

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

DATE: FRIDAY, MARCH 24, 2000
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 9:13 a.m. The following were in attendance:

MEMBERS:

Mr. Timothy Johns
Ms. Kathryn Inouye

Ms. Lynn McCrory
Mr. Russell Kokubun

STAFF:

Mr. Dean Uchida, Land Division
Mr. John Hino, Division of Boating & Ocean Recreation
Mr. Ralston Nagata, Division of State Parks
Mr. Michael Buck, Division of Forestry & Wildlife
Mr. Bill Devick, Division of Aquatic Resources

OTHERS:

Mr. Edsel Yamada, Department of the
Attorney General
Mr. Gregory Mooers, D-6
Mr. Ben Kudo, D-11
Mr. Mark Shklov, J-1
Mr. Ben Palossi, J-1
Mr. Darrell Ing, D-5
Mr. Ron Wincorp, D-8
Mr. Elia Long, E-2
Dr. Chris Kelly, B-3

Mr. Peter Garcia, Department of
Transportation
Mr. Clancy Fuchigami, D-9
Mr. Chris Kanazawa, D-11
Mr. George Meyer, J-1
Mr. Bruce Blankenfeld, J-1
Mr. Keith Avery, D-8
Ms. Alice Guild, E-2
Mr. Randy Harr, B-3

ADDED

ITEM B-2: REQUEST FOR APPROVAL TO AMEND THREE AGREEMENTS WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII (RCUH)

ADDED

ITEM B-3: REQUEST FOR APPROVAL TO ENTER INTO FOUR AGREEMENTS WITH THE UNIVERSITY OF HAWAII (UH)

Unanimously approved to add Items B-2 and B-3 to the agenda (McCrary/Inouye).

See page 8 for the continuation of these items.

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

No action – lack of quorum.

ITEM A-2: APPROVAL OF THE FEBRUARY 11, 2000 MINUTES

Unanimously approved as submitted (McCrary/Kokubun).

ITEM D-6: CONSERVATION DISTRICT USE APPLICATION NO. HA-2959 FOR A SINGLE FAMILY RESIDENCE AT KONA PARADISE SUBDIVISION, SOUTH KONA, HAWAII, TMK: 8-7-19: 40

Mr. Uchida, Administrator for the Land Division, presented the staff submittal and recommended that the Board approve this application for a single-family residence in the Kona Paradise Subdivision, subject to 18 conditions.

Mr. Gregory Mooers, President of Mooers Enterprises, testified that his client is willing to deed a 10-foot wide alignment to the State as requested by the Division of Forestry and Wildlife, Na Ala Hele Program.

Unanimously approved as submitted (Kokubun/Inouye).

ITEM D-9: CONSERVATION DISTRICT USE APPLICATION NO. HA-2951 REGARDING 1) THE AFTER-THE-FACT APPLICATION OF "GUNNITE" (CONCRETE SLURRY) TO STATE SUBMERGED LANDS, AND 2) THE IMPLEMENTATION OF MEASURES (I.E., STAINING) TO MITIGATE THE IMPACT OF GUNNITE, AT HEEIA BAY, HAIKUUA AND KEAHOHOU BAY, NORTH KONA, HAWAII, SEAWARD OF PARCELS AT TMK: (3) 7-8-12: 40, 41 & 51

Mr. Uchida said this is a re-submittal, from the March 10, 2000 Board agenda, in which staff has provided a more detailed explanation on the chronology of events and the facts surrounding this particular application and the after-the-fact nature of it. He gave some background information and apologized to the Board for not providing more detailed information at the prior meeting. Staff's recommendation is that the Board approve the after-the-fact application, subject to 13 conditions.

Member McCrory requested that photos of the wall be included in the applicant's annual status report, and that the applicant pay the cost for agencies to inspect the property.

Mr. Clancy Fuchigami, Advisor to the President of Gamlon Corporation, subsidiary of Blue Chip Corporation, agreed with the requests.

The Board amended staff recommendation to read as follows:

8. "...personnel to be present to monitor the work being conducted with the applicant covering the cost for the agencies to inspect the property;
9. "...the condition of the wall, easement areas, and staining to include photos of walls and stain taken from the same location for comparison;

Unanimously approved as amended (Kokubun/McCrory).

ITEM D-11: AMEND PRIOR BOARD ACTION OF SEPTEMBER 25, 1998, AGENDA ITEM D-4, DIRECT SALE OF PORTIONS OF THE MAMALAHOA TRAIL REMNANT TO THE QUEEN LILIUOKALANI TRUST (QLT) AT KEAHUOLU, NORTH KONA, HAWAII, TMK: 3RD/7-4-08: PORTION OF 2

Mr. Uchida presented the staff submittal and recommended that the Board amend Board action of September 25, 1998, and allow for the immediate construction right of entry to the QLT, subject to 9 conditions.

Mr. Ben Kudo, representing QLT, introduced Mr. Chris Kanazawa, consultant to QLT. He testified in favor of staff's recommendation.

Unanimously approved as submitted (Kokubun/Inouye).

ITEM J-1: LEASE EXTENSION FOR GENERAL LEASE NO. H-70-14 ISSUED TO KEEHI MARINE INC., DBA KEEHI MARINE CENTER (KMC), KALIHI-KAI, HONOLULU, ISLAND OF OAHU

Mr. John Hino, Property Manager for the Division of Boating and Ocean Recreation, presented the staff submittal and recommend that the Board grant a 10-year extension of Lease H-70-14 for the

purpose of allowing KMC to secure financing, and subject to: 1) all other terms and conditions within the lease are to remain the same; 2) an additional rental reopening date to compensate for the additional 10-years. Present lease terms have rental reopenings every 10-year hence additional rental reopening date would be in 2016; and 3) other terms and conditions that may be required by the Chairperson.

Chairperson Johns noted that a letter was received from Mr. Theodore Trimmer, in support of the lease extension.

Mr. Mark Shklov, representing KMC, testified in favor of staff's recommendation.

Mr. George Meyer, tenant of KMC, testified in favor of the lease extension as requested by KMC.

Mr. Ben Palossi, testified in favor of staff recommendation.

Mr. Bruce Blankenfeld, representing the Polynesian Voyaging Society, testified in favor of staff's recommendation.

Unanimously approved as submitted (Inouye/McCrory).

ITEM D-5: CANCELLATION OF LAND OFFICE DEED NO. 1526 (RIGHT OF WAY) AND SALE OF A PORTION AND DEDICATION OF A PORTION OF SAID RIGHT-OF-WAY REMNANT TO THE DEPARTMENT OF HAWAIIAN HOME LANDS AND THE COUNTY OF MAUI, RESPECTIVELY, KOU, WAIEHU, WAILUKU, MAUI, TMK: 3-2-13: ABUTTING 9

Mr. Uchida presented the staff submittal and recommended that the Board cancel Land Office Deed No. 1526, authorize the conveyance in fee simple for a portion of the land to the Department of Hawaiian Home Lands, and authorize the conveyance in fee simple of the remaining portion to the County of Maui for the widening of Kahekili Highway, subject to conditions.

Mr. Darrell Ing, Department of Hawaiian Home Lands, was present to answer questions.

Unanimously approved as submitted (Kokubun/Inouye).

ITEM D-8: CONSERVATION DISTRICT USE PERMIT APPLICATION NO. MA-2902 FOR THE CONSTRUCTION AND OPERATION OF A 20 MEGAWATT WINDFARM AND ASSOCIATED FACILITIES TO SUPPLY WIND GENERATED ELECTRICITY

Mr. Uchida presented the staff submittal and recommended that the Board approve the application submitted by Zond Pacific Inc. to construct and operate a 20 megawatt windfarm and associated improvements at Kaheawa Pastures in Ukumehame, Maui, subject to 42 conditions. He amended

staff recommendation by adding 2 conditions. Condition no. 43, that would allow for subdivision of the Conservation district lands, if necessary for the land disposition, and Condition no. 44, that the applicant comply with the Incidental Taking Permit requirements of the U.S. Fish and Wildlife Service, including the preparation of the Habitat Conservation Plan.

Chairperson Johns asked staff to check on the conflicting statements in the staff report from the County of Maui regarding the visual impacts from the project. On page 10, the County Planning Department indicates that the visual issues remain unresolved, however, on page 13, the County asked that the permit be conditioned to allow for an after-the-fact evaluation and mitigation of the visual impacts.

Mr. Keith Avery, Vice-President of Zond Pacific, Inc., gave some background information about the project and the benefits of a windfarm for renewable energy resources. He mentioned that the subdivision process would not be necessary in this case because they are a utility company and his understanding is that under the lease agreements for the State, that a lease can be directly negotiated and an auction not necessary. He indicated, because of this high wind regime and the term of their contract with Maui Electric Company, that its been recommended by their engineers to use "tube towers", rather than the lattice towers as proposed in the staff report.

Member McCrory requested that the applicant pay for the cost incurred by the various government agencies to provide the necessary monitoring for the project, as conditioned in staff recommendation nos. 21, 29 & 38. Mr. Avery agreed.

The Board recessed at 10:45 a.m. The meeting was reconvened at 11:22 a.m.

The Board deferred this item until the next Board meeting, scheduled for April 14, 2000, on Maui. The Board wanted to be conscious that there is community support and wanted to give the community that's most directly affected by this project, an opportunity to give their input and/or to provide written documentation. The Board was also concerned about the County of Maui's position on this project.

Unanimously approved to defer (McCrory/Kokubun).

ITEM E-2: EXTENSION AND AMENDMENT OF LEASE TO FRIENDS OF IOLANI PALACE, INC. FOR PORTIONS OF THE IOLANI PALACE STATE MONUMENT, OAHU

Mr. Ralston Nagata, Administrator of the Division of State Parks, presented the staff submittal and recommended that the Board approve a 5-year lease extension to the Friends of Iolani Palace Inc. to include the proposed lease amendments, subject to the Attorney General's approval as to form.

Ms. Alice Guild, Executive Director of the Friends of Iolani Palace Inc., addressed the concerns raised by Member McCrory. In regards to the \$900,000.00 limit, the reason they are asking to have it raised to \$1,000,000.00 is that if they were fully staffed and able to have an education program,

their operating cost would be at that level. If they can cover operations with ticket revenues, anything over and above that would be shared with the State for capitol improvement projects. In regards to the lien, an example is if they were halfway through with the construction of the gallery and for some reason they didn't have money to complete it, the improvements would be part of the lien, and any other improvements put in would be enough to cover any lien.

Unanimously approved as submitted (Inouye/Kokubun).

ITEM E-1: FORFEITURE OF GENERAL LEASE NO. S-5307, TMK: 5-2-02: 49, KAHANA VALLEY STATE PARK, KOOLAULOA, OAHU

Mr. Nagata presented the staff submittal and recommended that the Board authorize the cancellation of General Lease No. S-5307 to Mr. Stewart Vierra.

Unanimously approved as submitted (McCrorry/Kokubun).

ITEM D-1: CANCELLATION OF SIX (6) REVOCABLE PERMITS AT KAHANA VALLEY, OAHU, TMK: 5-2-03

Mr. Uchida requested that this item be withdrawn because of a defective notice providing the wrong dates.

Unanimously approved to withdraw (Inouye/McCrory).

ITEM D-2: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT – JOB NO. 95-KP-5, HAENA STATE PARK SEWAGE SYSTEM IMPROVEMENTS, HAENA, KAUAI, HAWAII

Mr. Uchida presented the staff submittal and recommended that the Board authorize the Chairperson to proceed with awarding the contract for Job No. 95-KP-5, Haena State Park Sewage System Improvements, Haena, Kauai, Hawaii for \$84,890.00 and to sign the necessary documents pertaining to the project.

Unanimously approved as submitted (McCrorry/Inouye).

ITEM D-3: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT – JOB NO. F27-B-793-A, HEEIA STATE PARK, REPAVING OF PARKING LOT AND ACCESS ROAD, KOOLAUPOKO, OAHU, HAWAII

Mr. Uchida presented the staff submittal and recommended that the Board authorize the Chairperson to proceed with awarding the contract for Job No. F27-B-793-A, Heeia State Park, repaving of

parking lot and access road, Koolaupoko, Oahu, Hawaii for \$76,600.00 and to sign the necessary documents pertaining to the project.

Unanimously approved as submitted (Inouye/McCrory).

ITEM D-4: BOARD OF WATER SUPPLY REQUESTS FOR A SET ASIDE FOR THE WAIMANO GULCH DEEP MONITOR WELL SITE TOGETHER WITH AN ACCESS EASEMENT, A MANAGEMENT AND CONSTRUCTION RIGHT OF ENTRY AT WAIMANO, OAHU, TMK: (1) 9-7-25: PORTION OF 10

Mr. Uchida presented the staff submittal and recommended that the Board authorize the set aside of the subject lands to the Board of Water Supply, and authorize the management and construction right of entry, subject to standard conditions.

Unanimously approved as submitted (Inouye/McCrory).

ITEM D-7: CONSENT TO ASSIGN GRANT OF EASEMENT NO. 5123, ARK BUILDING U.S.A., ASSIGNOR, TO THOMAS GOTTLIEB AND CAROL KIRSH, AS TRUSTEES OF THE THOMAS M. GOTTLIEB AND CAROL A. KIRSH 1991 TRUST DATED NOVEMBER 1, 1991, ASSIGNEE, AND CONSENT TO MORTGAGE, HONOLULU, OAHU, TMK: (1) 3-1-35: PORTION 23

Mr. Uchida presented the staff submittal and recommended that the Board consent to assign Grant of Easement No. 5123, subject to terms and conditions.

Unanimously approved as submitted (Inouye/McCrory).

ITEM D-10: COUNTY OF MAUI REQUEST TO AMEND PREVIOUS BOARD ACTION OF FEBRUARY 26, 1999, AGENDA ITEM D-8 AND ISSUANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT FOR UTILITY PURPOSES INVOLVING LANDS UNDER EXECUTIVE ORDER NOS. 9 AND 897, WAILUKU, MAUI, TMK: 3-4-11: 02 AND 19

Mr. Uchida presented the staff submittal and recommended that the Board amend its action of February 26, 1999, replacing their approval from a lease agreement to license agreement, and authorize the issuance of a perpetual, non-exclusive easement to the County of Maui for utility purposes, subject to standard conditions.

Unanimously approved as submitted (Kokubun/Inouye).

ITEM B-1: FINAL ADOPTION OF AMENDMENTS TO ADMINISTRATIVE RULES OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES, TITLE 13, SUBTITLE 4, CHAPTER 13-74

Mr. Bill Devick, Administrator for the Division of Aquatic Resources, briefed the Board and suggested that, for the time being, the fee be waived for aquaculture dealer license, and that the license be valid for 2 years instead of 1 year. Staff's recommendation is that the Board adopt the amendments to Chapter 13-74, as proposed.

Chairperson Johns noted that a letter was received from Pacific Harvest Inc., indicating support for the Divisions proposal. He encouraged staff to continue looking at the issue to see what might be appropriate as the dealer license is refined.

Unanimously approved as submitted (McCrorry/Kokubun).

ADDED

ITEM B-2: REQUEST FOR APPROVAL TO AMEND 3 AGREEMENTS WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII (RCUH)

Mr. Devick presented the staff submittal and recommended that the Board authorize the Chairperson to negotiate and, subject to necessary approvals, amend/extend 3 agreements with RCUH during FY 2000-2001.

Unanimously approved as submitted (McCrorry/Inouye).

ADDED

ITEM B-3: REQUEST FOR APPROVAL TO ENTER INTO 4 AGREEMENTS WITH THE UNIVERSITY OF HAWAII (UH)

Mr. Devick presented the staff submittal and recommended that the Board authorize the Chairperson to negotiate and, subject to necessary approvals, enter into 4 agreements with UH during FY 2000-2001.

Dr. Chris Kelly, UH Hawaii Undersea Research Laboratory – "Improvement of Bottomfish Stocks: Phase II" agreement, explained the baited drop camera, and the towed sonar system techniques, used to determine estimates of numbers and sizes of bottomfish species present.

Mr. Randy Harr, UH Hawaii Institute of Marine Biology – "Kaneohe Bay Education Program" agreement, stated that his target audience is High School, Colleges, and Community Groups. The groups are informed about conservation management and DLNR's strategies for managing the bay.

Unanimously approved as submitted (Inouye/McCrory).

ITEM C-1: REQUEST TO ESTABLISH REQUIREMENTS AND FEES FOR THE 2000-2001 HAWAII WILDLIFE CONSERVATION STAMP FOR USE IN THE FISCAL YEAR 2001 HUNTING SEASON

Mr. Michael Buck, Administrator for the Division of Forestry and Wildlife, presented the staff submittal and recommended that the Board establish the requirement for the use of the Hawaii Wildlife Conservation Stamp to validate the FY 2001 Hunting License and set the hunting stamp fee at \$5.00 for resident and non-resident hunters. Hawaii residents who are 65 years of age or older and all persons with Hansen's Disease, who are residents of Kalaupapa, Molokai, would not be required to pay the \$5.00 fee to obtain their hunting license validation stamp.

Unanimously approved as submitted (Kokubun/McCrory).

ITEM K-1: ISSUANCE OF LEASE FOR WAREHOUSE SPACE, WHARF APRON SPACE AND SUBMERGED LAND AT PORT ALLEN PIER, KAUAI (DEPARTMENT OF THE NAVY, UNITED STATES OF AMERICA) TMK: (4)-2-1-03P

Mr. Peter Garcia, Property Management Officer for the Department of Transportation (DOT), presented the submittal and recommended that the Board consent to the issuance of the lease to the Department of the Navy.

Unanimously approved as submitted (McCrory/Inouye).

ITEM K-2: CONSENT TO ASSIGNMENT OF LEASE OF NON-EXCLUSIVE EASEMENT, KALAELOA BARBERS POINT HARBOR, EWA, OAHU (WEST BEACH ESTATES/KO OLINA OCEAN MARINA, LLC) TMK: (1)-9-1-14-8P

Mr. Garcia presented the submittal and recommended that the Board consent to the assignment of the lease for non-exclusive easement, subject to terms and conditions.

Unanimously approved as submitted (Inouye/McCrory).

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

Mr. Garcia presented the submittal and recommended that the Board authorize the Director of Transportation to issue the applicant a revocable permit.

Unanimously approved as submitted (Inouye/McCrory).

**ITEM K-4: ISSUANCE OF REVOCABLE PERMIT, PIER 19, HONOLULU HARBOR,
OAHU (ROY SHIELDS) TMK: (1)-5-39-63P**

Mr. Garcia presented the submittal and recommended that the Board authorize the Director of Transportation to issue the applicant a revocable permit.

Unanimously approved as submitted (Inouye/Kokubun).

**ITEM K-5: ISSUANCE OF REVOCABLE PERMIT, PIER 39, HONOLULU HARBOR,
OAHU (WAI-LUN SIU) TMK: (1)-5-32-2P**

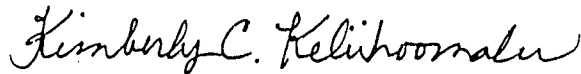
Mr. Garcia presented the submittal and recommended that the Board authorize the Director of Transportation to issue the applicant a revocable permit.

Unanimously approved as submitted (Inouye/Kokubun).

There being no further business, Chairperson Johns adjourned the meeting at 12:45 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. Kelihoomalau

Approval for submittal:



TIMOTHY E. JOHNS
Chairperson

Board of Land and Natural Resources