

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

DATE: FRIDAY, JUNE 22, 2001  
TIME: 9:00 A.M.  
PLACE: KALANIMOKU BUILDING  
LAND BOARD CONFERENCE ROOM 132  
1151 PUNCHBOWL STREET  
HONOLULU, HAWAII

Chairperson Gilbert Coloma-Agaran 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. Gilbert Coloma-Agaran	Mr. William Kennison
Mr. Timothy Johns (excused 1:00 p.m. - 4:25 p.m.)	Ms. Lynn McCrory (excused at 4:25 p.m.)
Ms. Kathryn Inouye (excused at 1:00 p.m.)	Dr. Fred Holschuh

**STAFF:**

Mr. Sam Lemmo, Land Division	Mr. Harry Yada, Land Division
Mr. Dan Quinn, Division of State Parks	Mr. Carl Masaki, Division of Forestry and Wildlife (DOFAW)
Mr. Jim Schoocraft, Division of Boating and Ocean Recreation (DOBOR)	Mr. Randy Kennedy, DOFAW
Ms. Carol She', DOBOR	Mr. Karl Dalla Rosa, DOFAW
Mr. Gary Moniz, Division of Conservation and Resources Enforcement	Mr. Paul Conry, DOFAW

**OTHERS:**

Ms. Dawn Shigezawa, Department of the Attorney General	Mr. Peter Garcia, Department of Transportation
Mr. Walton Hong, D-3	Mr. Tony DeJesus, D-3
Mr. Michael Belles, D-7	Ms. Alice Guild, E-1
Mr. John Hao, E-1	Mr. Gervin Miyamoto, E-1
Mr. Jeff Smith, D-18	Ms. Lyn White, D-5
Mr. Mark Collins, C-3	Mr. Anders Lyons, C-3
Mr. Wallace Heyer, C-3	Mr. Malvin Sanders, K-2
Mr. Jim Byrem, J-1	Ms. Teri Leicher, J-1, J-2
Mr. William Aila, J-1, J-2	Mr. Fred Madlener, J-1, J-2
Ms. Pat Pettigrew, J-1, J-2	Ms. Toni Marie Davis, J-2

Mr. Scotty Bell, J-2  
Mr. George Lindsey, J-2  
Ms. Cristina Kaufman, J-2  
Mr. Curtis Collins, J-2  
Mr. Curtis Iaukea, J-2  
Mr. Reg White, J-2  
Mr. Bruce Middleton, J-2  
Ms. Janet Mandrell, J-2  
Mr. Joseph Hu, J-2  
Mr. Gary O'Donnell, J-2  
Ms. Margy O'Kelly, J-2

Mr. Andrew Evans, J-2  
Mr. Francis Lamberti, J-2  
Mr. Les Parson, J-2  
Mr. Don Lipton, J-2  
Mr. Clyde Aikau, J-2  
Mr. Eugene Jarog, J-2  
Mr. Bill Mossman, J-2  
Mr. Lon Polk, J-2  
Mr. Terry O'Halloran, J-2  
Mr. Cig Schuster, J-2  
Mr. Scott Haley, J-2

The Board honored Maui Member William Kennison for his dedicated services as a Member of the Board of Land and Natural Resources for the past 8-years. Member Kennison has served 2, 4-year terms, the maximum allowed, and was recognized throughout the meeting.

**ADDED**

**ITEM D-19: SECOND REQUEST FOR EXTENSION ON A NOTICE OF DEFAULT FOR GENERAL LEASE NO. S-5261, SAND ISLAND BUSINESS ASSOCIATION, HONOLULU, OAHU, TMK: (1) 1-5-41: VARIOUS**

**Motion made to add this item on the agenda (Kennison/Holschuh). See page 13.**

**ITEM A-1: APPROVAL OF THE APRIL 27, 2001 MINUTES**

Member Johns recused himself.

Member McCrory amended Page 2, last paragraph, to read: "Member McCrory was concerned about DOBOR not meeting the June 1, 2001 deadline, and the permit holders reliance on these rules that may significantly change when the new rules do come in front of the Board,[the rules not meeting the deadline]..."

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

**ITEM A-2: APPROVAL OF THE MAY 11, 2001 MINUTES**

Member Holschuh amended Page 3, Item D-7, 2nd paragraph, by adding an "s" to dwellings to read: "He understood the concern about possible abuses of certain dwellings, and indicated....".

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

**ITEM D-3: CONSERVATION DISTRICT USE APPLICATION FOR THE HILL SINGLE FAMILY RESIDENCE AT ALIOMANU, KAWAIIHAU, KAUAI, TMK: (4) 4-9-005: 05**

Mr. Sam Lemmo, Staff Planner for the Land Division, briefed the Board and recommended that the Board approve the application to construct a single-family residence, subject to conditions.

Mr. Walton Hong, representing the Applicant, asked for the Board's favorable consideration in approving the single-family residence.

Mr. Tony DeJesus, Applicant's Architect, was present to answer questions.

There was some discussion on whether or not Section 13-5-42(b), Hawaii Administrative Rules, that reads: "Not more than one single family residence shall be authorized within the conservation district on a legal lot of record.", would apply to the Applicant's lot which is split-zoned. Mr. Hong believed, that if the Board denied the application based on split-zoning, it would be a violation of the Hawaii Administrative Rules. He indicated that the proposed residence conforms to single family residence standards, and that it would have no significant adverse impacts. Member McCrory was concerned that this issue continually comes up in front of the Board. She asked that a request be made to the Attorney General's Office for an opinion on whether or not the intent of the law was to have one residence per lot. Member Johns did not agree with Mr. Hong's reasoning, but did agree that this issue should be looked at by the Attorney General's Office. Member Inouye shared the same concerns and preferred having an Attorney General's opinion on this matter. Member McCrory suggested denying this application based on the inappropriateness of allowing two houses on one lot. Mr. Hong requested that the application be extended for 2-months. Mr. Lemmo explained that there is no authority for an extension, and that it's unprecedented to extend a pending Conservation District Use Application when there is no Contested Case Hearing or Environmental Impact Statement being processed. The Applicant does have the opportunity to ask for a Contested Case Hearing if the Board is proposing to deny the application. Mr. Hong, given the circumstances, requested a Contested Case Hearing, and an extension of the permit-processing period. He also requested that they be given consideration to respond to the Attorney General's opinion. The Board took no action on this item, due to the request for a contested case hearing.

**No action.**

**ITEM D-7: CANCELLATION OF LAND OFFICE DEED S-27235 TO FREE PRIMITIVE CHURCH OF THE DIVINE COMMUNION; AMEND PRIOR BOARD ACTION OF OCTOBER 16, 1992 (ITEM F-14), DIRECT SALE OF ABANDONED ROAD RIGHT-OF-WAY; SET ASIDE OF TRAIL ALIGNMENT TO DIVISION OF FORESTRY AND WILDLIFE, NA ALA HELE PROGRAM, WAILUA, KAUAI, TMK: 4-2-7: ABUTTING 12**

Mr. Harry Yada, Acting Administrator of the Land Division, briefed the Board and recommended that the Board amend its action of October 16, 1992, and authorize the cancellation of Land Office Deed No. S-27235, subject to terms and conditions.

Mr. Michael Belles, representing the Applicant, was present to answer questions.

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

**ITEM E-1: REQUEST FOR PERMISSION TO ESTABLISH HOURS FOR THE IOLANI PALACE GROUNDS**

Mr. Dan Quinn, Administrator of the Division of State Parks, briefed the Board and recommended that the Board authorize establishing hours for the Iolani Palace grounds, which will include closing the grounds to vehicular and pedestrian traffic between 11:00 p.m. and 6:00 a.m., except by permit, subject to terms and conditions as approved by the Chairperson.

Ms. Alice Guild, Executive Director of the Friends of Iolani Palace, clarified that everyone who will be impacted will be notified, that notices will be posted for at least a 30-day period, and that informational meetings will be held with organizations that traditionally use the grounds after hours.

Mr. John Hao, Operations Manager of Iolani Palace, explained some of the security problems that had to deal with at the palace.

Mr. Gervin Miyamoto, Member of the Friends of Iolani Palace, recited some of the conditions in the Memorandum of Understanding in terms of the secondary posture for security.

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

**ITEM D-18: AMEND PRIOR BOARD ACTION OF NOVEMBER 19, 1999 (AGENDA ITEM D-20, CANCELLATION OF GENERAL LEASE NOS. S-4717 AND S-5157; CANCELLATION OF EXECUTIVE ORDER NO. 3282; AND DIRECT ISSUANCE OF A NEW LEASE TO NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY (NELHA), KONA, HAWAII, TMK: 7-3-43: 3 & 42; 7-3-09: 23 & 24**

Mr. Yada briefed the Board and recommended that the Board amend its action of November 19, 1999, subject to terms and conditions.

There was some discussion about condition no. 5, approved by the Board on November 19, 1999, requiring NELHA to submit an annual report of its revenues and expenses with its Net Operating Income calculations with a comparison against projections and a 5-year project. Member

McCrorry asked if a report was submitted for 2000. Mr. Jeff Smith, Executive Director of NELHA as of December 1, 2000, indicated that the annual revenues and expenses have been reported, but was not sure if the comparison was done. He agreed to provide the Board with a report within 30-days.

Member Johns asked that the Board be provided with the budget comparison, and annual report of revenues, before the Chairperson actually executes the lease.

Member McCrorry made a motion to amend the staff's recommendation by requiring that NELHA submit an annual revenues, expenses and comparison report, to the Chairperson within the next 30-days, prior to the Chairperson executing the lease.

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

**ITEM D-5: FORFEITURE OF GENERAL LEASE NO. S-5581, MR. LEE DON KAHEA WHITE, SR., LOTS 1-A & 1-B, KAPAA RICE & KULA LOTS, WAILUA, LIHUE, KAUAI, HAWAII, TMK: 4-1-3: 45 AND 46**

Mr. Yada briefed the Board and recommended that the Board authorize the cancellation of General Lease No. S-5581, subject to terms and conditions.

Ms. Lyn White, wife of Mr. Lee White, Sr., indicated that they have tried to comply by cleaning the area and hauling out the debris, and thought the default was remedied.

The Board approved staff's recommendation, with an amendment to allow the Lessee 30-days to remove all the debris, with verification in writing from both the Department of Health and the Kauai District Land Office.

**Unanimously approved as amended (McCrorry/Holschuh).**

**ITEM C-3: WEST MAUI MOUNTAINS WATERSHED PROTECTION PROJECT**

Mr. Carl Masaki, Acting Administrator of DOFAW, briefed the Board and recommended that the Board grant a permit to the applicants, in this case DOFAW co-applicant with the West Maui Mountains Watershed Partnership, designating the project as a permitted government use within the Conservation District to support the programs of DOFAW that are consistent with the objectives of the Resources and Protective subzone.

Mr. Mark Collins, Coordinator of the West Maui Mountain Watershed Partnership, gave some background information and presented a video of the project. He distributed highlights of a survey conducted of Maui County voters by The Trust for Public Lands, showing two-thirds in favor of a charter amendment that would fund the purchase of land to protect natural areas. The highest

level of support was for the protection of native forest areas and preserving critical watershed lands.

There was some discussion about the snaring being proposed to bring pig populations down. Member Holschuh was troubled that the words “snaring” and “hunting” were used in the same sentence in the staff report. He felt it demeaning to the way hunters approach game animals, and wished there was a better way to resolve the issue of pigs other than something as barbaric as snaring. Mr. Anders Lyons, Maui Programs Director for The Nature Conservancy, and Member of the West Maui Mountains Watershed Partnership, indicated that the snares are lethal, and that they have been meeting informally with hunting groups on a regular basis. Mr. Wallace Heyer, Hawaii Hunting Advisory Council, representing hunters throughout the State who are adamantly opposed to snaring, requested the deletion of references to snaring as being a control method. Member Holschuh asked, if snaring was removed as suggested, could the project still move forward. Mr. Collins clarified that the project can’t move forward, if snaring is deleted. The use of snares in remote areas reduces impact on fragile watershed vegetation by minimizing human presence, and greatly reduces human exposure to injury in the extremely rugged, wet terrain.

Member Kennison made a motion to approve staff’s recommendation. Member McCrory seconded.

Member Holschuh requested amending the motion by deleting snaring as a means to reduce the pig population. There was no second. He subsequently voted in favor of the motion to approve staff’s recommendation, as he felt the need for the project to move forward, but wanted to make clear that he was very much against snaring.

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

**ITEM K-1: ISSUANCE OF A LEASE TO FEDERAL AVIATION ADMINISTRATION FOR THE MOLOKAI AIR TRAFFIC CONTROL TOWER MOLOKAI AIRPORT, TMK: 2-2-5-04**

Mr. Peter Garcia, Property Management Officer for the Department of Transportation, briefed the Board and recommended that the Board approve the lease to the Applicant.

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

**ITEM K-2: CONSENT TO ASSIGNMENT OF HARBOR LEASE NO. H-89-14, AS AMENDED, FROM BRIGGS PACIFIC INDUSTRIES, LLC, TO AES KALAELOA VENTURE, LLC, SITUATED AT PIER 6, KALAELOA BARBERS POINT HARBOR, OAHU, TMK: (1)-9-1-14-8P**

Mr. Garcia briefed the Board and recommended that the Board consent to the assignment of Harbor Lease No. H-89-14, subject to terms and conditions.

Mr. Malvin Sanders, President of Briggs Pacific Industries, LLC, was present to answer questions.

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

**ITEM K-3: GRANT OF TERM, NON-EXCLUSIVE EASEMENT AND ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY TO LA MARIANA SAILING CLUB, INC., FOR SEWER LINE PURPOSES, KEEHI LAGOON, OAHU, TMK: (1)-1-2-23-33**

Mr. Garcia briefed the Board and recommended that the Board, subject to the Applicant fulfilling all the requirements, authorize the issuance of a term non-exclusive easement and construction right-of-entry to the Applicant.

Member Johns recused himself from this matter.

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

**ITEM K-4: ISSUANCE OF REVOCABLE PERMIT TO ISLAND RECYCLING, INC., NEAR KEEHI LAGOON, OAHU, TMK: (1)-1-2-23-49 & 72**

Mr. Garcia briefed the Board and recommended that the Board authorize the issuance of a revocable permit to the Applicant, subject to terms and conditions.

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

**ITEM K-5: REPORT ON REVOCABLE PERMITS ISSUED OR RENEWED BY THE DEPARTMENT OF TRANSPORTATION FOR CONSISTENT USES**

Mr. Garcia indicated that there is no action required by the Board.

**No action.**

Mr. Garcia, on behalf of the Director of Transportation, Personnel within the Department of Transportation, and himself, expressed "Aloha" and "Thanks" to Maui Member William Kennison, for the help, advice, and dedication throughout the years.

Mr. John Leong, Pono Pacific Land Management, LLC., explained that they have been contracted to help DLNR coordinate the Hawaii Youth Conservation Corps 2001 summer program, which will be held on Kauai this summer. He gave some background information of the program, introduced this year's Members, and thanked the Board for their help and support. Mr. Leong was a Member of the Hawaii Youth Conservation Corps 1996 summer program.

**ITEM J-1: REQUEST FOR PRELIMINARY APPROVAL TO AMEND HAWAII ADMINISTRATIVE RULES, SECTIONS 13-230-8, 13-250-5, DEFINITIONS, 13-256-62, WAIMEA BAY RESTRICTED AREA, AND 13-256-63, SHARK'S COVE, THREE TABLES AND WAIMEA BAY OCEAN WATERS**

Mr. Jim Schoocraft, Acting Administrator of DOBOR, briefed the Board and recommended that the Board grant preliminary approval to conduct a public hearing on the proposed amendments to the Hawaii Administrative Rules, affirm to the Department to schedule the public hearing on this rule as expeditiously as possible following the Governor's approval to conduct a public hearing, and authorize the Chairperson to appoint a hearing master to conduct a public hearing to receive written and verbal testimony concerning the proposed amendments.

Ms. Carol She', Boating Regulations Officer for DOBOR, requested an amendment by adding a new subsection, that if an individual or company has a commercial activity permit, and the fees are paid as required by Section 13-234-25, that additional fees would not be charged to use the area, however, they would need to make reservations.

Mr. Jim Byrem, President of the Board of Directors of the Hawaiian Islands Recreational Scuba Association, provided written and oral testimony requesting that the decision to write rules be held in abeyance until a reasonable period of observation to gather empirical data on which to make a decision is completed.

Ms. Teri Leicher, representing Jack's Diving Locker, and Member of the Hawaiian Islands Recreational Scuba Association, echoed Mr. Byrem's concerns.

Mr. William Aila, Employee of DLNR, testified on his individual capacity as a Fisherman, in support of the proposed measure to go out to public hearing. He asked that the public hearing be held in Waianae, as there are some recreational and commercial fisherman who utilize the area and have concerns on the proposed rules.

Mr. Fred Madlener, Board Member of Hawaii's Thousand Friends and Life of the Land, testified in support of the rules. He urged the Board to keep in mind that people numbers can destroy natural resources.



Ms. Pat Pettigrew, Advisory Board Member of the Hawaii Ocean Safety Team, gave some information on their success in self-regulating, and informed the Board that there is an entity that is willing to work with the dive groups to let them have a shot at self-regulating.

Member Inouye's perspective on self-regulation was that it is not a viable alternative, as it makes the process open to a lot of subjectivity and possible favoritism.

Member Inouye made a motion to approve staff's recommendation with an amendment to add a new subsection, as suggested by staff, to read: "Companies or Individuals who possess a commercial activity permit and pay fees in accordance with Section 13-234-25, shall be exempt from the fee requirements of Section 13-256-63 (k), but shall be required to make reservations as described in subsection Section 13-256-63 (j)."

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

**ITEM J-2: REQUEST FOR PRELIMINARY APPROVALS TO AMEND HAWAII ADMINISTRATIVE RULES, CHAPTER 13-230, 13-231, 13-232, 13-233, 13-234, 13-241, 13-242, 13-244, 13-250, 13-251, 13-252, 13-253, 13-255, 13-256, AND FOR PRELIMINARY APPROVAL TO PROCEED TO PUBLIC HEARINGS**

Motion made at 11:55 a.m. to meet in executive session to discuss with Counsel of the Attorney General's Office, legal issues that were raised in correspondents received regarding the legality of the proposed rules. (Johns/McCrory). The meeting was reconvened at 1:00 p.m.

Mr. Schoocraft revised page 84 of the proposed rule amendment, Section 13-251-57 (c) (3) and (4) to read: "(3) Notwithstanding the provisions of paragraph (2), commercial catamaran operators who have registered their vessel in accordance with chapter 251, may transit Zones B, Waikiki ocean waters when shuttling passengers to or from the beach or to or from other vessels, or other facilities outside of Zone B.", and "(4) Notwithstanding the provision of paragraph (2), a water jet propelled vessel, other than a thrill craft, carrying six or less passengers may transit Zone B when shuttling passengers to and from Fort DeRussy beach to an offshore location seaward of Zone B, provided that the owner has been issued a commercial activity permit by the department for commercial thrill craft operations at a location in accordance with section 13-256-91." He also revised Page 91, 13-256-11, by keeping the present language under [(3)] (2), but not moving forward with (A) through (E). Staff's recommendation is that the Board grant preliminary approval to conduct public hearings on the island of Oahu, Maui, Lanai, Molokai, Hawaii and Kauai on the proposed amendments to the Hawaii Administrative Rules, affirm to the Department to schedule the public hearings on these rules as expeditiously as possible following the Governor's approval to conduct public hearings, and authorize the Chairperson to appoint a hearing master to conduct public hearings to receive written and verbal testimony concerning the proposed amendments.

Ms. Toni Marie Davis, General Manager for the Ocean Tourism Coalition, provided written and oral testimony in support of the proposed amendments to the Hawaii Administrative Rules. The new proposed rules provide a win-win arrangement for the State, for the operators, and for our visitors.

Mr. Scotty Bell, Board Member for the Ocean Tourism Coalition, and Vice President of Body Glove Cruises, submitted written and oral testimony in favor of the "Flat Fee" package. Converting to a "Flat Fee" package would improve the budget and overall needs for DLNR/DOBOR.

Ms. Teri Leicher, Jack's Diving Locker, testified in favor of the fee packet. They are willing to make the sacrifice and try and make it work, to help DOBOR maintain the harbors and to have descent facilities to use.

Mr. Andrew Evans, testified in support of the fee packet increase. Understanding the poor shape the harbors are in, and realizing DOBOR's needs for additional revenue, he urged the Board to send this out for public hearing.

Mr. George Lindsey, on behalf of the Waikiki Beach Kapuna Catamaran Association, provided written and oral testimony in opposition to the rules as drafted, as the fee increase will have devastating effects on businesses he represents. He also distributed written testimony on behalf of Mr. Paul Merino, Lifeguard for the City & County of Honolulu, stating that the commercial catamarans at Waikiki have offered and continue to offer a valuable service to the visitor industries,

Mr. Francis Lamberti, Owner of Waikiki Beach Catamaran, gave some background information on the shuttling effort. He was in favor of shuttling, but didn't think it was fair to charge a fee.

Ms. Christina Kaufman, Private Owner of a sailing vessel moored at the Ala Wai Marina, testified against the fee increase, and indicated that her fees are scheduled to increase 185% within the next 5 years. She realized that there is a need for increases as the harbors are in poor shape, but felt there needs to be reasonable increases that average people on fixed incomes could afford.

Mr. Les Parson, Ala Wai Marina Tenant for 2-years, testified against the 185% increase. He urged the Board to reject the fee increase proposal, and to meet with the Ala Wai Marina Board.

Mr. Curtis Collins, Ala Wai Marina Tenant, testified against the fee increase package.

Mr. Don Lipton, Waikiki Beach Kupuna Catamaran Association, felt that they are being unfairly grouped with the larger tour boats within the State, and that increase of fees will put him out of business.

Mr. Curtis Iaukea, Waikiki Beach Kupuna Catamaran Association, indicated that they would like to see the harbors upgraded and maintained, however, they do not use the harbors. He asked, in the fairness of the Board and DLNR staff, that something be worked out for small boat operators.

Mr. Clyde Aikau, representing the Waikiki Beachboys, hoped the Board would recognize the canoe rides they offer as a special kind of heritage, and that this not be included in the fee hike.

Mr. Reg White, Recreational Boater of the Ala Wai Boat Harbor, felt that the fees should be raised, but was against the way the fee increase was set up.

Mr. Fred Madlener, Boat Owner, and Board Member of Hawaii's Thousand Friends, believed the fee increase to be excessive, that a lot of people will be adversely effected, and that prosperous harbors are unfairly paying for other harbors.

Mr. Eugene Jarog, Keehi Lagoon Boat Owner, testified against the fee increase.

Mr. Bruce Middleton, Ala Wai Marina Board, provided written and oral testimony in opposition to the rule change. He urged the Board to deny the fee increase package pending final review and approval by the Attorney General.

Mr. Bill Mossman, representing the Hawaii Boaters Political Action Association, and slip holder at the Keehi Small Boat Harbor, submitted written and oral testimony, urging the Board to disapprove the proposed boating fee increase plan.

Ms. Janet Mandrell, Public Liaison for The Makai Society, submitted written testimony in opposition to the rule change and urged the Board to table the decision to go to public hearing.

Mr. Lon Polk, The Makai Society, also testified against the fee increase package. He wanted the rules to go back to the drawing board.

Mr. Joseph Hu, representing Hui Waa Kaukauhi, one of the oldest kayak clubs in the State, submitted written testimony against the proposed rule change, in particular, Section 13-230-8 - Definition of Manually-propelled vessel, which he felt discriminates against commercial kayak vendors and outfitters.

Mr. Terry O'Halloran, President of the Ocean Tourism Coalition, submitted written and oral testimony in support of the proposed fees and rule changes.

Mr. William Aila, Employee of DLNR/DOBOR, testified as a Fisherman against the rule change, and felt that the money for harbor improvements should come from the General Fund.

Ms. Pat Pettigrew, read through written testimony on behalf of Boats Hawaii, against the fee increase.

Mr. Gary O'Donnell, Ala Wai Marina Board Member and slip holder, submitted written and oral testimony against the fee increase as proposed, and requested that an alternative path be pursued instead.

Mr. Cig Schuster, representing Kaneohe Bay Cruises, Royal Princess Cruises, Mid-Pacific of Hawaii, and Tropical Ocean Sports, testified against the fee increase. He indicated that he will not be able to afford the increase without having to refinance his home.

Ms. Margy O'Kelly, provided written and oral testimony in opposition to the rule changes for fee increases. She felt it unfair and unacceptable.

Mr. Scott Haley, Ala Wai Marina slip holder, testified against the proposed rules.

Motion made at 4:05 p.m. to move into executive session to discuss issues with legal counsel. (Kennison/McCrory). The meeting was reconvened at 4:10 p.m.

Member McCrory, in hearing verbal and reading written testimony, understood the fair amount of concerns regarding revenue projections, as she too had raised concerns about revenues and expenses. She supported the rules going out to public hearing, and encouraged everyone to attend, and if needed, an additional community meeting with the recreational boaters be held.

Member McCrory made a motion to accept staff's recommendation with the proposed amendments to Section 13-251-57 (c) 3 & 4, and 13-256-11. She also made a recommendation, that DOBOR, prior to the public hearing, prepare a detailed summary for the next 5 years, similar to that of Exhibit 3 - Summary of Proposed Boating Repair and Improvement Projects.

Member Holschuh supported the rules going out to public hearing. He commented, with respect to testimony heard from the recreational boaters, that the Board is voting to have this discussed further, to send this forward for public input, and that the public will have an opportunity to be heard at the public hearing.

Member Kennison also supported this going to public hearing, and echoed the same comments. He felt that there was a lot of merit in the testimony presented, and that more dialogue is needed to make the right decision.

Chairperson Coloma-Agaran expected, after going out to public hearing, that substantive comments may require changes in the rules. He commented that this would probably not be the only time the rules come before the Board, that it would probably go out for public hearing a second time. He indicated, and the rest of the Board agreed, that this would be a long process.

Mr. Schoocraft indicated that they intend to hold quarterly meetings with the recreational boaters along with the Ocean Tourism Coalition

**Unanimously approved as amended (McCrory/Holschuh).**

**ITEM D-10: APPOINTMENT AND SELECTION OF A HEARING OFFICER TO CONDUCT ALL HEARINGS FOR VARIOUS PETITIONS FOR A CONTESTED CASE HEARING, DOCKET NO. 01-05-MA, PETITIONS CONTESTING THE APPLICATION FOR LONG-TERM DISPOSITIONS OF WATER LICENSES AND ISSUANCE OF INTERIM REVOCABLE PERMITS TO HONOMANU, KEANAE, NAHIKU, AND HUELO, MAUI**

Member Kennison recused himself.

Mr. Lemmo briefed the Board and recommended that the Board authorize the appointment of a Hearing Officer to conduct all the hearings relevant to the subject petition for a Contested Case Hearing, and that the Board delegate the authority for selection of the Hearing Officer to the Chairperson.

**Unanimously approved as submitted (Johns/Holschuh).**

**ITEM D-15: REQUEST FOR EXTENSION ON A NOTICE OF DEFAULT FOR GENERAL LEASE NO. S-5261, SAND ISLAND BUSINESS ASSOCIATION, HONOLULU, OAHU, TMK: (1) 1-5-41: VARIOUS**

Mr. Yada briefed the Board and recommended that the Board grant a 60-day extension to General Lease No. S-5261 to remedy the Department of Health's March 2, 2001, Warning Letter against Mr. Michael Chock and Mr. William Mahas.

**Unanimously approved as submitted (Johns/Holschuh).**

**ADDED**

**ITEM D-19: SECOND REQUEST FOR EXTENSION ON A NOTICE OF DEFAULT FOR GENERAL LEASE NO. S-5261, SAND ISLAND BUSINESS ASSOCIATION, HONOLULU, OAHU, TMK: (1) 1-5-41: VARIOUS**

Mr. Yada briefed the Board and recommended that the Board grant a second 60-day extension to General Lease No. S-5261 to remedy the Department of Health's January 30, 2001, Notice of Violation/Order against Mr. Richard Kuwada and Mr. William Mahas to end on August 22, 1001.

**Unanimously approved as submitted (Johns/Holschuh).**

**ITEM D-4: TERMINATION OF REVOCABLE PERMIT NO. S-7172, AND ISSUANCE OF REVOCABLE PERMIT TO MR. TONY TROY BRUN, HANAPEPE GOVERNMENT LAND, SECTION E, HANAPEPE, WAIMEA (KONA), KAUAI, HAWAII, TMK: 1-8-6: 3**

Mr. Yada briefed the Board and recommended that the Board authorize the cancellation of Revocable Permit No. S-7172 to Mr. Joseph Brun, and authorize the issuance of a revocable permit to Mr. Tony Brun, in accordance with terms and conditions.

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

**ITEM D-9: CONSENT TO ASSIGNMENT OF GRANT OF EASEMENT NO. S-5000, MS. IDA I. PERKINS AND MR. LELAND M. EVERETT, ASSIGNOR, TO MS. IDA I. PERKINS, ASSIGNEE, WAIMEA, SOUTH KOHALA, HAWAII, TMK: 3<sup>RD</sup>/6-5-04: PORTION OF 15**

Mr. Yada briefed the Board and recommended that the Board consent to the assignment of General Lease No. S-5000 from Ms. Ida Perkins and Mr. Leland Everett, to Ms. Perkins, subject terms and conditions.

**Unanimously approved as submitted (Holschuh/Johns).**

**ITEM D-16: AMENDMENT TO PRIOR BOARD ACTION OF JANUARY 26, 2001 (AGENDA ITEM D-15) TO RESCIND LAND BOARD ACTION OF JULY 28, 2000 (AGENDA ITEM NO. D-1), KANEOHE, OAHU, TMK: (1) 4-5-47: SEAWARD OF PARCEL 46**

Mr. Yada briefed the Board and recommended that the Board delete condition no. 2 from prior Board action of January 26, 2001.

**Unanimously approved as submitted (Johns/Holschuh).**

**ITEM C-1: REQUEST APPROVAL OF CONTRACT WITH DR. LAURA BREZINSKY AND MS. SARA BARWISE TO PARTICIPATE IN THE STATE FOREST STEWARDSHIP PROGRAM**

Mr. Masaki thanked Member Kennison, on behalf of the Division, for his support during the past 8 years.

Mr. Masaki briefed the Board and recommended that the Board approve the contract agreement with Ms. Laura Brezinsky and Ms. Sara Barwise to participate in the State Forest Stewardship Program.

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

**ITEM C-2: LICENSE AGREEMENT WITH CITY & COUNTY OF HONOLULU FOR DEVELOPMENT OF A WILDLIFE SANCTUARY AT POUHALA MARSH, WAIPAHU, OAHU**

Mr. Masaki briefed the Board and recommended that the Board approve the attached License Agreement with the City & County of Honolulu for the development of a Wildlife Sanctuary at Pouhala Marsh, Waipahu, Oahu.

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

**ITEM I-1: REQUEST BOARD APPROVAL TO RENEW AN EXISTING MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND THE HAWAII NATIONAL GUARD, COUNTER DRUG SUPPORT PROGRAM**

Mr. Gary Moniz, Enforcement Chief for the Division of Conservation and Resources Enforcement, thanked Member Kennison for all the years of support.

Mr. Moniz briefed the Board and recommended that the Board approve the Memorandum of Understanding and that the Chairperson be authorized to sign the memorandum provided that the Attorney General's Office first approve the content of the memorandum or make substantive changes to the memorandum in order to meet all State requirements.

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

**ITEM D-1: TIME EXTENSION FOR CONSERVATION DISTRICT USE APPLICATION NO. KA-2734 FOR ACOUSTIC THERMOMETRY OF OCEAN CLIMATE (ATOC) PROJECT UTILIZING SUBMERGED LANDS (OFFSHORE LANDS OFFSHORE OF KAUAI)**

Mr. Lemmo briefed the Board and recommended that the Board approve the time extension until September 30, 2002, subject to conditions.

The Board corrected staff's recommendation to read: "That the Board of Land and Natural Resources APPROVE this request[ed] to amend[ment] CDUP KA-2734,"

**Unanimously approved as amended (Johns/Holschuh).**

**ITEM D-2: EXTENSION OF 180-DAY PROCESSING PERIOD FOR CONSERVATION DISTRICT USE APPLICATION NO. KA-2941 TO RETAIN IN PLACE AND RE-USE A SUB-SEA POWER CABLE AND SOUND SOURCE (INSTALLED OFFSHORE OF KAUAI, PURSUANT TO APPROVED CONSERVATION DISTRICT USE APPLICATION NO. KA-2734), TO CONTINUE FEASIBILITY RESEARCH ON THE USE OF ACOUSTIC TRANSMISSIONS TO MEASURE THE LONG-TERM TEMPERATURE TRENDS OF THE GLOBAL OCEANS**

Mr. Lemmo briefed the Board and recommended that the Board approve an extension of the processing period to September 30, 2002.

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

**ITEM D-6: RESCIND PRIOR BOARD ACTION OF APRIL 9, 1998 (AGENDA ITEM D-12), DIRECT SALE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT TO HAWAII ELECTRIC LIGHT CO. AND GTE HAWAIIAN TELEPHONE AND CONSTRUCTION RIGHT-OF-ENTRY AT WAIAKEA, HAWAII, TMK: (3) 2-4-1: PORTION 1**

Mr. Yada requested that this item be withdrawn.

**Withdrawn.**

**ITEM D-8: RESCIND PRIOR BOARD ACTION OF AUGUST 28, 1987 (AGENDA ITEM F-1-E), REQUEST FOR ISSUANCE OF A REVOCABLE PERMIT TO ISLAND INVESTMENTS, LTD. AT KAMAOLE, MAUI, TMK: (2) 3-9-4: PORTIONS 1 AND 61**

Mr. Yada briefed the Board and recommended that the Board rescind the prior Board action of August 28, 1987.

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

**ITEM D-11: AMENDMENT TO PRIOR ACTION OF DECEMBER 15, 2000, AGENDA ITEM D-14, ACCEPTANCE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT FROM ARIZONA APARTMENT HOUSING, LLC., TO THE STATE OF HAWAII ON BEHALF OF THE DEPARTMENT OF EDUCATION FOR WALL ENCROACHMENT ON PRIVATE PROPERTY SITUATE HONOLULI, EWA, OAHU, LD. CT. APP. 1069 & 1828 (FORMERLY POR. 9-2-03) TMK: 9-2-019: 48**



Mr. Yada briefed the Board and recommended that the Board amend its prior Land Board action of December 15, 2000, by changing the private property owners from Arizona Apartment Housing, LLC., to Cambridge Park Associates, LLC., subject to terms and conditions.

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

**ITEM D-12: AMEND PRIOR BOARD ACTION OF SEPTEMBER 12, 1997 (AGENDA ITEM D-1), SET ASIDE TO THE CITY & COUNTY OF HONOLULU, DEPARTMENT OF PARKS AND RECREATION, FOR AN ADDITION TO WAIMANALO BEACH PARK FOR BEACH RIGHT-OF-WAY PURPOSES, AT WAIMANALO, KOOLAUPOKO, OAHU, TMK: 1<sup>ST</sup>/4-1-4: 5, 6 & 7 (POR.)**

Mr. Yada amended the staff recommendation by changing the agency to strictly the City & County of Honolulu, with no reference to a County department. Staff's recommendation is that the Board amends its prior action of September 12, 1997 (agenda Item D-1) Recommendation A.2 by replacing "Department of Transportation Services" with "City & County of Honolulu[, Department of Parks and Recreation]".

**Unanimously approved as amended (Johns/Holschuh).**

**ITEM D-13: FORFEITURE OF GENERAL LEASE NO. S-4999, MR. KENNETH AND MRS. CATHERINE HARDING, LOT 46, KOKEE CAMP SITE LOTS, WAIMEA (KONA), KAUAI, TMK: 1-4-4: 10**

Mr. Yada requested that this item be withdrawn. The Lessee has cured the defaults.

**Withdrawn.**

**ITEM D-14: RESCIND PRIOR BOARD ACTION OF MAY 23, 1986 (AGENDA ITEM F-7), DIRECT SALE OF A REMNANT TO MR. ROBERT GILLESPIE AT KIPAHULU, MAUI, TMK: (2) 1-6-4: 9**

Mr. Yada briefed the Board and recommended that the Board rescind the prior Board action of May 23, 1986, subject to terms and conditions.

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

**ITEM D-17: RESCIND PRIOR BOARD ACTION OF SEPTEMBER 24, 1999 (AGENDA ITEM D-1), PERPETUAL, NON-EXCLUSIVE EASEMENT TO GTE HAWAIIAN TELEPHONE COMPANY, INC., AT WAIANAE-UKA, WAHIAWA, OAHU, TMK: 7-3-13: 08**

Mr. Yada briefed the Board and recommended that the Board rescind prior action of September 24, 1999, and authorize the cancellation of Revocable Permit No. 1918, subject to terms and conditions.

**Unanimously approved as submitted (Johns/Holschuh).**

There being no further business, Chairperson Coloma-Agaran once again thanked Member Kennison for his 8-years of service, and adjourned the meeting at 4:52 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

Approved for submittal:



GILBERT S. COLOMA-AGARAN

Chairperson

Board of Land and Natural Resources