

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

DATE: FRIDAY, MARCH 10, 2000
TIME: 9:00 A.M.
PLACE: NATURAL ENERGY LABORATORY
OF HAWAII AUTHORITY
73-4460 QUEEN KAAHUMANU HWY., #101
KAILUA-KONA, HAWAII 96740

Chairperson Timothy Johns called the meeting of the Board of Land and Natural Resources to order at 9:15 a.m. The following were in attendance:

MEMBERS:

Mr. Timothy Johns
Mr. Colbert Matsumoto
Mr. Russell Kokubun

Mr. William Kennison
Ms. Lynn McCrory

STAFF:

Mr. Dean Uchida, Land Division
Mr. Harry Yada, Land Division
Mr. Wesley Matsunaga, Land Division

Mr. Keoni Fairbanks, Kahoolawe Island
Reserve Commission
Ms. Trudy Hanohano, Land Division

OTHERS:

Mr. Ray Enos, Department of the
Attorney General
Mr. Linn Henniger, D-13
Mr. Stephen Sico, D-3
Ms. Suzette Hokama, D-14
Mr. Steven Lim, D-7
Mr. Gregg Kashiwa, D-18
Mr. Milton Arakawa, D-19

Mr. Peter Garcia, Department of
Transportation
Mr. Rory Frampton, D-20
Mr. James Leonard, D-17
Ms. Sandy Padaken, D-21
Mr. John Day, D-10
Ms. Pat Tummons, D-18
Mr. Dennis Nishimura, D-22

ITEM A-1: APPROVAL OF THE JANUARY 28, 2000 MINUTES

The Board amended the minutes as follows:

On page 3, Item D-21, last paragraph, 3rd sentence: "Chairperson Johns suggested [concurring with Member McCrory, on the condition] that the....".

On page 5, Item E-3, 2nd paragraph, last sentence: "In consequence, he expressed the frustration and hardship his son has had in not being able to operate his business[since losing his launching permit].

On page 7, Item D-17, 4th paragraph, 4th sentence: "He again encouraged the Miyata's of his suggestion the first time[this] they came before the Board...."

Unanimously approved as amended (Kennison/McCrory).

**ITEM D-13: CONSERVATION DISTRICT USE APPLICATION (CDUA) NO. OA-2945
FOR WICKS' SINGLE FAMILY RESIDENCE AT KANEOHE, OAHU,
TMK: (1) 4-4-13: 34**

Mr. Uchida briefed the Board and recommended that the Board approve this application to construct a single family residence, subject to 18 conditions.

Mr. Linn Henniger, Henniger & Henniger Inc. Planning, representing the Wick's, was present to answer questions.

Unanimously approved as submitted (Kokubun/Matsumoto).

**ITEM D-20: DEPARTMENT OF DEFENSE REQUEST TO ENTER INTO A
MEMORANDUM OF AGREEMENT WITH PUXB JOINT VENTURE FOR
THE OPERATION OF A TEMPORARY HELIPORT ON STATE LAND,
TMK: 3-8-08: PORTION 01, PORTION OF PULEHUNUI AND WAIKAPU,
WAILUKU, MAUI**

Mr. Uchida briefed the Board and recommended that the Board authorize the Department of Defense to enter into a Memorandum of Agreement with PUXB Joint Venture for a temporary helicopter landing facility, subject to conditions.

Mr. Rory Frampton, Chris Hart & Partners, representing PUXB Joint Venture, was present to answer questions.

Mr. Keoni Fairbanks, Executive Director of the Kahoolawe Island Reserve Commission, testified in favor of this project.

Unanimously approved as submitted (Kennison/McCrory).

ITEM D-3: FORFEITURE OF GENERAL LEASE (GL) NO. S-5563, MR. STEPHEN SICO, LESSEE, PORTION OF LOT 173, KAPAA HOMESTEADS, 3RD SERIES, KAPAA, KAUAI, TMK: 4-6-8: 1

Mr. Uchida briefed the Board and recommended that the Board cancel GL No. S-5563.

Mr. Sico, owner of Garden Island Flowers, explained the reasons for his non-compliance and asked that he be given a chance to make good on this lease.

The Board was concerned, because of the lessee's track record, that the lessee may not be able to afford this lease. The Board decided to allow the lessee 30 days to bring the lease into full compliance. Staff recommendation was amended as follows:

A. That the lessee has 30 days to bring his leasehold interest into full compliance under the terms and conditions of the lease, to include but not limited to: performance bond, removal of abandon vehicles, and using the property for the agricultural uses allowed in the lease.

B. Should condition A not be complied with, the lease will be automatically terminated on April 10, 2000, with no further Board action required. By this action, the Board:

"1. Authorize the cancellation of GL No. S-5563..."

"3. Terminate all rights and obligations of the Lessee effective as of April 10, 2000 [March 10, 2000] provided..."

Unanimously approved as amended (McCrory/Kennison).

ITEM D-17: CDUA NO. HA-2961 FOR WATER AND UTILITY SERVICE IMPROVEMENTS FOR THE KUKIO BEACH RESORT LLC. AT NORTH KONA, HAWAII, TMK: PORTION OF 7-2-04: 04

Mr. Uchida briefed the Board and recommended that the Board approve this application for water and utility improvements, subject to 20 conditions. He drew the Board's attention to condition 3 that requires the applicant to obtain authorization from the County of Hawaii for the visual impacts, and condition 15 that requires the applicant to comply with Historic Preservation Division requirements.

Mr. James Leonard, PBR Hawaii, representing WB Kukio Beach Resorts, LLC., testified in favor of staff's recommendation and responded to concerns raised by the Board. He clarified that the site was visited with staff from Hawaii Historic Preservation Division to ensure that there were no archeological sites along the corridor. In regards to the visual impacts, it would be minimal especially in the conservation district because of the distance from the highway and the scale of the project.

There were no public comments when the Environmental Assessment went out for review. The estimate from the engineers to put the utility line underground as opposed to doing it on overhead poles is 6 times more.

Member Matsumoto pointed out an error on page 11, no 6. which seemed to have some missing language.

Member Kokubun made a motion to approve staff recommendation, with an emphasis that the applicant work with the County of Hawaii, Planning Department, to discuss some agreement on the visual impacts.

Unanimously approved as submitted (Kokubun/McCrory).

ITEM D-14: CDUA NO. HA-2944 FOR CONSTRUCTION OF A WATER STORAGE RESERVOIR AT KULANI CORRECTIONAL FACILITY, SOUTH HILO, HAWAII COUNTY, TMK: 2-4-8: 09

Mr. Uchida briefed the Board and recommended that the Board approve this application for a new 600,000 gallon water reservoir and cover for the existing 5 million gallon reservoir at Kulani Correctional Facility, South Hilo District, Hawaii County, subject to 9 conditions.

Ms. Suzette Hokama, Fujita & Associates, Inc., was present to answer questions.

Unanimously approved as submitted (Kokubun/Kennison).

ITEM D-21: GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT AND ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY TO GTE HAWAIIAN TELEPHONE COMPANY FOR UTILITY PURPOSES AT LAUPAHOEHOE AND HUMUULA, NORTH HILO, HAWAII, TMKS: 3RD/3-6-04: PORTION 05 AND 3-9-01: PORTION 01 AND PORTION 3

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of a perpetual grant of easement and an immediate construction right-of-entry, to GTE Hawaiian Telephone Company, subject to standard conditions.

Member Kokubun was concerned about the ceded lands issue raised by the Office of Hawaiian Affairs in the staff report. Chairperson Johns suggested, when the final documents are sent to the Attorney Generals for review, that they be asked to look if there is a legitimate issue regarding the exemption and/or the use of ceded lands.

Ms. Sandy Padaken, Henkels & McCoy, Inc., representing GTE Hawaiian Telephone Company, explained that they haven't applied for an SMA permit because they are trying to work out some issues with the Department of Transportation. She agreed to have a condition added that the

applicant obtain the required SMA permit.

Member Kokubun made a motion to approve staff's recommendation with the amendment to add condition A. 6. to read as follows:

6. That the applicant obtain the required SMA permit for the subject project.

Unanimously approved as amended (Kokubun/Kennison).

ITEM D-7: REQUEST ISSUANCE OF A LAND PATENT IN CONFIRMATION OF LAND COMMISSION AWARD 10908 TO UWAIA, LOCATED AT NORTH KOHALA, ISLAND OF HAWAII, TMK: 3RD/ 5-4-03: 11

Mr. Uchida briefed the Board and recommended that the Board consent to the issuance of a Land Patent in confirmation of Land Commission Award No. 10908 to Uwaia, subject to 3 conditions.

Mr. Steven Lim was present to answer questions.

Unanimously approved as submitted (Kokubun/Kennison).

ITEM D-10: ISSUANCE OF A REVOCABLE PERMIT TO WOOD VALLEY WATER & FARM COOPERATIVE, KAU, HAWAII, TMK: 9-7-01: POR. 1

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of a revocable permit to Wood Valley Water & Farm Cooperative for the use of water from the Noguchi Tunnel system, subject to 9 conditions.

Member McCrory suggested, on conditions no. 5, where the applicant is asked to provide a monthly gallonage reports, that they also be asked to provide an annual summary report which provides to the department a report of all of the usage, repairs, and other special occurrences.

In response to a suggestion made by Member Kokubun to amend condition no. 4, Mr. John Day, Wood Valley Water & Farm Cooperative, suggested doing language that is similar to the Kau Agribusiness permit that basically says, improvements and repairs to be constructed at no cost to the State. He commented on the monthly gallonage report in condition no. 5, requesting that they be allowed to submit the monthly gallonage report every quarter.

Chairperson Johns asked if comments were received from Kau Agribusiness, as suggested by the Department of Agriculture in the staff report. The Board decided to defer this item until later on in the meeting to allow staff time to contact Kau Agribusiness.

Continued on page 7.

ITEM D-18: CDUA NO. HA-2951 FOR THE USE OF STATE SUBMERGED LANDS TO IMPLEMENT AND MAINTAIN MITIGATION MEASURE (I.E., STAINING) REGARDING THE IMPROPER APPLICATION OF "GUNNITE" TO SEAWALLS AT HEEIA BAY, HAIKUUA AND KEAUKOU BAY, NORTH KONA, HAWAII

Mr. Uchida briefed the Board and recommended that the Board approve this CDUA to periodically and perpetually maintain the gunnited surfaces, subject to 12 conditions.

Mr. Gregg Kashiwa, representing Blue Chip Corporation, explained that this violation occurred back in 1988. The former property manager, after the storm, contacted a contractor to fix the seawall. The contractor thought that the property manager was going to get the proper permits, and vice-versa.

Member Matsumoto was concerned that the CDUA may be inadequate because of the need for an after-the-fact CDUA for the gunnited areas. This CDUA seems to be for the ongoing maintenance only.

Because of concerns raised by the Board, Mr. Uchida suggested deferring this item to allow time for staff to include in the staff report, the HOAPS analysis breakdown, clarification of the action being sought, some analysis of whether or not this process to correct the situation is an actual deterrent to future violations, and to include the 180-day expiration date.

Ms. Pat Tummons, Environment Hawaii, was concerned that the staff report did not include any response from the Division of Aquatic Resources. She felt that there should be some attempt, when the staff report is resubmitted, to address concerns about the potential impacts and the effects this may have on the aquatic environment.

Member Kokubun made a motion to defer this item pending further explanation from staff.

Unanimously approved to defer (Kokubun/Kennison).

ITEM D-19: CDUA NO. MA-2952 FOR HONOKOHAU WATER SYSTEM IMPROVEMENTS, HONOLUA AND HONOKOHAU DISTRICT, MAUI, TMKs: (2) 4-2-01: 01 AND 4-1-01: 09

Mr. Uchida briefed the Board and recommended that the Board approve this application to construct the Honokohau Water System Improvements, subject to 18 conditions. He indicated that a response was received recently from the Historic Preservation Division in support of the applicants archeological report with some minor modifications.

Mr. Milton Arakawa, Munekiyo, Arakawa & Hiraga, Inc., was present to answer questions. He informed the Board that the construction plans they intend to submit, as conditioned in the staff report, will be of places where the pipe is going underground, all the other places will be surveyed

as its put in.

Unanimously approved as submitted (Kennison/McCrory).

ITEM D-10: ISSUANCE OF A REVOCABLE PERMIT TO WOOD VALLEY WATER & FARM COOPERATIVE, KAU, HAWAII, TMK: 9-7-01: POR. 1

Continuation from page 5.

Staff contacted Kau Agribusiness who indicated that they were not aware of this request and not aware that this request was being discussed at this Board meeting.

There was some discussion. The Board decided to approve the permit to Wood Valley Water & Farm Cooperative with the understanding that the permit is a revocable permit, which could be terminated if there were problems. Mr. Uchida offered to contact Kau Agribusiness to get their comments, if their comments are significant, bring it to the Board as a reconsideration of Kau Agribusiness' permit. Chairperson Johns wanted to continue encouraging the parties to work something out. Member Kokubun wanted to make sure that all the current existing users would be accommodated.

The Board amended the staff recommendation as follows:

4. The cost of any restoration/repairs to the water system shall be the responsibility of the applicant, and shall be done at no cost to the state.
5. The applicant shall install a water metering system, at its own cost, and provide monthly gallonage reports, each quarter and summarized annually to the Department. The annual summarized reports shall also include an itemized listing of all costs for repairs and special occurrences to the system. The water metering system is subject to the Chairperson's approval prior to its installation;

Unanimously approved as amended (Kokubun/McCrory).

ITEM D-22: CONSENT TO ASSIGN GL NO. S-3621, SEAIR CORPORATION, ASSIGNOR, TO CRESCENT CITY PROPERTIES, INC., ASSIGNEE, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3RD/2-2-49: 06

Mr. Uchida briefed the Board and recommended that the Board consent to the assignment of GL No. S-3621 from Seair Corporation to Crescent City Properties, Inc., subject to 5 conditions.

Mr. Dennis Nishimura, Crescent City Properties, Inc., was present to answer questions.

Unanimously approved as submitted (Kokubun/McCrory).

ITEM D-1: GRANT OF A PERPETUAL, NON-EXCLUSIVE UTILITY EASEMENT AND A CONSTRUCTION RIGHT-OF-ENTRY TO GTE HAWAIIAN TELEPHONE COMPANY AT LAUPAHOEHOE AND HUMUULA, NORTH HILO, HAWAII, TMK: 3RD/3-6-04: PORTION 05; 3-9-01: PORTIONS 01 & 13

This item was mistakenly listed twice on the agenda (see Item D-21).

Unanimously approved to withdraw (Kokubun/McCrory).

ITEM D-2: RESCIND PRIOR BOARD ACTION OF 8/10/90, AGENDA ITEM F-14, AND ISSUANCE OF A REVOCABLE PERMIT FOR PASTURE PURPOSES TO MR. JAMES PFLUEGER, C/O PFLUEGER PROPERTIES, POR. OF PILAA HANAIEI, KAUAI, HAWAII, TMKS: 5-1-2: 4 AND POR. 6

Mr. Uchida requested that this item be withdrawn because of the applicants pending violation with the Commission on Water Resource Management.

Unanimously approved as withdrawn (McCrory/Kokubun).

ITEM D-4: CONSENT TO DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES REQUEST TO ENTER INTO A REVOCABLE PERMIT WITH CENTRAL OAHU YOUTH SERVICES ASSOCIATION AT WAHIAWA, OAHU, TMK: 1ST/7-4-6: 12

Mr. Uchida briefed the Board and recommended that the Board consent to the Department of Accounting and General Services request to enter into a revocable permit with Central Oahu Youth Services, subject to standard conditions.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM D-5: AMEND FOR UTILITY PURPOSES PRIOR BOARD ACTIONS FOR PERPETUAL EASEMENT TO GTE HAWAIIAN TELEPHONE CO. AT KEAWAULA, WAIANAE, KUAOKALA, KAENA, MOKULEIA, AND WAIALUA, OAHU, TMKS: 1ST/8-1-1: PORTION 14; 6-9-3: PORTIONS 2 AND 5; 6-9-1: PORTION 4; 6-9-4: PORTION 9 AND 6-9-5: PORTION 7

Mr. Uchida briefed the Board and recommended that the Board amend its prior action to allow the replacement of the correct TMK.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM D-6: SALE OF LEASE AT PUBLIC AUCTION FOR INTENSIVE AGRICULTURE PURPOSES, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3RD/2-4-05: 12

Mr. Uchida briefed the Board and recommended that the Board authorize the sale of a lease at public auction covering the subject property, subject to standard conditions.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM D-8: AFTER-THE-FACT CONSENT TO ASSIGN GRANT OF NON-EXCLUSIVE EASEMENT BEARING LAND OFFICE DEED NO. S-27766, SHANG-WEN CHEN AND LILI TIEN CHEN, ASSIGNORS, TO SHANG-WEN CHEN, ASSIGNEE; AND FROM SHANG-WEN CHEN, ASSIGNOR, TO SHANG-WEN CHEN, AS TRUSTEE UNDER THAT CERTAIN UNRECORDED REVOCABLE LIVING TRUST OF SHANG WEN CHEN DATED JULY 22, 1999; AND CONSENT TO MORTGAGE, HONOLULU, OAHU, TMK: (1) 2-5-5: 5

Mr. Uchida briefed the Board and recommended that the Board consent to the assignments, subject to standard conditions.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM D-9: RESCIND PRIOR LAND BOARD APPROVAL AND AUTHORIZE THE DIRECT SALE OF A GOVERNMENT DITCH RIGHT OF WAY TO MR. WAYNE SHIMOKAWA AND MR. ROBERT SHIMOKAWA AT WAIMANALO, OAHU, TMK: (1) 4-1-25: PORTION 52

Mr. Uchida briefed the Board and recommended that the Board rescind its prior action, authorize the issuance of the sale of a patent of deed to Mr. Wayne and Robert Shimokawa, subject to standard conditions.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM D-11: RESULTS OF THE PUBLIC AUCTION SALES OF STATE OF HAWAII GENERAL LEASES AND LAND LICENSES ON THE ISLAND OF OAHU, MAUI, HAWAII, AND KAUAI, HELD ON FEBRUARY 22, 23, AND 24, 2000, RESPECTIVELY

Mr. Uchida said this item is a report to inform the Board on the recent public auctions held in February 2000.

The Board requested that a letter be sent to Council Member Yagong, Representative Takamine, and the Hawaii Forestry Community Initiative group explaining the results of the public auction.

No action required.

ITEM D-12: REQUEST FOR EXTENSION OF TIME TO COMPLETE CONSTRUCTION OF IMPROVEMENTS REQUIRED AS A SPECIAL CONDITION OF GL NO. S-5523, VOLCANO ART CENTER, OLAH, PUNA, HAWAII, TMK: 3RD/1-9-05: 09

Mr. Uchida briefed the Board and recommended that the Board authorize an extension of 2 years to the time to complete construction of improvements, provided that the applicant submit building plans for approval by the Chairperson by October 6, 2000.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM D-15: FORFEITURE OF GL NO. S-3774, MASHITA, INC., LESSEE, WAIMANALO, KOOLAULO, OAHU, TMK: 4-1-27: 10

Mr. Uchida briefed the Board and recommended that the Board authorize the cancellation of GL No. S-3774, subject to conditions.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM D-16: SET ASIDE TO COUNTY OF HAWAII FOR THE WEST HAWAII VETERAN'S CEMETERY, KUKIO-MAKALAWENA, NORTH KONA, HAWAII, TMK: 3RD/ 7-2-04: PORTION OF 4

Mr. Uchida briefed the Board and recommended that the Board approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the County of Hawaii for the West Hawaii Veteran's Cemetery, subject to 5 conditions.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM K-1: AMEND PRIOR BOARD ACTION FOR THE ISSUANCE OF LEASE BY NEGOTIATION, PIER 18, HONOLULU HARBOR, OAHU, PIER 18 DEVELOPMENT, INC. TMK: 1-5-39-7P

Mr. Peter Garcia, Property Management Officer for the Department of Transportation (DOT), briefed the Board and recommended that the Board approve the lease by negotiation covering the public lands, subject to terms and conditions.

Member Matsumoto was concerned about the applicants reasons for not obtaining financing for the project in a timely manner.

Approved as submitted.

Vote: 4 in favor (Kennison/Kokubun/McCrory & Johns)
1 opposed (Matsumoto).

ITEM K-2: AUTHORIZATION FOR DOT TO ACQUIRE PRIVATELY OWNED LAND FOR THE EXPANSION OF HONOLULU HARBOR AND SUBSEQUENT SET ASIDE BY GOVERNOR'S EXECUTIVE ORDER TO DOT, NEAR PIERS 39 AND 40, HONOLULU HARBOR, OAHU, TMK: (1) 1-5-32-5

Mr. Garcia briefed the Board and recommended that the Board authorize the acquisition of the privately-owned parcel of land by the DOT by negotiation or, if necessary, by eminent domain proceedings; authorize the DOT to obtain a right-of-entry from the land owner for site inspection, engineering and design studies, topographic and land boundary surveys, appraisal, construction, and other related purposes; and upon completion of the land acquisition, approval of and recommend to the Governor the issuance of an executive order setting aside the subject land to the DOT, Harbors Division, for harbor purposes.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM K-3: ISSUANCE OF REVOCABLE PERMIT, PIER 29, HONOLULU HARBOR, OAHU (JOEY, INC.) TMK: 1-5-38-2P

Mr. Garcia briefed the Board and recommended that the Board authorize the Director of Transportation to issue the applicant a revocable permit, subject to terms and conditions.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM K-4: REPORT ON REVOCABLE PERMITS ISSUED OR RENEWED BY DOT, HARBORS DIVISION, FOR CONSISTENT USES

ITEM K-5: REPORT ON REVOCABLE PERMITS ISSUED OR RENEWED BY THE DOT, AIRPORTS DIVISION, FOR CONSISTENT USES

Items K-4 and K-5 were reports to inform the Board on revocable permits issued or renewed by DOT.

No action required.

There being no further business, Chairperson Johns adjourned the meeting at 11:57 a.m.

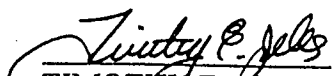
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kimberly C. Kelihoomalu

Approval for submittal:


TIMOTHY E. JOHNS
Chairperson

Board of Land and Natural Resources