

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

DATE: FRIDAY, JUNE 14, 2002
TIME: 10:00 A.M.
PLACE: LANAI HIGH AND ELEMENTARY
SCHOOL CAFETERIA
555 Fraser Avenue
Lanai City, HI 96763

Chairperson Gilbert Coloma-Agaran called the meeting of the Board and Land and Natural Resources to order at 10:06 A.M. The following were in attendance:

MEMBERS:

Mr. Gilbert Coloma-Agaran
Dr. Fred Holschuh
Mr. Ted Yamamura

Ms. Kathryn Inouye
Mr. Timothy Johns
Ms. Lynn McCrory

STAFF:

Mr. Eric Hirano, Deputy
Mr. Bill Wynhoff, Department of the
Attorney General

Ms. Dede Mamiya, Land Division
Mr. Paul Conry, Division of Forestry
Ms. Gail Murayama, Chairman's
Office

OTHERS:

Mr. Paul Remington, D-7
Mr. Riki Hokama, C-1
Mr. Ken Sabin, C-1
Mr. Peter Garcia, Department of Transportation

Approval of the April 12, 2002 Minutes

Member Lynn McCrory recused herself, as she was not in attendance at this meeting.
Member Fred Holschuh amended the spelling of *uniformed* to *uniform* on page 10, Item D-30.

Unanimously approved as amended (Holschuh/Johns)

ITEM D-7: Conservation District Use Application (CDUA) OA-3077 for Remington Single Family Residence, Kaneohe, Oahu, TMK: (1) 4-4-13: 34.

Dede Mamiya, Administrator of the Land Division briefed the Board and recommended that the Board authorize the approval of the single-family residence subject to terms and conditions listed in the submittal.

There was a short discussion with regards to the exterior elevations to which Paul Remington said adjustments were made to the height of the facilities to accommodate the 25 feet height limit from the highest point of the structure to the lowest point regardless of topography.

Unanimously approved as submitted (Inouye/Holschuh)

ITEM C-1: Amendment of the Lanai Cooperative Game Development and Management Agreement to Renew the Agreement for an Additional Ten-year Term and Other Changes

Mr. Paul Conry, Wildlife Program Manager of the Division of Forestry and Wildlife briefed the Board to amend the Lanai Cooperative Game and Management agreement to make various changes and to renew the agreement for an additional ten-year term including a fee increase for the agreement going from \$30,000 per year up to \$35,000 per year.

Mr. Riki Hokama read Ron McOmber's testimony in support of the 10-year agreement.

Mr. Hokama requested that there be more time extended in noticing what would be on future agendas for the Lanai residents. He also testified in support of the 10-year agreement and asked for increase of funding for Lanai's Game Management Program to maintain roads, more water trucks and increase nutritional supplements for the game.

Mr. Hokama also requested that the Lanai community be apprised of the size and use of the critical habitat designations.

Mr. Ken Sabin testified in support of the agreement.

Unanimously approved as submitted (Yamamura/McCrory)

ITEM D-1: Consent to Second Amendment to Sublease General Lease No. S-3601, William T. White, III Trust, Lessee, to BCI Coca Cola Bottling Co. of Los Angeles, Inc., Sublessee, Waiakea, South Hilo, Hawaii, TMK: 3RD/2-2-49: 7

Member Tim Johns recused himself.

Ms. Mamiya explained that the Board originally consented to the sublease in 1999. The First Amendment approved in November 2001 extended the initial term of the sublease to August 17, 2002. A Second Amendment to the Sublease Agreement extended the sublease to August 17, 2009, which does not allow any adjustment to the lease rental. The staff recommendation is for the consent by the Board to the Second Amendment to sublease under terms and conditions.

Member Lynn McCrory recommended that the performance bond requirement be reinstated.

Unanimously approved with amendment to the Recommendation Section to reinstate the performance bond requirement (Holschuh/McCrory).

ITEM D-2: Rescind Land Board Action of September 22, 2000, Agenda Item D-1; Consent to Assign General Lease No. S-5347, Martin R. Lagundino, Jr., Assignor, to Lance Laney, Assignee, Government Lands in Hanalei Homesteads, Hanalei, Kauai, Hawaii TMK: 5-4-2: 26 & 31.

Ms. Mamiya explained that since Lance Laney has not been able to financially comply with the requirements of his lease, specifically the annual lease rent and performance bond requirement, she requests the rescindment of action of September 22, 2000. She said Laney is in default for the rent. Ms. Mamiya said Land Division never consented to the assignment and when they tried to execute the assignment, Laney decided not to use it.

Member McCrory recommended that an automatic timeframe be initiated so that when an assignment of lease document is not executed in that timeframe, the Board action expires and no further action has to come before the Board. After further discussion, the Board asked that the Land Division come up with timeframe language for documenting Board approvals.

Unanimously approved as submitted (McCrory/Holschuh).

ITEM D-3: Sale of Lease at Public Auction for Pasture Purposes, Kuwaawaa Pasture Reserve, Kalaheo, Koloa, Kauai, TMK: 2-4-3: 1.

Ms. Mamiya briefed the Board and recommended that the Board authorize the sale of the lease at public auction according to the terms and conditions in the submittal.

Unanimously approved as submitted (McCrory/Holschuh).

ITEM D-4: Rescind Prior Board Action of June 14, 1985, and Grant of Term, Non-Exclusive Easement to Linda Kay Goy for Waterline Purposes, Keokea, Makawao, Maui TMK: (2) 2-2-003: Por. 052.

Ms. Mamiya said at the June 14, 1985 meeting under Agenda Item F-1-h, the Board approved the issuance of a revocable permit to Thomas L. Smith but that the month-to-month permit was never issued.

Linda Kay Goy purchased parcel 14 in March 1999 and was not aware she was required to purchase an easement to place a water meter and pipeline over the State Reserve Parcel. The staff recommendation is that the Board authorize to rescind prior Board action of June 14, 1985 and authorize the issuance of a non-exclusive easement to Linda Kay Goy for waterline purposes.

Unanimously approved as submitted (Yamamura/Holschuh)

ITEM D-5: Quitclaim of State's Interests, if any, in Portions of Wells Street and Kinipopo Street to the County of Maui, Wailuku Town, Wailuku, Maui, TMK: 3-4-11: 31.

Ms. Mamiya said previously a portion of Wells and Kinipopo Streets and the fire station were part of Executive Order 9 to the Wailuku County Park. In 1951 the County Board of Supervisors asked to have these streets as well as the fire station withdrawn. The fire station was set aside to them but for unknown reasons the streets were not. In June 2002, the County of Maui requested the conveyance of title to Wells and Kinipopo Streets to them. An internal policy or practice of the Land Division only issued quitclaim deeds for roads owned by the counties only when the county was going to convey in fee to a third party. Land Division consulted with the attorney general's office who concurred that the practice could be expanded to issue a quitclaim deed whenever the county is going to in turn, convey any interest to a third party. The staff recommendation is that the Board issue a quitclaim deed for the subject roadway parcels to the County of Maui.

Unanimously approved as submitted (Yamamura/Holschuh)

ITEM D-6: Cancel Governor's Executive Order No. 3385 and Set Aside to the DLNR, Division of Boating and Ocean Recreation for Offshore Boat Moorings, the Mala Wharf and Surrounding Submerged Lands and Surface Waters, the Mala Wharf Approach Road, the Small Boat Launching Ramp and Other Related Purposes, and Rescind Agenda Item F-5 of the Board's April 10, 1987 Meeting, Alamihi and Moalii, Lahaina, Maui, TMK: 4-5-04: 13, 14 & Mala Wharf Approach Road; 4-5-05: 1, 3, 19 and Offshore Mooring Area

Ms. Mamiya explained that in 1977, the Board approved the CDUA and right-of-entry for the purposes of constructing a boat launching ramp and related improvements at Mala Wharf to Department of Transportation (DOT). Construction was completed in 1979. The area was never formally placed under the control of DOT when small boat harbors were with DOT; subsequently small boat harbors were transferred to DLNR and the documentation was never completed. Ms. Mamiya amended under "remarks", page 3

the year should be 1987 and not 2002. The staff recommendation is that the Board rescind prior Board action of 1987 and approve and recommend to the Governor the issuance of an Executive Order setting aside the lands and the immediate right-of-entry to the Division of Boating and Ocean Recreation (DOBOR).

Chairperson Agaran apprised the Board that there are other sites that were meant to go to DOT when the boating program was under their jurisdiction under various types of set asides and right-of-entries but that they were never completed. He said the Board should expect to see similar submittals because the staff is trying to clean up or resolve this issue.

Unanimously approved as submitted (Yamamura/McCrory)

ITEM D-8: Resubmittal of May 24, 2002, agenda Item D-7, Grant of Perpetual, Non-Exclusive Easement to Hawaiian Electric Company, Inc. (HECO), and Verizon Hawaii Inc. (Verizon) for utility purposes and cancellation of Revocable Permit No. 236 to Hawaiian Electric Company, Inc., Pouhala Homesteads, Waikele, Ewa, Oahu, TMK: 9-4-11: Por. of 17, 20 & 29

Ms. Mamiya explained this item is being resubmitted because at the last meeting, Verizon's name was not included and also was not noticed properly with their name and title. The staff is requesting to approve the perpetual easement to both HECO and Verizon.

Unanimously approved as submitted (Inouye/Holschuh)

ITEM D-9: Approval of Amendment No. 1 to the Tri-Party Agreement Between the Hawaiian Homes Commission, the Department of Transportation and the Department of Land and Natural Resources.

Ms. Mamiya briefed the Board and explained Exhibit A, the Summary of the Tri-Party Agreement. DOT is to deposit \$2.14 million of non-airport funds into the airport account to compensate DOT Airports for the additional value. This proposal and release of additional lands needs FAA approval. Ms. Mamiya noted that the non-airport funds are from the DOT Administration 1999 Trust Fund Account that she believes is Amtrak monies.

Ms. Mamiya said the FAA issued non-compliance warnings to DOT because some of DOT's airport lands were being used for non-airport uses by the State and County agencies for base yards and offices. She said Exhibit G, Amendment No. 1 summarizes the changes in which the lands of Kahului Airport and Hilo Airport which contained State or County agencies will be turned over to DLNR to resolve the shortage. Ms. Mamiya noted that the proposal needs FAA, Governor, Hawaiian Homes Commission and the Attorney General approval. Once approved, it will be brought back to the Board for approval with the specific withdrawals and set asides of the subject lands. She said to

eliminate any back rent issues, Amendment No. 1 will be dated November 30, 1984, the same date as the Tri-Party Agreement. Mr. Peter Garcia, representing DOT, concurred.

Ms. Mamiya recommended that the Land Board authorize the Chairperson to execute Amendment No. 1 to the Tri-Party Agreement subject to approval by the Hawaiian Homes Commission, Governor, FAA and Department of Attorney General.

Unanimously approved as submitted (Johns/Holschuh)

ITEM F-1: Amendment to Board Resolution No. 33 – Relating to Appointment of Masters to Hold Public Hearings

Mr. Conry represented the Division of Aquatic Resources. He said this item is a housekeeping measure to reflect a change in personnel to add Francis Oishi and Walter Ikehara, Program Managers, to the prior resolution relating to appointing of masters for public hearings and to delete Michael Fujimoto and Alton Miyasaka. The recommendation is that the Board adopt the amendment to Board Resolution No. 33.

Member Kathy Inouye requested that the specific names and the specific division be in the title of the agenda in future submittals.

Unanimously approved as submitted (Johns/Holschuh)

ITEM K-1: Issuance of an Inconsistent Use Revocable Permit to Cellco Partnership, DBA Verizon Wireless, Kahului Airport, Maui

Mr. Garcia, representing the Department of Transportation said the applicant is requesting temporary/short-term use of the space for storage of its equipment and use of a radio antenna. The staff recommendation is that the Board approve the Revocable Permit.

Unanimously approved as submitted (Johns/Holschuh)

ITEM K-2: Issuance of a Revocable Permit to Revolution Production Services, LLC at Kalaeloa Barbers Point Harbor, Oahu

Garcia said the applicant requires the transit shed for use as a sound stage and the adjoining paved land to be used for employee parking. The staff recommendation is that the Board authorize the Department of Transportation, Harbors Division to issue the applicant a revocable permit subject to terms and conditions.

Unanimously approved as submitted (Inouye/Yamamura)

ITEM K-3: Issuance of Revocable Permit to State of Hawaii, Department of Commerce and Consumer Affairs, Near Pier 42, Kalihi Kai, Honolulu Harbor, Hawaii TMK: 1st/1-2-25:12 (por)

Mr. Garcia withdrew item K-3.

ITEM K-4: Issuance of Revocable Permits to LFR, Inc. and Kagami, Inc. at Piers 18 to 29, Honolulu Harbor, Iwilei, Oahu

Mr. Garcia said the applicants are contracted by the Honolulu Harbor Participating Parties (HHPP) to remove toxic wastes from the Iwilei lands of Honolulu Harbor and that the Harbors Division requests a gratis rental for these revocable permits. The revocable permits are for a two-year duration, and the applicants will completely remove the remediation system at the expiration of the permits. The staff recommendation is that the Board authorize the Department of Transportation, Harbors Division to issue the applicant a revocable permit under terms and conditions.

Unanimously approved as submitted (Inouye/Yamamura)


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,


Barbara E. Kameda

Approval for submittal:


GILBERT S. COLOMA-AGARAN
Chairperson
Board of Land and Natural Resources

