

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

DATE: FRIDAY, AUGUST 10, 2001
TIME: 9:00 A.M.
PLACE: UNIVERSITY OF HAWAII AT HILO
CAMPUS CENTER ROOM NOS. 306 & 307
200 WEST KAWILI ST.
HILO, HAWAII 96720

Chairperson Gilbert Coloma-Agaran called the meeting of the Board of Land and Natural Resources to order at 9:02 a.m. The following were in attendance:

MEMBERS:

Mr. Gilbert Coloma-Agaran
Ms. Lynn McCrory
Dr. Fred Holschuh

Mr. Timothy Johns
Ms. Kathryn Inouye

STAFF:

Mr. Harry Yada, Land Division

Mr. Sam Lemmo, Land Division

OTHERS:

Mr. Ray Enos, Department of the
Attorney General
Ms. Christiane Santoro, D-12
Mr. Ivan Nakano, D-18
Mr. Robert Horcajo, D-10
Ms. Leimana Damate, D-1

Mr. Peter Garcia, Department of
Transportation
Mr. Charles Boerner, D-13
Mr. Carlito Caliboso, D-18
Mr. James Leonard, D-1
Ms. Nadine Awana-Chase, D-19

ITEM A-1: APPROVAL OF THE JUNE 8, 2001 MINUTES

Member Holschuh amended page 13, last paragraph, 2nd sentence, by replacing "Fine", with "Five".

Unanimously approved as amended (McCrory/Holschuh).

ITEM D-12: ISSUANCE OF REVOCABLE PERMIT TO MS. MARGARET ANN HECHT, KIPAHULU, HANA, MAUI, TMK: (2) 1-6-008: 002 & 004

Mr. Harry Yada, Acting Administrator of the Land Division, briefed the Board and recommended that the Board authorize the issuance of a revocable permit, subject to terms and conditions.

Ms. Christiane Santoro, Secretary for Ms. Hecht, Permittee, was present to answer questions.

Unanimously approved as submitted (Johns/Holschuh).

ITEM D-13: ISSUANCE OF REVOCABLE PERMIT TO MR. CHARLES J. BOERNER, KIPAHULU, HANA, MAUI, TMK: (2) 1-6-005: 008, 021, 022 & 023

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

Mr. Boerner, Permittee, was present to answer questions.

Unanimously approved as submitted (Holschuh/Inouye).

ITEM D-18: AMENDMENT AND RESTATEMENT OF GENERAL LEASE NOS. S-4303 AND S-4379 TO REFLECT THE CONSOLIDATION OF LOTS 5, 6 & 7 INTO LOT 5-A AND CONSENT TO MORTGAGE, ESTOPPEL CERTIFICATES AND SUBORDINATION AGREEMENTS, BLOCK 48 OF THE WAIAKEA HOUSE LOTS SUBDIVISION, WAIAKEA, SOUTH HILO, HAWAII, TMK: 2-2-58: 15

Mr. Yada briefed the Board and recommended that the Board authorize amending and restating the leases to reflect the consolidation of Lots 5, 6, and 7 into Lot 5-A, Block 48 of the Waiakea House Lots Extension, and consent/approve to/of the mortgage, estoppel certificates and subordination agreements, subject to terms and conditions.

Mr. Ivan Nakano, representing the Lessee, and Mr. Carlito Caliboso, representing City Bank and B&I Lending, LLC, were present to answer questions.

Unanimously approved as submitted (Holschuh/Inouye).

ITEM D-10: CONSERVATION DISTRICT USE APPLICATION MA-3014 AFTER-THE-FACT APPROVALS FOR WORK PERFORMED AT OLOWALU, MAUI, TMKs: (2) 4-8-03: 43 & 06

Mr. Sam Lemmo, Staff Planner for the Land Division, briefed the Board and recommended approval of the after-the-fact Conservation District Use Application for work performed at Olowalu, Maui, subject to standard conditions.

Mr. Robert Horcajo, Project Manager for Olowalu Elua Associates, LLC, addressed some of the concerns and questions raised by the Board. He recalled, at the July 14, 2000 Board meeting, that the Board approved the replanting of hau tree limbs versus mature hau trees, and approved 60-days to allow submission of legal objections and analysis of the fines to the Department of the Attorney General for review. He indicated that staff had verbally informed them of the Attorney General's opinion, that essentially its \$2,000 per violation, not per scoop for the dredging. Regarding public access to the wharf, they will not prohibit or discourage use of the wharf itself, and will not object to a requirement of access, subject to some reasonable measure they can take, for safety and health reasons.

There was some discussion by the Board. The Board was concerned that the opinion from the Attorney General's Office was not brought back to the Board. Member Johns made a motion to defer this item to the next Board meeting, to allow staff to brief and provide information to the Board regarding the Attorney General's opinion. Staff was also asked to contact Na Kapuna O Maui, and/or other Community Members involved, to inquire whether they were in agreement with the action taken by Olowalu Elua Associates, LLC, as well as, inquire as to the Department's potential liability, if it requires Olowalu Elua Associates, LLC, to provide public access through their property to the shoreline.

Deferred (Johns/McCrory).

ITEM D-1: CONSERVATION DISTRICT USE APPLICATION HA-3021B FOR KUKIO: MAUKA LANDS EXPANDED UTILITY AND OTHER RELATED IMPROVEMENTS, NORTH KONA, HAWAII, TMK: 3RD/7-2-04: POR. 04

Member Inouye recused herself.

Mr. Lemmo briefed the Board and amended staff's recommendation to read: "That the Board of Land and Natural Resources APPROVE the Kukio: Mauka Lands Expanded Utility and Other Related Improvements, including any necessary subdivision, subject to the following conditions:"

Member Holschuh noted that letters were received from some of the lineal descendants of the area who endorsed the project, and seemed pleased with the mitigation measures.

Mr. James Leonard, testified in favor of the staff's recommendation, with the addition of the request for the subdivision.

Ms. Leimana Damate, Office of Hawaiian Affairs, regarding the Historic Preservation Division's comments that informants who were interviewed had no knowledge of traditional Hawaiian places names or cultural practices in the area, inquired as to whether any other lineal descendants were

interviewed besides Ms. Hannah Springer. Mr. Leonard indicated that in the Conservation District Use Application, there is a cultural impact assessment report that list the group of lineal descendents that were part of the consultation, which included some of the people who sent written testimony to the Board (Mr. George Kahananui, Mr. Thomas Lindsey, Member of the Punihaole Family, and Ms. Springer).

The Board added an additional condition to read: "16. That the applicant shall submit a final subdivision map to the Department of Land and Natural Resources, Land Division.

Unanimously approved as amended (Holschuh/Johns).

ITEM D-2: SET ASIDE TO THE DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION AND ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY AT KAIWIKI AND NIUPEA, HAMAKUA, HAWAII, TMKS: 3RD/4-1-01: ROAD (POR.), 4-1-02: ROAD (POR.) AND 4-1-02: POR. 04

Mr. Yada briefed the Board and recommended that the Board approve the set aside of the subject lands, in accordance with terms and conditions.

Unanimously approved as submitted (Holschuh/Inouye).

ITEM D-19: CONSENT TO LEASE OF LANDS UNDER GOVERNOR'S EXECUTIVE ORDER NO. 3430 TO COUNTY OF MAUI, LAHAINA, MAUI, TMK: (2) 4-6-007: 001

Mr. Yada briefed the Board and amended page 3, paragraph 2, of the staff submittal, to read: "On April 12 [14], 2001, under Agenda Item D-12, the Land Board approved the County's request for a Lease [License] Agreement with the...". Staff's recommendation is that the Board authorize the consent to the lease between the County of Maui and Friends of Mokuula, Inc., as amended, subject to conditions.

Ms. Nadine Awana-Chase, Friends of Mokuula, Inc., was present to answer questions.

Unanimously approved as amended (Johns/Holschuh).

ITEM D-3: REQUEST FOR RIGHT-OF-ENTRY BY THE UNIVERSITY OF HAWAII, ONTO ENCUMBERED STATE LANDS AT PAHINAHINA, MAKILOA, KALALA, KOKIO, AHULUA, POHAKULUA, KAIHOOA, AND KIOKALANI, NORTH KOHALA, HAWAII, IDENTIFIED AS TMK: 3RD/5-9-03: 01, 02 & 10

Mr. Yada briefed the Board and amended page 1, Location & Area, from [5,8963.817], to 5,864 acres, and page 2, Current Use Status, from [Revocable Permit No. S-6958], to General Lease No. S-5599. Staff's recommendation is that the Board approve the issuance of a right-of-entry, as amended, subject to terms and conditions.

Unanimously approved as amended (Holschuh/McCrory).

ITEM D-4: CONSENT TO ASSIGN GENERAL LEASE NO. S-3660, MR. HARRY ATSUSHI ENDO AND MRS. YUKINO ENDO, ASSIGNOR, TO HILO BAY PRINTING COMPANY, LTD., ASSIGNEE, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3RD/2-2-50: 77

Mr. Yada briefed the Board and recommended that the Board consent to the assignment of the lease, subject to terms and conditions.

Unanimously approved as submitted (Holschuh/Inouye).

ITEM D-5: RESCIND PRIOR BOARD ACTIONS OF MARCH 12, 1999 UNDER AGENDA ITEM D-10 FOR GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENTS TO CITY AND COUNTY OF HONOLULU/DEPARTMENT OF FACILITIES MAINTENANCE FOR PEDESTRIAN BRIDGE AND UTILITY PURPOSES AND CONSTRUCTION RIGHT-OF-ENTRY TO STATE DEPARTMENT OF TRANSPORTATION AND SUBSEQUENT BOARD ACTION OF AUGUST 27, 1999, UNDER AGENDA ITEM D-11, AMENDMENT TO EASEMENTS LOCATION AND AREAS FOR STATE LANDS SITUATE ALA WAI KAI TRACT, KALIA, WAIKIKI, HONOLULU, OAHU, TMK: 2-3-035: 11 (POR.)

Mr. Yada briefed the Board and recommended that the Board rescind its prior actions, subject to terms and conditions.

Unanimously approved as submitted (Inouye/McCrory).

ITEM D-6: REQUEST AUTHORIZATION FOR AFTER-THE-FACT JOINT FUNDING AGREEMENT WITH THE UNITED STATES DEPARTMENT OF THE INTERIOR, U.S. GEOLOGICAL SURVEY, WATER RESOURCES DIVISION FOR CONTINUED FLOW MONITORING IN STREAM DIVERSION DITCHES ON MAUI AND KAUAI

Mr. Yada briefed the Board and recommended that the Board authorize the after-the-fact Joint Funding Agreement, subject to terms and conditions.

Unanimously approved as submitted (Inouye/Holschuh).

ITEM D-7: RESCIND PRIOR BOARD ACTION OF DECEMBER 15, 1995 (AGENDA ITEM F-4), REVOCABLE PERMIT TO MR. TODD PERKINS AT KULA, MAUI, TMK: (2) 2-2-20: 100

Mr. Yada briefed the Board and recommended that the Board rescind its prior action, in accordance with terms and conditions.

Unanimously approved as submitted (Johns/Holschuh).

ITEM D-8: APPROVAL IN PRINCIPLE FOR LAND EXCHANGE BETWEEN THE STATE OF HAWAII AND PARKER RANCH, TO ACQUIRE TMK: (3) 6-7-02: POR. 17 AS AN ADDITION TO WAIMEA INTERMEDIATE SCHOOL, IN EXCHANGE FOR STATE-OWNED TMK: (3) 6-7-02: POR. 15, WAIMEA, S. KOHALA, ISLAND OF HAWAII

Mr. Yada briefed the Board and recommended that the Board approve in principle the proposed land exchange, subject to terms and conditions.

A representative of Parker Ranch was present to answer questions.

Unanimously approved as submitted (Holschuh/Inouye).

ITEM D-9: RESCIND PRIOR BOARD ACTION OF SEPTEMBER 13, 1991 (AGENDA ITEM F-3), ISSUANCE OF REVOCABLE PERMIT TO MR. WILLIAM JONES AT MAKAWAO, MAUI, TMK: (2) 2-2-1: PORTION 51

Mr. Yada briefed the Board and recommended that the Board rescind its action, in accordance with terms and conditions.

Unanimously approved as submitted (Johns/Holschuh).

ITEM D-11: AUTHORIZE ONE YEAR RETROACTIVE HOLDOVER TERM FOR GENERAL LEASE NOS. 5115, 5118, 5119, 5120 AND 5121, ISSUANCE OF REVOCABLE PERMITS UPON EXPIRATION OF HOLDOVER PERIOD, TMKs: 4-1-1: 1, 3, 4, 7, 12; 1-9-12: 5; 1-9-2: 19, KAUAI; AND SALE OF TWO (2) THIRTY (30)-YEAR INTENSIVE AGRICULTURE AND PASTURE LEASES, TWO (2) THIRTY-FIVE (35)-YEAR INTENSIVE AGRICULTURE LEASES, AND ONE THIRTY (30)-YEAR INTENSIVE AGRICULTURE AND EMPLOYEE RESIDENCE LEASE AT PUBLIC AUCTION, KAUAI

Mr. Yada briefed the Board and recommended that the Board authorize a one year retroactive holdover period for a number of leases in Kauai, authorize issuance of revocable permits upon expiration of the holdover period, and authorize the sale of leases at public auction, in accordance with the staff submittal.

Unanimously approved as submitted (McCrorry/Johns).

ITEM D-14: ONE YEAR HOLDOVER OF LEASE TERM FOR GENERAL LEASE NOS. S-4016 (MAHEALANI FARMS, INC.), S-4524 (MS. HAZEL OLIVEIRA & MR. LOUIS ABREU), S-4530 (KAUPO RANCH, LTD.), S-4532 & S-4533 (MR. CHARLES S. OTA), AND S-4535 (MR. MURRAY HUNTER) EXPIRING IN THE YEAR 2001, ON THE ISLAND OF MAUI

Mr. Yada briefed the Board and recommended that the Board authorize a one year holdover period for a number of leases in Maui, and issuance of revocable permits upon expiration of the holdover, should it be necessary.

Unanimously approved as submitted (Johns/Inouye).

ITEM D-15: MANAGEMENT RIGHT-OF-ENTRY TO HAWAIIAN ELECTRIC COMPANY, INC. AND VERIZON HAWAII, INC., FOR UTILITY PURPOSES, KALAWAHINE, HONOLULU, TMK: 2-5-19: 5 & 13

Mr. Yada briefed the Board and recommended that the Board authorize the issuance of a management right-of-entry to Hawaiian Electric Company, Inc., and Verizon Hawaii, Inc., subject to terms and conditions.

Unanimously approved as submitted (Inouye/McCrorry).

ITEM D-16: RESCIND PRIOR BOARD ACTION OF OCTOBER 23, 1987 (AGENDA ITEM F-4), PUBLIC AUCTION SALE OF LEASE OF WATER RIGHTS AND WELL SITE TO MS. MELISSA LYNN CAIN TRUST AT KULA, MAUI, TMK: (2) 2-5-1: 10

Mr. Yada briefed the Board and recommended that the Board rescind its prior action, subject to terms and conditions.

Unanimously approved as submitted (Johns/Holschuh).

ITEM D-17: AMEND PRIOR BOARD ACTION OF APRIL 12, 2001 (AGENDA ITEM D-7), GRANT OF TERM, NON-EXCLUSIVE EASEMENT TO CASTLE FAMILY LIMITED PARTNERSHIP AND WINDWARD T & C II FOR TILE WALL AND CONCRETE CURB PURPOSES, KAILUA, OAHU, TMK: (1) 4-2-3: PORTION 30

Mr. Yada amended the staff submittal, page 1, paragraph 1, to read: "...for tile wall, [and]concrete curb, and drain outlet purposes." Staff's recommendation is that the Board amend its prior action by deleting the performance bond requirement.

There was some discussion. Mr. Yada explained that staff feels the administrative effort to annually track a performance bond requirement for a 1-time consideration easement is not justified for a 55-year period. Member McCrory didn't have a problem with Castle Family Limited Partnership, but was leery of other term easements coming forward without a performance bond. Member Johns asked that a briefing be held before this becomes general policy or practice.

Unanimously approved as amended (Inouye/McCrory).

The Board recessed at 10:35 a.m. The meeting was reconvened at 10:45 a.m.

ITEM D-20: FORFEITURE OF GENERAL LEASE NO. S-5097, MR. ANTHONY & MRS. BARBARA LOCRICCHIO AND MS. PATRICIA EWING, LOT 82, PUU KA PELE PARK LOTS, WAIMEA (KONA), KAUAI, HAWAII, TMK: 1-4-2: 79

Mr. Yada requested that this item be withdrawn. The Lessee has brought all requirements into compliance.

The Board allowed the withdrawal of the forfeiture action, subject to the Lessee submitting a cash performance bond within 60 days of the Board meeting date.

Withdrawn (McCrory/Holschuh).

ITEM D-21: CANCELLATION OF LAND LICENSE NOS. S-343 AND S-344 TO MS. DOREEN SANCHEZ-REGO CONTRACTOR, INC.; AND CONSENT TO LAND LICENSE BETWEEN STATE OF HAWAII, DEPARTMENT OF LAND AND NATURAL RESOURCES AND BROWN'S TRUCKING, INC.; MANA, WAIMEA, KAUAI, HAWAII, (DOFAW KAWAIELE SAND MINE, PHASE 2); TMK: 1-2-2: POR 1, AND ISSUANCE OF IMMEDIATE RIGHT-OF-ENTRY

Mr. Yada briefed the Board and recommended that the Board authorize the cancellation of Land License Nos. S-343 and S-344, that the Board determine that there is sufficient public interest and authorize the issuance of direct land license to Brown's Trucking, Inc., and authorize the issuance of an immediate right-of-entry to Brown's Trucking Inc, for site management and control purposes, subject to terms and conditions.

Unanimously approved as submitted (McCrorry/Holschuh).

ITEM K-1: ISSUANCE OF A REVOCABLE PERMIT TO PHT, INC., NEAR PIER 18, HONOLULU HARBOR, OAHU, TMK: (1)-1-5-39-17P

Mr. Peter Garcia, Property Management Officer for the Department of Transportation, briefed the Board and recommended that the Board authorize the issuance of a revocable permit to PHT, Inc., subject to terms and conditions.

Unanimously approved as submitted (Inouye/McCrorry)

ITEM K-2: ISSUANCE OF LEASE BY NEGOTIATION TO SAUSE BROTHERS, INC., PIER 24, HONOLULU HARBOR, OAHU, TMK NOS.: (1)-1-5-38-1 & 7

Mr. Garcia briefed the Board and recommended that the Board approve the lease by direct negotiation, subject to terms and conditions.

Unanimously approved as submitted (Inouye/Holschuh).

ITEM K-3: ISSUANCE OF A RIGHT-OF-ENTRY TO CONTRACTOR TO BE SELECTED BY THE HONOLULU HARBOR PARTICIPATING PARTIES TO PERFORM SITE CHARACTERIZATION ACTIVITIES VICINITY OF PIERS 18-29 AND 31-38, TMK NOS. (1)-1-5-34, -35, -36, -38, -39 AND -42

Mr. Garcia briefed the Board and recommended that the Board authorize the issuance of a right-of-entry to the consulting contractor to be selected by the Honolulu Harbor Participating Parties covering the subject areas, subject to terms and conditions.

Member Inouye inquired as to the term "Site Characterization Activities". Mr. Garcia believed it came from the United States Environmental Protection Agency, and indicated that he will provide the Board with a copy of their Notice.

Unanimously approved as submitted (Inouye/McCrorry).

ITEM K-4: REPORT ON REVOCABLE PERMITS ISSUED OR RENEWED BY THE DEPARTMENT OF TRANSPORTATION FOR CONSISTENT USES

Mr. Garcia indicated that this is a report for the Board's information and no action is required.

No action.

There being no further business, Chairperson Coloma-Agaran adjourned the meeting at 11:20 a.m.

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

Respectfully submitted,



Kimberly C. Keliioomalu

Approved for submittal:


GILBERT S. COLOMA-AGARAN

Chairperson
Board of Land and Natural Resources