

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

DATE: FRIDAY, SEPTEMBER 22, 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 10:05 a.m. The following were in attendance:

**MEMBERS:**

Mr. Timothy Johns	Mr. William Kennison
Mr. Colbert Matsumoto (from 11:10 a.m.)	Ms. Kathryn Inouye
Mr. Russell Kokubun	

**STAFF:**

Mr. Dean Uchida, Land Division	Mr. Sam Lemmo, Land Division
Mr. Dave Parsons, Division of Boating and Ocean Recreation	
Mr. John Hino, Division of Boating and Ocean Recreation	

**OTHERS:**

Mr. Allan Kawada, Department of the Attorney General	
Mr. Kanani Brown, D-15	Mr. Noboru Oishi, D-13
Mr. Dalen Kawakami, D-13	Mrs. Jeri Oishi, D-13
Mr. Royce Fukunaga, D-2	Mr. Mark Leong, D-10
Ms. Rosemary Fazio, D-16	Mr. Johnny Castillo, D-19
Mr. Carl Christensen, D-21	Mr. Rory Frampton, D-20
Mr. Thomas Welch, D-20	

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

**Unanimously approved as submitted (Inouye/Kennison).**

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

**Deferred. Lack of quorum.**

**ADDED**

**ITEM D-22: BRIEFING ON THE LAND DIVISION'S RE-ENGINEERING PROJECT**

Motion made to amend the agenda by adding Item D-22. (The Board was briefed on this matter after the Board meeting was adjourned.)

**Unanimously approved (Kennison/Kokubun).**

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

Mr. Dean Uchida, Administrator of the Land Division, briefed the Board and recommended that the Board cancel GL No. S-3949, subject to standard conditions.

Mr. Kanani Brown, President of Big Island Floral, Inc., apologized for the delinquent rent, and explained his plans in curing the default and bringing everything current by October 15, 2000. He also explained his long range plans for the lease.

Member Kokubun was concerned, because of the lessees track record, about the amount of staff time it takes to go after lessees who are often in default. He didn't expect that an extension of the lease would be given after the current lease expires on December 19, 2000. He indicated to the lessee, that the Board has a responsibility in terms of managing State lands, and that there may be other potential lessees who may be able to perform better.

Chairpersons Johns explained to the lessee that even if he brought everything up to date, including getting a mortgage, and came back to the Board within the next 2 months, the extension would still be based on the lessees track record.

Member Kokubun made a motion to amend the staff recommendation to read as follows:

"That the Board, allow the lessee until October 15, 2000 to cure the default and bring his account current, including initiating the Conservation Plan process with NRCS. Should the lessee fail to do this by October 15, 2000, the Board:

1. Authorize the cancellation of General Lease No. S-3949..."

**Unanimously approved as amended (Kokubun/Inouye).**

**ITEM D-13: CONSENT TO ASSIGN GL NO. S-3836, KEMPEI TANAKA HAWAII, INC., ASSIGNOR, TO NOJER ENTERPRISES, INC., ASSIGNEE, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3<sup>RD</sup>/2-2-48: 01**

Mr. Uchida briefed the Board and recommended that the Board consent to the assignment of GL No. S-3836, subject to standard conditions.

Mr. Noboru Oishi, Nojer Enterprise, Inc., testified in favor of staff's recommendation.

**Unanimously approved as submitted (Kokubun/Kennison).**

**ITEM D-2: WITHDRAWAL OF LAND FROM GL NO. S-4092; RIGHT-OF-ENTRY, SET ASIDE, AND GRANT OF NON-EXCLUSIVE ACCESS EASEMENT TO COUNTY OF KAUAI, DEPARTMENT OF WATER, TO DRILL AND WELL-TEST WAILUA HOMESTEADS WELL NO. 3, AND GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ELECTRIC TRANSMISSION LINE PURPOSES TO CITIZENS UTILITIES COMPANY, LTD., OVER PORTION OF GAME MANAGEMENT RESERVE, POR. OF SOUTH OLOHENA-KAPAA, KAWAIHAU, KAUAI, TMK: 4-4-1: POR. 1**

Mr. Uchida briefed the Board and recommended that the Board approve of and recommend to the Governor withdrawal of land from GL No. S-4092, authorize the set aside of the area to the County of Kauai, Department of Water, authorize the issuance of a perpetual, non-exclusive easement to Citizens Utilities Company, Ltd., and authorize the issuance of an immediate right-of-entry for site management, control and well drilling purposes to the County of Kauai, Department of Water, subject to standard conditions.

Mr. Royce Fukunaga, Fukunaga and Associates, consultant hired to develop the well, was present to answer questions.

**Unanimously approved as submitted (Inouye/Kennison).**

**ITEM D-10: CONSENT TO ASSIGN GL NO. S-5186, MR. JACK D. UMPHREY AND MR. JOHN D. UMPHREY, ASSIGNOR, TO WEST HAWAII PETROLEUM, INC. ASSIGNEE, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3<sup>RD</sup>/2-2-37: 96**

Mr. Uchida amended the staff recommendation to read: "That the Board consents to the assignment of General Lease No. S-5186, Mr. Jack D. Umphrey and Mr. John D. Umphrey, as Assignor, to West Hawaii Petroleum, Inc., or Hawaii Petroleum, Inc., a Hawaii Corporation, as Assignee, subject to the following:"

Mr. Mark Leong, Hawaii Petroleum, Inc., concurred with the staff's amended recommendation.

**Unanimously approved as amended (Kokubun/Kennison).**

**ITEM D-16: ADDITIONAL EXTENSION OF THE STATUTORY 180-DAY PROCESSING PERIOD FOR CONSERVATION DISTRICT USE APPLICATION NO. HA-2969 – FIRST PHASE OF SADDLE ROAD IMPROVEMENTS, COUNTY OF HAWAII**

Mr. Uchida briefed the Board and recommended that the Board approve the additional extension of the statutory 180-day processing period.

Ms. Rosemary Fazio, State of Hawaii, Department of Transportation, testified in support of the U.S. Department of Transportation, Federal Highways Administrations request for the extension.

**Unanimously approved as submitted (Kokubun/Inouye).**

**ITEM D-19: FORFEITURE OF GL NO. S-5312, MR. JOHNNY AND MRS. PAULINE CASTILLO, LESSEE, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-10: 30**

Mr. Uchida briefed the Board and recommended that the Board authorize the cancellation of GL No. S-5312, subject to standard conditions.

Mr. Johnny Castillo, Lessee, explained that he lost his liability insurance and performance bond when the company he dealt with closed business. He pursued several insurance companies and was able to obtain the required liability insurance. The performance bond is still pending, and he hoped to get a response within 30 days.

Member Inouye amended the staff recommendation to read as follows:

“That the Board, allow the lessee sixty (60) days or until November 21, 2000 to cure the default and satisfy the requirement for a performance bond. Should the lessee fail to do this by November 21, 2000, the Board:

1. Authorize the cancellation of GL No. S-5312...”

**Unanimously approved as amended (Inouye/Kennison).**

**ITEM D-21: ENCROACHMENT ON STATE-OWNED LANDS AT THE WAIKOLOA HOTEL, WAIKOLOA, HAWAII, TMK: OFFSHORE OF 6-9-7: 14**

Mr. Uchida requested that this item be withdrawn for 30 days to allow staff and the Attorney General's time to review a response received late from the representatives of the Landowner/Hotel operator to the State's final offer.

**Unanimously approved to withdraw (Inouye/Kokubun).**

The Board recessed at 10:45 a.m. The meeting was reconvened at 10:55 a.m.

**ITEM D-20: CONSERVATION DISTRICT USE APPLICATION MA-2917 FOR SCHATZ SINGLE FAMILY RESIDENCE AND RELATED IMPROVEMENTS, NEAR LA PEROUSE BAY, MAUI, TMK: 2-1-04: 46 & 48**

Mr. Uchida briefed the Board and recommended that the Board approve (with limitations) the application for the Schatz single family residence and related improvements, subject to 18 conditions. He noted that written testimony was received from the Sierra Club opposing the construction of the house, and from Mr. Isaac Hall requesting to withdraw decision and order based upon Ka Paakai Opinion.

Mr. Rory Frampton, Chris Hart & Partners, Agent for the Applicant, gave a brief presentation in favor of the Schatz application.

Mr. Thomas Welch, Attorney for the Applicant, distributed a memorandum in opposition to Mr. Isaac Hall's notice dated September 15, 2000.

Member Kennison amended the staff submittal to read as follows:

"...the Board of Land and Natural Resources APPROVE (WITH LIMITATIONS) this application for the Schatz single family residence and related improvements, subject to the following conditions:

1. [Only those project elements ]The Board's approval of this application is related to the main residence and accessory uses on Parcel 46, and also included the guest cottage on Parcel 48 [are approved];
2. The single-family dwelling, and guest cottage, shall not be used for rental or any other commercial purposes unless approved by the Board;
19. As proposed by the applicant, there shall be a restrictive covenant placed on the two parcels {46 and 48} that will prohibit the sale of either property individually for five (5) years.

**Unanimously approved as amended (Kennison/Kokubun).**

**ITEM D-1: CONSENT TO ASSIGN GL NO. S-5347, MR. MARTIN R. LAGUNDINA, JR., ASSIGNOR, TO MR. LANCE LANEY, ASSIGNEE, GOVERNMENT LANDS IN HANAIEI HOMESTEADS, HANAIEI, KAUAI, HAWAII, TMK: 5-4-2: 26 & 31**

Mr. Uchida briefed the Board and recommended that the Board consent to the assignment of GL No. S-5347 to Mr. Laney, subject to standard conditions.

**Unanimously approved as submitted (Inouye/Kennison).**

**ITEM D-3: RESCIND PRIOR LAND BOARD APPROVAL OF MAY 12, 2000, AGENDA ITEM D-4, AND ISSUANCE OF REVOCABLE PERMIT TO MR. ALFRED KUPO, JR., PORTION OF GOVERNMENT LANDS OF "KEKAHA GARDENS SUBDIVISION", INCREMENT 4-FP 1460, KEKAHA, WAIMEA, KAUAI, HAWAII, TMK: 1-2-12: 38**

Mr. Uchida briefed the Board and recommended that the Board rescind its prior action of May 12, 2000, and authorize the issuance of a revocable permit to Mr. Kupo Jr., subject to standard conditions.

**Unanimously approved as submitted (Kennison/Kokubun).**

Member Matsumoto joined the meeting and was in attendance at 11:10 a.m.

**ITEM D-9: GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT AND ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY TO GTE HAWAIIAN TELEPHONE COMPANY FOR UTILITY PURPOSES AT PUUANAHULU TO KEAHOLE. NORTH KONA, HAWAII, TMKS: 3<sup>RD</sup>/7-1-02: 01; 7-1-03: 01; 7-2-04: 04; 7-2-05: 08; AND 7-3-10: 33**

This item was deferred earlier because of a lack of quorum. Quorum was obtained and a motion was made to reconsider.

**Unanimously approved to reconsider (Kokubun/Kennison).**

Member Inouye recused herself.

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of a perpetual, non-exclusive easement to GTE covering the area for utility purposes, and grant an immediate construction right-of-entry to GTE, subject to standard conditions.

The Board requested that staff inform the applicant that was present earlier, of the Board's decision to reconsider this item, and the Board's motion.

**Unanimously approved as submitted (Kokubun/Kennison).**

**ITEM D-8: STATEWIDE CONSERVATION DISTRICT USE APPLICATION NO. ST-3000B FOR SMALL-SCALE BEACH NOURISHMENT PROJECTS ON HAWAIIAN BEACHES**

This item was deferred earlier because of a lack of quorum. Quorum was obtained and a motion was made to reconsider.

**Unanimously approved to reconsider (Kokubun/Kennison).**

Chairperson Johns recused himself because of a pending clarification from the Attorney General's Office regarding matters that come before the Land Board when DLNR is the applicant. Member Kennison presided on this matter.

Mr. Sam Lemmo briefed the Board and recommended that the Board approve this statewide application to permit small-scale beach nourishment projects in the State of Hawaii, subject to 28 conditions.

The Board deferred action on this item to allow staff to come up with a process that allows for Board review of the expedited permits and also allows for public input and/or Contested Case Hearing. The program as proposed did not provide adequate safeguard and oversight of the subjective decisions being made as the permit was being processed. The Board also wanted something included that provided for a periodic reporting to the Board on the progress of this process.

**Unanimously approved to defer (Matsumoto/Kokubun).**

**ITEM D-17: CONSERVATION DISTRICT USE APPLICATION NO. MA-2988 FOR LIGHT-DRAFT NAVIGATION IMPROVEMENTS AT KAHULUI HARBOR, WAILUKU, MAUI**

This item was deferred earlier because of a lack of quorum. Quorum was obtained and a motion was made to reconsider.

**Unanimously approved to reconsider (Matsumoto/Kokubun).**

Chairperson Johns recused himself because of a pending clarification from the Attorney General's Office regarding matters that come before the Land Board when DLNR is the applicant. Member

Kennison presided on this matter.

Mr. Uchida briefed the Board and recommended that the Board approve this application for conservation district use for light-draft navigation improvements at Kahului Harbor, subject to 17 conditions.

Mr. Dave Parsons, Division of Boating and Ocean Recreation, apprised the Board of the fact that the public in Maui is anxiously awaiting the completion of this project.

**Unanimously approved as submitted (Matsumoto/Kokubun).**

**ITEM D-4: DIRECT SALE OF A GOVERNMENT DITCH RIGHT-OF-WAY TO MR. RYOSUKE MIYAHARA AND WITHDRAWAL FROM GOVERNOR'S EXECUTIVE ORDER NO. 1598, WAIMANALO, OAHU, TMK: (1) 4-1-24: PORTION 66**

Mr. Uchida briefed the Board and recommended that the Board authorize the issuance of a patent or deed to Mr. Miyahira, withdraw .620 acres from Governor's Executive Order No. 1598, subject to standard conditions.

**Unanimously approved as submitted (Inouye/Kennison).**

**ITEM D-5: FORFEITURE OF GL NO. S-4027, MOTOROLA COMMUNICATIONS INTERNATIONAL, LESSEE, MT. KAALA, MOKULEIA, WAIALUA, OAHU, TMK: 6-7-03: 21**

Mr. Uchida amended the staff's recommendation under condition no. 3 by inserting the following: "3. ...date until duly fulfilled, including the 1986 and 1996 rental re-openings; and"

**Unanimously approved as amended (Inouye/Matsumoto).**

**ITEM D-6: SET ASIDE TO THE DEPARTMENT OF TRANSPORTATION, AIRPORTS DIVISION FOR AIRPORT PURPOSES, KAHANA AND MAHINAHINA 1, 2 AND 3, LAHAINA, MAUI, TMK: 4-3-01: 68 AND POR. 31**

Mr. Uchida briefed the Board and recommended that the Board authorize the set aside and management right-of-entry to the Department of Transportation, subject to standard conditions.

Chairperson Johns requested that this item be deferred based on concerns regarding set asides to the Department of Transportation, Airports Division, in light of the Federal Aviation Administrations positions on charging rents for non-airport uses on state-owned ceded lands set aside to Department



of Transportation, Airports Division.

**Unanimously approved to defer (Matsumoto/Kokubun).**

**ITEM D-7: RESCIND PRIOR BOARD ACTION OF JULY 24, 1981 (AGENDA ITEM F-2) APPROVING THE SET ASIDE OF STATE LAND, SITUATE AT KEALAKEHE, NORTH KONA, ISLAND OF HAWAII, TO THE DEPARTMENT OF TRANSPORTATION FOR THE HONOKOHAU BOAT HARBOR AND SET ASIDE OF SAME, TOGETHER WITH ANY IMPROVEMENTS THEREON, TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES, DIVISION OF BOATING AND OCEAN RECREATION FOR THE HONOKOHAU SMALL BOAT HARBOR, TMK: 7-4-08: 3**

Mr. Uchida briefed the Board and recommended that the Board rescind its prior action of July 24, 1981, authorize the set aside and management right-of-entry to the Division of Boating and Ocean Recreation, subject to standard conditions.

**Unanimously approved as submitted (Kokubun/Kennison).**

**ITEM D-11: CANCELLATION OF GRANT OF EASEMENT, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3<sup>RD</sup>/2-4-57: PORTION 01**

Mr. Uchida briefed the Board and recommended that the Board cancel the easement to HELCO, subject to standard conditions.

**Unanimously approved as submitted (Kokubun/Kennison).**

**ITEM D-12: CONSENT TO ASSIGN LEASE INTEREST OF GL NOS. S-4313 AND 4314, MR. THOMAS NAKAHARA AND MRS. BERNICE N. NAKAHARA, ASSIGNORS, TO THEIR RESPECTIVE REVOCABLE LIVING TRUST DATED DECEMBER 19, 1999, AS ASSIGNEES, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3<sup>RD</sup>/2-2-58: 23 & 24**

Mr. Uchida briefed the Board and recommended that the Board consent to the assignment of the leases to their respective revocable living trust, subject to standard conditions.

**Unanimously approved as submitted (Kokubun/Inouye).**

**ITEM D-14: WITHDRAWAL FROM GOVERNOR'S EXECUTIVE ORDER NO. 263**

**(PORTION OF KAPIOLANI SCHOOL SITE); SALE OF ADDITION TO RIGHT-OF-WAY TO COUNTY OF HAWAII; AND IMMEDIATE CONSTRUCTION RIGHT-OF-ENTRY TO THE COUNTY OF HAWAII, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3<sup>RD</sup>/2-2-20: 01**

Mr. Uchida briefed the Board and recommended that the Board authorize the withdrawal of Parcel A from Governor's Executive Order No. 263, authorize the sale of Parcel A to the County of Hawaii, and authorize the construction right-of-entry to the County of Hawaii, subject to standard conditions.

**Unanimously approved as submitted (Kokubun/Inouye).**

**ITEM D-18: RESCIND PRIOR BOARD ACTION OF SEPTEMBER 8, 2000 (AGENDA ITEM D-8), FORFEITURE OF GL NO. S-3915, THE ASSOCIATION OF APARTMENT OWNERS OF SEA VIEW, LESSEE**

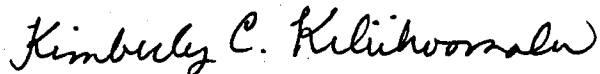
Mr. Uchida briefed the Board and recommended that the Board rescind its action of September 8, 2000.

**Unanimously approved as submitted (Matsumoto/Kokubun).**

There being no further business, Chairperson Johns adjourned the meeting at 12:00 p.m. The Board was briefed, following the meeting, on Added Item D-22, Land Division's Re-Engineering Project.

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