

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

DATE: FRIDAY, MAY 12, 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
Mr. Colbert Matsumoto
Mr. Russell Kokubun

Mr. William Kennison
Ms. Kathryn Inouye

STAFF:

Mr. Dean Uchida, Land Division
Mr. Paul Conry, DOFAW
Mr. Dan Quinn, Division of State Parks

Mr. Michael Buck, Division of Forestry
and Wildlife (DOFAW)

OTHERS:

Ms. Lynn Otaguro, Department of the
Attorney General
Dr. Seiji Naya, D-21
Ms. Kim Uyehara, C-2
Mr. Kanani Brown, D-15
Mr. William Vincent, D-14
Mr. Wayne Nielson, D-19

Mr. Larry Cobb, Department of
Transportation
Mr. Robert Fishman, D-21
Mr. Jack Palmer, C-2
Mr. Pat Ward, D-11 & D-12
Mr. Keith Kurahashi, D-19
Mr. Stephen Sico, D-5

ITEM A-1: APPROVAL OF THE MARCH 10, 2000 MINUTES

Member Matsumoto amended Item K-1, page 11, by deleting the first paragraph, and substituting it with the following:

"Matsumoto noted that this matter had come before the Board a year ago at which time the terms of the direct lease had been set. Since that time, because of changed economic circumstances which were not the fault of the DOT, the proposed lessee now wants a reduction in the rent and the DOT wants the Board to approve the proposed reduced rental terms. Matsumoto questioned whether, if the tables were turned, the lessee would be willing to modify the lease terms to increase the rent because of improved economic conditions. He also wondered why the lease had not been previously issued since this matter had been acted on by the Board so long ago. He indicated that the proposed action reflected poor property management practices on DOT's part and impaired the integrity of the deal which had been previously struck between DOT and the lessee and approved by the Board. As a result he objected to the proposed action."

Unanimously approved as amended (Kokubun/Kennison).

ITEM A-2: APPROVAL OF THE MARCH 24, 2000 MINUTES

Deferred – no quorum.

ITEM D-21: SET ASIDE TO THE HAWAII TOURISM AUTHORITY FOR THE PURPOSE OF MANAGING, OPERATING AND MAINTAINING OR TO ENTER INTO CONTRACTS FOR THE PROFESSIONAL MANAGEMENT, OPERATION AND MAINTENANCE OF THE HAWAII CONVENTION CENTER, KALIA, WAIKIKI, HONOLULU, OAHU, TMK: 2-3-35:

Mr. Dean Uchida, Administrator of the Land Division, briefed the Board and recommended that the Board authorize the set aside of the Hawaii Convention Center site to the Department of Business, Economic Development and Tourism, on behalf of the Hawaii Tourism Authority, subject to 4 conditions.

Dr. Seiji Naya, Director of the Department of Business, Economic Development and Tourism, explained the importance of the transfer, so that they can run the convention center more efficiently. He felt the Hawaii Tourism Authority would do a good job in carrying out this mission and urged the Board to approve the set aside.

Unanimously approved as submitted (Inouye/Matsumoto).

ITEM C-2: REQUEST FOR APPROVAL OF A CONTRACT WITH DUCKS UNLIMITED, INC. TO PROVIDE CONSULTANT SERVICES TO DESIGN AND BUILD PHASE I OF THE WETLAND RESTORATION PROJECT AT POUHALA MARSH, OAHU

Mr. Michael Buck, Administrator of DOFAW, briefed the Board and amended the staff report by adding

additional language to Attachment 3.

Mr. Paul Conry, Wildlife Program Manager for DOFAW, explained the basis for the sole source request, that this is a wetland development project that Ducks Unlimited, Inc. has a great deal of experience in, and that Ducks Unlimited, Inc. is contributing a significant amount of money for the project.

Member Matsumoto requested that Attachment 1, Item 3.j., be amended by deleting "up to", and replacing it with "not less than".

Ms. Kim Uyehara, Project Biologist for Ducks Unlimited Inc., introduced Mr. Jack Palmer, Project Engineer for Ducks Unlimited Inc. She gave some background about their organization, an international non-profit conservation organization whose mission in Hawaii is to restore habitat for the benefit of the 6 endangered water birds.

The Board amended the staff report as follows:

Amended Attachment 1, Item 3., to read: "j. Provide additional funding in cash and in-kind services to augment State funds for the planning, administration, development and operations of the Project during the current Phase of the Project in an amount not less than One hundred and twenty-seven thousand dollars..."

Added the following language to Attachment 3: The CONTRACTOR and the STATE agree that any cost savings in this phase of construction of the project will be used by the CONTRACTOR to augment funding for completion of the second phase of the project as per the Chevron Waiiau Oil Spill Settlement and described in the "Partial Consent Decree on Behalf of the United States for the Pearl Harbor/Chevron Pipeline Spill".

Unanimously approved as amended (Inouye/Matsumoto).

ITEM C-1: REQUEST FOR APPROVAL OF DLNR RADIO SYSTEM MAINTENANCE CONTRACT WITH PACIFIC SERVICE TECHNOLOGIES

Mr. Buck briefed the Board and recommended that the Board authorize the Chairperson to negotiate and, subject to necessary approvals, execute the radio maintenance contract for the DLNR (Green Net).

Unanimously approved as submitted (Kennison/Matsumoto).

ITEM D-15: CANCELLATION OF LEASE EXTENSION OF GENERAL LEASE (GL) NO. S-3949, BIG ISLAND FLORAL, INC., LESSEE, LOTS 14 AND 16, KEONEPOKO HOMESTEAD LOTS, PUNA, HAWAII, TMK: 3RD/1-5-07: 17, 18, 62, 63, 64, 65 & 66

Mr. Uchida briefed the Board and recommended that the Board authorize the cancellation of the lease

extension dated November 9, 1998 and reinstate the original term of GL No. S-3949 to expire December 20, 2000, subject to review and approval by the Department of the Attorney General, and other terms and conditions.

Mr. Kanani Brown, Big Island Floral, indicated that they don't need a mortgage, however, would still like to request an extension of the lease. He asked that they be able to meet with a representative from DLNR to negotiate a lease of their own, instead of being tied to the old lease.

Chairperson Johns advised the lessee that the Board does not have the authority to extend the lease without a mortgage.

Mr. Uchida suggested that the lessee meet with the Hawaii District Land Office to resolve the outstanding default issues, and to discuss options on extending the lease. He indicated that the law doesn't allow the State to negotiate on commercial leases and that the only way to get a new lease would be through the public auction process.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM D-11: RESUBMITTAL FOR REQUEST TO RESCIND PREVIOUS BOARD ACTION OF JULY 24, 1998, AGENDA ITEM D-15 INVOLVING A CONSENT TO ASSIGN GL NO. S-4212 AND REQUEST FOR CONSENTS FOR ASSUMPTION OF A FIRST MORTGAGE AND NEW SECOND MORTGAGE, KAMAOLE, WAILUKU, MAUI, TMK: 3-9-04: 29

ITEM D-12: RESUBMITTAL OF SALE OF LEASE AT PUBLIC AUCTION FOR PARKING LOT PURPOSES, CANCELLATION OF REVOCABLE PERMIT NO. S-6914 WITH TOWA SHINYO MAUI, INC. AND ISSUANCE OF REVOCABLE PERMIT TO WESTERN APARTMENT SUPPLY AND MAINTENANCE CO., KAMAOLE, WAILUKU, MAUI, TMK: 3-9-04: PORTION 01

Items D-11 and D-12 were taken together.

Mr. Uchida briefed the Board and recommended, for Item D-11, that the Board consent to the assignment of the lease from Towa Shinyo Maui, Inc., to Western Apartment Supply & Maintenance Co. dba Maui Oceanfront Inn, and consent to the assumption of a first and second mortgage for the property. For Item D-12, he amended the staff recommendation, condition no. 3, that should read "parking lot purposes", instead of "pasture purposes"; deleted condition no. 3.b.; and renumbered condition nos. 3c, 3d, and 3e to 3b, 3c, and 3d. Staff's recommendation is that the Board cancel the existing permit, issue a new permit to the new buyers, and authorize the sale of a lease at public auction for parking lot purposes.

Ms. Pat Ward, representing the owner of Western Apartment Supply & Maintenance, was present to answer questions.

Member Kennison made a motion to approve Item D-11, and amend Item D-12, condition no. 3 as follows:

3. "Authorize the sale of a lease at public auction covering the subject area for [pasture] parking lot purposes under ..."
- b. delete all of "b" as it relates to agricultural use.

Change conditions 3c, 3d, and 3e to 3b, 3c, and 3d.

Item D-11 unanimously approved as submitted, and Item D-12 unanimously approved as amended (Kennison/Inouye)

ITEM D-14: SALE OF REMNANT TO MR. WILLIAM VINCENT, LAUPAHOEHOE HOMESTEADS, NORTH HILO, HAWAII, TMK: 3RD/3-6-06: WITHIN PARCEL NO. 14

Mr. Uchida briefed the Board and recommended that the Board authorize the sale of the remnant to the applicant, subject to conditions.

Mr. Vincent was present to answer questions.

Unanimously approved as submitted (Kokubun/Kennison).

ITEM D-19: REQUEST FOR CLARIFICATION ON ALLOWABLE USES UNDER GL NO. S-3709, OCEANIC INSTITUTE, WAIMANALO, OAHU, TMK: (1) 4-1-14: 4 AND 13

Mr. Uchida briefed the Board and recommended that the Board affirm that wedding services are an allowable use under GL No. S-3709, Oceanic Institute, Lessee.

Mr. Keith Kurahashi, Kusao & Kurahashi, Inc., introduced Mr. Wayne Nielson, Sea Life Park. He indicated that a number of the lease documents did emphasize that the project needed to be constructed in a manner similar to those on the mainland, Sea World has 4 different facilities around the nation, and each one does allow for weddings.

A motion was made at 10:05 a.m. to move into executive session to consult with the Attorney General. The meeting was reconvened at 10:17a.m.

Unanimously approved as submitted (Kokubun/Kennison).

Chairperson Johns clarified that the Board's action is an interpretation of the lease, that the language was sufficiently broad to clarify that this is an allowable use, however, this action does not apply a decision

on the Conservation District Use Application for the construction of the Chapel which is still pending.

ITEM D-5: REQUEST FOR CLARIFICATION REGARDING THE FORFEITURE OF 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 indicated that he was informed by staff that the lessee, this past weekend, had cleared all the vehicles to the satisfaction of the County Public Works Department, and had started doing some work on the property. The question before the Board was whether or not the action taken by the lessee, up until this past weekend, was satisfactory to the Board, if not, the lease will be cancelled effective April 10, 2000.

Mr. Sico informed the Board of the problems he's had with people using the property as a dumping area. He said he will continue to clean it up until it looks like a bona fide farm. He asked for the Board's approval to allow him to continue leasing the property.

Unanimously approved to withdraw (Matsumoto/Kokubun).

ITEM D-2: CANCELLATION OF REVOCABLE PERMIT NO. S-6335 AND ISSUANCE OF REVOCABLE PERMIT TO MRS. CLAIRE K. HUEU AND MR. JORDAN K. HUEU, KEANAE, HANA, MAUI, TMK: (2) 1-1-003: 054 AND 064

Mr. Uchida briefed the Board and recommended that the Board authorize the cancellation of Revocable Permit No. S-6335 and issue a new permit, subject to conditions.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM E-2: REQUEST FROM THE BIG ISLAND FARM BUREAU TO USE A PORTION OF THE OLD KONA AIRPORT STATE RECREATION AREA IN KAILUA-KONA, HAWAII, FOR A BIG ISLAND FARM FAIR

Mr. Dan Quinn, Assistant Administrator of the Division of State Parks, briefed the Board and recommended that the Board approve the issuance of a Special Use Permit to the Big Island Farm Bureau to hold a fund raising carnival at the Old Kona Airport, subject to conditions.

Member Kokubun amended the staff recommendation by deleting condition no. 1.

Unanimously approved as amended (Kokubun/Matsumoto).

ITEM E-1: REQUEST FROM THE HUI OKINAWA ORGANIZATION TO HOLD A HAARI BOAT RACE FESTIVAL IN PORTIONS OF WAILOA RIVER STATE

RECREATION AREA, HAWAII

Mr. Quinn briefed the Board and recommended that the Board approve the issuance of a Special Use Permit to the Hui Okinawa to hold a Haari Boat Race Festival at the Wailoa River State Recreation Area, subject to conditions.

Member Kokubun amended the staff recommendation by deleting condition no. 1

Unanimously approved as amended (Kokubun/Matsumoto).

ITEM D-1: SALE OF LEASE AT PUBLIC AUCTION FOR PASTURE PURPOSES AND ISSUANCE OF REVOCABLE PERMIT TO MR. ERNEST R. MENDES, JR. AND MRS. JEANIE L. MENDES, KAHAKULOA, WAILUKU, TMK: (2) 3-1-01: 23

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

Unanimously approved as submitted (Inouye/Kokubun).

ITEM D-3: FORFEITURE OF GL NO. S-5011, MR. LEIGH-WAI DOO, HONOULIWAI, MOLOKAI, TMK: (2) 5-8-03: POR. 12

Mr. Uchida requested that this item be withdrawn, lessee has paid the delinquent rent.

Unanimously approved to withdraw (Inouye/Kokubun).

ITEM D-4: LEASE - PUBLIC AUCTION FOR PASTURE AND INTENSIVE AGRICULTURE PURPOSES, AND ISSUANCE OF REVOCABLE PERMIT TO MR. CURTIS BROYLES, PORTION OF GOVERNMENT LANDS OF "KEKAHA GARDENS SUBDIVISION", INCREMENT 4 - FP 1460, KEKAHA, WAIMEA, KAUAI, TMK: 1-2-12: 38

Mr. Uchida amended the staff report by changing page 2, Character of Use, to read: "Pasture and intensive agriculture". Staff's recommendation is that the Board authorize the sale of a lease at public auction and authorize the issuance of a revocable permit to Mr. Broyles for pasture and intensive agriculture purposes, subject to standard conditions.

Unanimously approved as amended (Inouye/Kokubun).

ITEM D-6: LEASE - PUBLIC AUCTION FOR PASTURE AND INTENSIVE

**AGRICULTURE PURPOSES, LOT A, PARTS 1 AND 2, KAPAA, KAWAIHAU
(PUNA), KAUAI, HAWAII, TMK: 4-6-2: 1, 13, 17, & 19**

Mr. Uchida briefed the Board and recommended that the Board authorize the sale of a lease at public auction for pasture and intensive agriculture purposes, subject to standard conditions.

Unanimously approved as submitted (Inouye/Kokubun).

ITEM D-7: AFTER-THE-FACT CONSENT TO ASSIGN GRANT OF NON-EXCLUSIVE EASEMENT NO. S-5338, MR. DOUGLAS C. OSTMAN, ASSIGNOR, TO MR. DOUGLAS CLARK OSTMAN, TRUSTEE UNDER THAT CERTAIN UNRECORDED AND RESTATED TRUST AGREEMENT FOR THE DOUGLAS CLARK OSTMAN TRUST DATED DECEMBER 21, 1993, ASSIGNEE; MR. DOUGLAS CLARK OSTMAN, TRUSTEE UNDER THAT CERTAIN UNRECORDED AND RESTATED TRUST AGREEMENT FOR THE MR. DOUGLAS CLARK OSTMAN TRUST DATED DECEMBER 21, 1993, ASSIGNOR, TO MR. THOMAS ORENA LLOYD-BUTLER AND MS. DIANE BUTLER LLOYD-BUTLER, TRUSTEES UNDER THAT CERTAIN UNRECORDED TRUST AGREEMENT FOR THE LLOYD-BUTLER FAMILY TRUST DATED MARCH 10, 1992, ASSIGNEE, PUPUKEA, OAHU, TMK: (1) 5-9-20: 51

Mr. Uchida briefed the Board and recommended that the Board authorize the consent to assignment of the grant of easement, subject to standard conditions.

Unanimously approved as submitted (Inouye/Kokubun).

ITEM D-8: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT – JOB NO. J33ACOA, WAIANAE AGRICULTURAL PARK SEDIMENT BASINS AND INTERCEPTOR DITCH, OAHU, HAWAII

Mr. Uchida briefed the Board and recommended that the Board award the contract to Mega Construction Inc., subject to standard conditions.

Unanimously approved as submitted (Inouye/Kokubun).

ITEM D-9: AMEND PRIOR BOARD ACTION FOR CONSENT TO ASSIGN GRANT OF EASEMENT NO. 5123 AND MORTGAGE AT HONOLULU, OAHU, TMK: (1) 3-1-35: PORTION 23

Mr. Uchida briefed the Board and recommended that the Board amend action of March 24, 2000, Item D-7 by, consenting to the assignment from Ark Building Hawaii, Inc., to Ark Building U.S.A.; deleting

the consent from Ark Building U.S.A., to Mr. Gottlieb; and deleting consent to mortgage, subject to standard conditions.

Unanimously approved as submitted (Inouye/Kokubun).

ITEM D-10: EXTENSION OF THE 180-DAY PROCESSING PERIOD – CONSERVATION DISTRICT USE APPLICATION NO. OA-1405 TO CHANGE A CONDITION FOR THE RETENTION OF THE H-3 FREEWAY CONSTRUCTION ACCESS ROAD, HALAWA VALLEY, OAHU

Mr. Uchida briefed the Board and recommended that the Board approve an extension of 180-days to the processing period, such that the new deadline is November 16, 2000.

Unanimously approved as submitted (Inouye/Kokubun).

ITEM D-13: CERTIFICATION OF ELECTION AND APPOINTMENT OF SOIL AND WATER CONSERVATION DISTRICT DIRECTORS (CENTRAL MAUI, WEST KAUAI, EAST KAUAI)

Mr. Uchida briefed the Board and recommended that the Board certify the elections and appoint the members that are listed.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM D-16: AMENDMENT TO PREVIOUS BOARD ACTION – CONSENT TO ASSIGN GL NO. S-5084, MR. RALPH S. KOUCHI, UNMARRIED, 1/6 INTEREST; MR. ALVIN M. KOUCHI, WHOSE WIFE IS MRS. JILL KOUCHI, AS HIS SEPARATE PROPERTY, 1/6 INTEREST, MR. NEIL SHIRAKI, WHOSE WIFE IS MRS. MARY SHIRAKI, AS HIS SEPARATE PROPERTY, 1/6 INTEREST, MR. GARRETT SOKEI, WHOSE WIFE IS MRS. AUDREY SOKEI, AS HIS SEPARATE PROPERTY, 1/6 INTEREST, THE HEIRS OF MR. HAROLD KOJIMA IDENTIFIED AS MR. GLEN H. KOJIMA, HUSBAND OF MRS. NANCY KOJIMA, MR. DEREK S. KOJIMA, UNMARRIED, MS. SANDY H. KOJIMA, UNMARRIED AND MS. WENDY H. KOJIMA, UNMARRIED, 1/6 INTEREST, AND MR. ERIC SAKAZAKI, UNMARRIED, TENANTS IN COMMON, ASSIGNORS, TO UNIVERSITY OF HAWAII-KAUAI COMMUNITY COLLEGE, AS TENANT IN SEVERALTY, ASSIGNEE, LOT 59, PUU KA PELE PARK LOTS, WAIMEA, KAUAI, TMK: 1-4-02: 59

Mr. Uchida briefed the Board and recommended that the Board amend prior approval and add prior owners family names to the document, subject to standard conditions.

Unanimously approved as submitted (Inouye/Kokubun).

ITEM D-17: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT – JOB NO. 33-HL-C2, KEKALA-KEOKEA RESIDENTIAL SUBDIVISION 8-INCH WATERLINE EXTENSION, PUNA, HAWAII

Mr. Uchida requested that this item be withdrawn because one of the bidders is contesting the bid process. The matter is being referred to the Attorney Generals.

Unanimously approved to withdraw (Kokubun/Matsumoto).

ITEM D-18: REQUEST FOR RIGHT-OF-ENTRY BY THE FEDERAL HIGHWAY ADMINISTRATION AND OKAHARA & ASSOCIATES, INC., FOR PURPOSES OF CONDUCTING SURVEY WORK AT KAOHE II & III AND KALOPA, HAMAKUA, HAWAII, TMK: 3RD/4-3-10: 02 & 8; 4-4-14: 02 & 03; AND 4-4-15: 02

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of a right-of-entry to the Federal Highway Administration and Okahara & Associates, subject to 14 conditions.

Unanimously approved as submitted (Kokubun/Matsumoto).

ITEM D-20: RESCIND PRIOR BOARD ACTION FOR A FIFTY-FIVE YEAR TERM, NON-EXCLUSIVE EASEMENT TO MS. TAMMY AND MR. KEITH ISHIBASHI FOR SEAWALL PURPOSES AT KANEOHE, OAHU, TMK: (1) 4-6-22: SEAWARD OF 21

Mr. Uchida briefed the Board and recommended that the Board rescind approval of December 10, 1999, subject to standard condition.

Unanimously approved as submitted (Inouye/Matsumoto).

ITEM K-1: RENT-A-CAR CONCESSION LEASES FOR MOLOKAI AIRPORT, TMK: (2) 5-2-04

Mr. Larry Cobb, Property Manager for the Department of Transportation Harbors Division, briefed the Board and recommended that the Board approve to advertise the rent-a-car concession at Molokai Airport.

Unanimously approved as submitted (Matsumoto/Kokubun).

ITEM K-2: CANCELLATION OF HARBOR LEASE NO. H-91-24 AND ISSUANCE OF A NEW LEASE TO THE UNITED STATES OF AMERICA, U.S. COAST GUARD, HILO HARBOR, ISLAND OF HAWAII, TMK: (3) 2-1-09P

Mr. Cobb briefed the Board and recommended that the Board consent to the issuance of a lease and consent to the cancellation of Harbor Lease No. H-91-24.

Unanimously approved as submitted (Kokubun/Matsumoto).

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

Mr. Cobb 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 (Inouye/Kokubun).

There being no further business, Chairperson Johns adjourned the meeting at 10:50 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,

Kim Keliihoomalu

Kimberly C. Keliihoomalu

Approval for submittal:

Timothy E. Johns
TIMOTHY E. JOHNS

Chairperson

Board of Land and Natural Resources

