing dates for this lease are being changed to January 1st and July 1st of each year.

Unanimously approved as amended (Kennison/McCrory).

**ITEM D-14: TIME EXTENSION REQUEST – CONSERVATION DISTRICT USE
PERMIT KA-2710 FOR PRINCEVILLE POTABLE WATER SYSTEM,
HANAIEI, KAUAI, TMK: 5-3-01: 16**

Mr. Uchida presented the staff submittal recommending that the Board approve the requested two year time extension to complete the proposed project, amend the condition that allows improvements to be completed by September 30, 2001, and all other conditions remain in effect.

In response to a question raised by the Board regarding whether the two year time extension would be sufficient, Mr. Michael Loo, representing Princeville Utilities Company, Inc., said based on the schedule that is currently in place, two years would be enough time, however, with construction as it is, perhaps the Board could allow until the end of the year.

The Board amended the staff recommendation and allowed the applicant three years to complete the project to September 30, 2002.

Unanimously approved as amended (McCrory/Kennison).

**ITEM D-11: DIRECT SALE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT TO
GTE HAWAIIAN TEL INTERNATIONAL, INC. FOR SUBMARINE
FIBER OPTIC CABLE LINES AND A MANAGEMENT AND
CONSTRUCTION RIGHT-OF-ENTRY AT WAIANAE, OAHU, TMK: (1)
9-2-3: SEAWARD OF 9**

Mr. Uchida presented the staff submittal recommending that the Board authorize the issuance of a perpetual non-exclusive easement to GTE Hawaiian Tel International Inc., for submarine fiber optic cable line purposes, and authorize a management construction right-of-entry, subject to conditions.

Mr. Brian Takeda, of R.M. Towill Corp., representing GTE Hawaiian Tel International Inc., was present to answer questions.

Unanimously approved as submitted (Inouye/Kennison).

ITEM D-1: REQUEST TO EXTEND THE PROCESSING PERIOD FOR AN ADDITIONAL 360 DAYS FOR CONSERVATION DISTRICT USE APPLICATION (CDUA) OA-2801 FOR A 138-KV TRANSMISSION LINE AT WAAHILA RIDGE, HONOLULU, HAWAII

Mr. Uchida presented the staff submittal recommending that the Board approve this request to extend the processing period of CDUA OA-2801 an additional 360-days (to February 14, 2001) to allow sufficient time to complete the Environmental Impact Statement process and other required Administrative/Board actions.

Mr. Paul Luerson, of CH2M Hill, agent for Hawaiian Electric Company, Inc., was present to answer questions.

The Board felt that based on the nature of the project, additional time would be required for processing the CDUA. A motion was made to amend staff's recommendation to allow for an extension of two years to February 14, 2000.

Unanimously approved as amended (Inouye/Kennison).

ITEM D-5: REQUEST TO AMEND PREVIOUS BOARD ACTION OF OCTOBER 30, 1998, AGENDA ITEM D-5, REGARDING THE ISSUANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT TO MR. MICHAEL PISCITELLI, TMK: 2-9-02: PORTION 12, PORTION OF HOOLAWA-MOKUPAPA, HAMAKUALOA, MAKAWAO, MAUI

Mr. Uchida presented the staff submittal recommending that the Board amend their October 30, 1998, Agenda Item D-5, approval by changing the "Consideration" section to read as follows: "Gratis for the access easement, although the applicant is still responsible for the closing fees (documentation, recordation, etc.) and survey cost; the utility easement shall be determined by staff appraisal, based on the access appraisal calculations provided by the applicant, and subject to the Chairperson's approval."

Mr. Isaac Hall, representing the Applicant, gave some background information about the subject property.

Unanimously approved as submitted (Kennison/McCrory).

ITEM K-1: ISSUANCE OF REVOCABLE PERMIT, KAHULUI AIRPORT, MAUI (MAUI OCEAN CENTER)

Mr. Peter Garcia, Property Management Officer for the Department of Transportation (DOT), presented the submittal recommending that the Board approve this application for issuance of revocable permit.

Unanimously approved as submitted (Kennison/Inouye).

ITEM K-2: ISSUANCE OF REVOCABLE PERMIT, KAWAIHAE HARBOR, ISLAND OF HAWAII (WILLOCKS CONSTRUCTION CORPORATION) TMK: (3)-6-1-3-25(P)

Mr. Garcia presented the submittal recommending that the Board authorize the Director of Transportation to issue the applicant a revocable permit for storage of water pipe and construction equipment, subject to terms and conditions.

Unanimously approved as submitted (Inouye/Kennison).

ITEM K-3: ISSUANCE OF REVOCABLE PERMIT, PIER 19, HONOLULU HARBOR, OAHU (HAWAII HISPANIC CHAMBER OF COMMERCE) TMK: (1)-1-5-39-63P

Mr. Garcia presented the submittal recommending that the Board authorize the Director of Transportation to issue the applicant a revocable permit for storage of props and materials that are created and used in the annual Aloha Parade, subject to the terms and conditions, applicable terms and conditions of the standard permit form, and such terms as may be prescribed by the Director of Transportation.

Unanimously approved as submitted (Inouye/McCrory).

ITEM K-4: AUTHORIZING THE DOT TO DISPOSE OF HIGHWAY REMNANTS R-1, R-2, R-3 AND R-4, KAUAI BELT ROAD, FAP NO. F-056-1(312), PRINCEVILLE TO KALIHIWAI AT HANAIEI, KAUAI (PRINCEVILLE CORPORATION) BETWEEN TMKS: (4)-5-3-01 AND 5-4-06

Mr. Garcia presented the submittal and recommended that the Board authorize the DOT to convey the fee title to Princeville Corporation in accordance with Section 171-52, Hawaii Revised Statutes, subject to 3 conditions.

Unanimously approved as submitted (McCrorry/Kennison).

ITEM K-5: AUTHORIZATION TO NEGOTIATE FOR ACQUISITION OF PRIVATELY-OWNED LAND, INCLUDING THE EXERCISE OF EMINENT DOMAIN, FOR THE HAWAII BELT ROAD: DRAINAGE STRUCTURES, REPAIRS AND EXTENSIONS AT VARIOUS LOCATIONS, AT PUEO, SOUTH HILO, ISLAND OF HAWAII, PROJECT NO. HWY-H-03-99M, AND THE SUBSEQUENT SET ASIDE AND TRANSFER OF DRAINAGE EASEMENT 1 BY GOVERNOR'S EXECUTIVE ORDER TO DOT, HIGHWAYS DIVISION FOR DRAINAGE REPAIRS TMK: (3)-2-6-1-19

Mr. Garcia presented the submittal recommending that the Board approve the authorization for the acquisition.

Unanimously approved as submitted (Kennison/Inouye).

ITEM K-6: REPORT ON REVOCABLE PERMITS ISSUED OR RENEWED BY THE DOT FOR CONSISTENT USES

Mr. Garcia stated that this item does not require any approval by the Board.

No Board action.

ITEM D-6: AUTHORITY TO NEGOTIATE DIRECT LEASE FOR SUGAR CANE AND OTHER AGRICULTURAL PURPOSES, WAILUA, KAUAI

Mr. Uchida presented the staff submittal recommending that the Board approve to the following: 1) Find that the public interest demands disposition of a negotiated lease in this case; 2) Find that the public land when used in conjunction with private land constitutes an economic unit and is necessary for optimum mill operation; 3) Authorize publication of a notice of the Boards' intention to lease public land through negotiation; 4) Authorize granting of a 1-year holdover of the term of GL No. S-4412; 5) Authorize issuance of a revocable permit, if necessary, after the holdover expires under the terms, conditions and rent schedules applicable to GL No. S-4412; and 6) Other terms required by the Board.

Member McCrorry asked if the Lessee has an obligation to notify the department should they decide to plant other crops in place of sugar. Mr. Uchida indicated if other crops were planted

without permission, it would constitute a breach or default. Ms. Dorothy Bekeart of Lihue Plantation Company, Ltd., clarified that they would like to have the possibility of doing other crops including sugar and the reporting requirement would not be a problem.

The Board felt that condition no. 6 was not necessary as any other conditions that might be imposed by the Board would require a separate Board action.

The Board amended the staff recommendation by deleting condition no. 6.

Unanimously approved as amended (McCrorry/Inouye).

ITEM D-17: ISSUANCE OF REVOCABLE PERMIT TO MR. TERRENCE AND MRS. MOIRA SULLIVAN, HANA, MAUI, TMK: (2) 1-5-05: 07

Mr. Uchida presented the staff submittal recommending that the Board authorize the issuance of a revocable permit for pasture purposes, subject to standard conditions.

Mr. Sullivan was present to answer questions.

Unanimously approved as submitted (Kennison/McCrory).

ITEM D-2: PERMISSION TO HIRE CONSULTANT FOR JOB NO. F48-C-612-A, KEAIWA HEIAU STATE RECREATION AREA, PARK IMPROVEMENTS, OAHU, AND JOB NO. F59-C-627-A, PUA A KAA WAYSIDE, PAVILIONS AND PICNIC IMPROVEMENTS, MAUI

Mr. Uchida presented the staff submittal recommending that the Board authorize the hiring of consultants for the projects and authorize the Chairperson to sign the necessary documents pertaining to the individual projects.

Unanimously approved as submitted (Inouye/Kokubun).

ITEM D-3: CANCELLATION OF REVOCABLE PERMIT NO. S-6593 AND ISSUANCE OF REVOCABLE PERMIT TO MRS. JOSEPHA PERREIRA, HANEHOI, MAKAWAO, MAUI, TMKS : (2) 2-9-10: 12 AND 2-9-11: 13

Mr. Uchida presented the staff submittal recommending that the Board authorize the issuance of a revocable permit for pasture purposes, subject to standard conditions.

Unanimously approved as submitted (Kokubun/Inouye).

ITEM D-4: REQUEST TO AMEND PREVIOUS BOARD APPROVAL OF SEPTEMBER 25, 1998, AGENDA ITEM D-11, INVOLVING A SET ASIDE AND ISSUANCE OF AN EXECUTIVE ORDER TO THE DOT, HIGHWAYS DIVISION, TMK: 1-1-02: PORTION 02, KEANAE, KOOLAU, HANA, MAUI

Mr. Uchida presented the staff submittal recommending that the Board amend their previous action of September 25, 1998, Agenda Item D-11 by altering section A of their recommendation with the following language: "A. Authorize the withdrawal of 1.073 acres from TMK: 1-1-02: 02 from the revocable permit with A&B Hawaii, Inc. and proclamation No. 00020 with the Division of Forestry and Wildlife.

Unanimously approved as submitted (Inouye/Kokubun).

ITEM D-7: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT-JOB NO. 90-HP-D2, MAUNA KEA SRA, CABINS 6 & 7 IMPROVEMENTS AND CONSTRUCTION OF ADA RESTROOMS, HAWAII

Mr. Uchida presented the staff submittal recommending that the Board authorize the Chairperson to proceed with awarding the contract for Job No. 90-HP-D2, and sign the necessary documents to implement the project.

Unanimously approved as submitted (Kokubun/Inouye).

ITEM D-8: AMEND PRIOR BOARD ACTION FOR CONSENT TO ASSIGNMENT OF LEASE AND CONSENT TO MORTGAGE, GL NO. S-4297, WAIMANALO, OAHU, TMK: (1) 4-1-10: 4

Mr. Uchida presented the staff submittal and requested an amendment to staff recommendation D., by replacing [April 28, 1995, Item F-9], with June 23, 1995, Item F-11.

Member Inouye noted a typo on page 2, under Term of Lease, that should read: "20 years, commencing on March 12, 1970 and expiring...". Member McCrory also noted a typo, same page, under Character of Use, that should read: "...training and care of horses..."

The Board was concerned that a performance bond requirement was not reimposed. A recess was taken at 9:55 a.m. to allow time for Mr. Uchida to contact staff in Honolulu about this issue. The meeting was reconvened at 10:05 a.m. After checking with staff, Mr. Uchida indicated that a condition reimposing the performance bond requirement can be added to staff recommendation.

The Board amended the staff recommendation as follows:

“D. Amend the Land Board consent of June 23, 1995, Item F-11 [April 28, 1995, Item F-9],..

1. Reimpose the Performance Bond requirement for the lease.”

Unanimously approved as amended (Inouye/Kennison).

ITEM D-10: CONSENT TO ASSIGN GL NO. S-5062, MS. KATHRYN K. REINARD, ASSIGNOR, TO MR. JAMES L. CASSEL, JR. AND MRS. KATHRYN MARIE CASSEL, ASSIGNEES, LOT 18, PUU KA PELE PARK LOTS, WAIMEA (KONA), KAUAI, HAWAII, TMK: 1-4-2: 25

Mr. Uchida presented the staff submittal recommending that the Board consent to the assignment of GL No. S-5062, subject to standard conditions.

Unanimously approved as submitted (McCrary/Kennison).

ITEM D-12: RESCIND PRIOR BOARD ACTION OF NOVEMBER 19, 1999 (AGENDA ITEM D-29), TO AUTHORIZE THE CANCELLATION OF GL NO. S-4007, ALOFA CORPORATION, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-27: 23 & 24

Mr. Uchida presented the staff submittal recommending that the Board rescind its action of November 29, 1999, allowing GL No. S-4007 to continue.

Unanimously approved as submitted (Inouye/Kennison).

ITEM D-13: WITHDRAWAL FROM GOVERNOR’S EXECUTIVE ORDER NO. 1760 AND 1761 AND SET ASIDE TO THE DOT FOR HIGHWAY AND OTHER RELATED PURPOSES, AND IMMEDIATE CONSTRUCTION RIGHT-OF-ENTRY, PUPUKEA, KOOLAULO, OAHU, TMK: 5-9-04: PORTIONS OF 19 AND 29

Mr. Uchida presented the staff submittal recommending that the Board, subject to the applicant fulfilling the applicant requirements, approve of and recommend to the Governor issuance of an executive order withdrawing from Governor’s Executive Order No. 1760 and 1761; approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to DOT; and authorize the issuance of a construction right-of-entry to DOT, subject to standard conditions.

Unanimously approved as submitted (Inouye/Kokubun).

ITEM D-15: REVISION OF THE SUBLEASE RENT PARTICIPATION POLICY AND COMPUTATION WORKSHEET

Mr. Uchida requested amending Exhibit B, the Sublease Participation Worksheet, under Allowances, by inserting another category called "Miscellaneous Allowances", below Real property taxes. Staff's recommendation is that the Board approve amending the percentage which the Department revises the rent where sublease rent exceeds the original rent for that portion of the property, from 100% to 50%; and approve the Sublease Participation Worksheet, as amended.

The Board deferred action on this matter based on concerns raised regarding the list of allowances for deductions being a standard in private landowners, and considering a flat percentage off the top without the need for elaborate calculations.

Unanimously approved to defer (Inouye/Kennison).

ITEM D-16: DEFINITION OF "ALLIED USES" IN CONNECTION WITH THE CHARACTER OF USE PROVISIONS OF GL NO. S-3674 AND IMPLEMENTATION OF RESULTS OF TRAFFIC STUDY RELATED TO USE OF VEHICULAR ACCESS EASEMENT – KAMOKILA VILLAGE, WAILUA, KAUAI

Mr. Uchida requested that this matter be deferred based on the applicant's request.

Unanimously approved to defer (McCrory/Inouye).

ITEM D-18: ISSUANCE OF REVOCABLE PERMIT TO MR. NORMAN E. ABIHAI, KULA, MAKAWAO, MAUI, TMK: (2) 2-2-20: 100

Mr. Uchida presented the staff submittal recommending that the Board authorize the issuance of a revocable permit for pasture purposes, subject to standard conditions.

Unanimously approved as submitted (Kennison/Kokubun).

ITEM D-19: REQUEST AUTHORIZATION TO RENEW A RIGHT-OF-ENTRY AGREEMENT WITH PUU O HOKU RANCH, LIMITED FOR THE RESTORATION, OPERATION AND MANAGEMENT OF KAHINAPOHAKU FISHPOND, TMK: 5-8-01: 01, HONOULIWAI, MOLOKAI

Mr. Uchida presented the staff submittal recommending that the Board authorize a renewal of the right-of-entry agreement for another year, subject to standard conditions.

Unanimously approved as submitted (Kennison/Kokubun).

ITEM D-20: AFTER-THE-FACT HOLDOVER TERM FOR GL NO. S-4938, CONSENT TO MORTGAGE EXTENSION OF LEASE TERM AND CONSENT TO ASSIGNMENT OF LEASES FOR GL NOS. S-4938 AND S-5113, MR. IWAO NONAKA, ASSIGNOR, TO MR. DEAN H. AND MRS. NICOLE U. NONAKA, ASSIGNEES, HUSBAND AND WIFE, LOTS 22 AND 24, HANAPEPE RICE AND KULA LOTS, HANAPEPE, KAUAI, HAWAII, TMKS : 1-9-1: 3 AND 14

Mr. Uchida presented the staff submittal recommending that the Board authorize an after-the-fact holdover extension of GL No. S-4938, consent to the assignment of GL Nos. S-4938 and S-5113 from Mr. Iwao Nonaka to Mr. Dean and Mrs. Nicole Nonaka, authorize the extension of GL Nos. S-4938 and S-5113 to a co-terminus expiration date of March 26, 2021, and consent to the mortgage between Mr. and Mrs. Nonaka and USDA Farm Services Agency, subject to conditions.

Member McCrory amended the staff recommendation by adding a condition to read: "3. e. Ten (10) year rental reopening."

Unanimously approved as amended (McCrory/Kennison).

ITEM D-21: AMEND PRIOR BOARD ACTION OF DECEMBER 13, 1996 (AGENDA ITEM D-23), APPROVAL OF A LAND EXCHANGE BY AND BETWEEN THE STATE OF HAWAII AND THE TRUSTEES UNDER THE WILL AND OF THE ESTATE OF JAMES CAMPBELL, DECEASED HONOLULI, OAHU, ACT 294 SLH 1996

Member Inouye recused herself.

Mr. Uchida presented the staff submittal recommending that the Board amend its prior action of December 13, 1996, by authorizing the fee simple conveyance, to the University of Hawaii, 50 acres acquired from The Estate of James Campbell, for addition to its West Oahu Campus at Honouliuli, Ewa, Oahu.

Unanimously approved as submitted (Kokubun/Kennison).

ITEM D-22: AMENDMENT OF PREVIOUS BOARD ACTION: CONSENT TO ASSIGNMENT OF GL NO. S-4450 TO MR. ANTONE C. & MRS. EMILY P. VINCENT, TRUSTEES UNDER THAT CERTAIN TRUST AGREEMENT DATED SEPTEMBER 22, 1989 AS ASSIGNOR, TO MR. SAMUEL JUICHI LONO, AS ASSIGNEE; CONSENT TO MORTGAGE

**TO NEW CENTURY MORTGAGE, LOT 19 PANAWEA FARM LOTS, 2ND
SERIES, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3RD/2-4-49:3**

Mr. Uchida presented the staff submittal recommending that the Board amend its previous forfeiture action by extending the deadlines contained in its recommendations A and B in its previous action to 60 days from the date of this board meeting, consent to the assignment of GL No. 4450 from the Vincent's to Mr. Lono, and consent to the mortgage between Mr. Lono and New Century Mortgage, subject to conditions.

Unanimously approved as submitted (Kokubun/Kennison).

**ITEM D-23: CONSENT TO DEPARTMENT OF BUSINESS, ECONOMIC
DEVELOPMENT AND TOURISM REQUEST TO EXTEND GL NO. S-
5546, ISSUED TO SQUARE USA, INC. AND AMEND THE CHARACTER
OF USE AT HONOLULU, OAHU, TMK: (1) 3-1-42: PORTION OF 9**

Mr. Uchida presented the staff submittal recommending that the Board consent to the Department of Business, Economic Development and Tourism request to extend GL No. S-5546 to expire on September 30, 2001 and amend the character of use to be used solely for production of a full length, film production, interactive, motion picture purposes, subject to terms and conditions.

Unanimously approved as submitted (Inouye/Kokubun).

There being no further business, Chairperson Johns adjourned the meeting at 10:35 a.m.

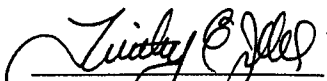
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kimberly C. Keliioomalu

Approval for submittal:


TIMOTHY E. JOHNS
Chairperson

Board of Land and Natural Resources

