

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

DATE: FRIDAY, JANUARY 10, 2003
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HI

Board Member Lynn McCrory called the meeting of the Board of Land and Natural Resources to order at 9:13 a.m. The following were in attendance:

MEMBERS

Ms. Lynn McCrory	Mr. Timothy Johns
Mr. Ted Yamamura	Mr. Eric Hirano
Mr. Gerald DeMello (arrived at 9:20 am)	

STAFF

Ms. Dede Mamiya, Land Division	Mr. Sam Lemmo, Land Division
Mr. Peter Garcia, DOT	

OTHERS

Ms. Yvonne Izu, Office of the Attorney General	
Mr. Donald Okahara, D-17	Mr. David Richardson, D-16
Mr. Richard Paskalik, D-16	Mr. Dann Perrin, D-16
Ms. Roberta Rita, D-2	Ms. Irene Anzai, D-13
Mr. Eric Elkind, D-8	

{Note: language for deletion is [bracketed], new/added is underlined}

Item A-1: Minutes of December 13, 2002

Deferred

Item D-17: Issuance of Right-of-Entry Permit to the Federal Highway Administration and Okahara & Associates Inc., upon Encumbered State Lands at Kaumana, Piihonua, Ponahawai, and Upper Waiakea, South Hilo, Hawaii, TMK: 3rd/2-4-08:1, 4 & 8; 2-5-01: 2, 6 & 8; 2-5-02: 14; 2-5-03: 20, 44 & 80; and 2-6-18: 4 & 10.

Ms. Dede Mamiya, Administrator of the Land Division informed the Board Okahara and Associates (OAI) has been contracted by the Federal Highway Administration (FHWA) to perform surveys and geotechnical investigations on the proposed realignment of the Saddle Road Project. She noted the project is anticipated to last for 18 months. Ms. Mamiya recommended the Board authorize the issuance of a Right-of-Entry Permit to FHWA, its contractors, OAI, its sub-consultants and/or persons acting for or on its behalf.

Mr. Donald Okahara was present to answer any questions.

Unanimously approved as submitted (Johns/Yamamura).

Item D-16: Grant of a 55-Year Termed, Non-Exclusive Easement to William and Louise Pape for Access and Utility Purposes at Kawaikahi Gulch, Manowaipae and Kihalani, North Hilo, Hawaii, TMK: 3rd/3-5-04:35.

Ms. Mamiya explained that William and Louise Pape are requesting two access and utility easements over State lands. The first easement is for a gravel road and includes a concrete stream crossing. Easement 1 currently serves as an access and stream crossing and is usable in its current condition. Easement 2 is a similar type of road and crosses the stream into the Pape's property. The crossing associated with the road is not improved and although traversable is nothing more than a rock crossing within the stream therefore staff feels the second easement should not be granted at this time. Ms. Mamiya recommended the Board authorize the issuance of a 55-year term, non-exclusive easement to the Pape's covering the subject area identified as Easement 1 for access and utility purposes.

David Richardson of Remax Pacific told the Board he had two issues he would like to clarify. He noted the Pape's would like the ability to reassign the easement if they should sell the property. Secondly, he noted staff submittal did not outline all of Mr. Pape's property and he would therefore like it to include all of the property.

Richard Paskalik and Dann Perria were present to answer any questions.

The Board amended the Recommendation Section by adding a new subparagraph 2.E. to read as follows:

“2.E. The easement shall serve the properties identified in Exhibits A and B and any other contiguous properties that are owned by the Applicants as may be identified by staff.”

Unanimously approved as amended (Johns/Yamamura).

Member DeMello entered the meeting.

Item D-8: Amend Prior Board Action on Issuance of Interim Revocable Permit to Castle & Cooke Lanai Properties, LLC, Kaohai, Lanai, TMK: (2) 4-9-003: Seaward 010.

Ms. Mamiya indicated this action is to amend prior Board action of July 14, 2000. She noted since a couple of years have passed and the permit has not been executed staff is requesting the Board's approval for the years subsequent to the Board's approval to ensure its annual renewal. Furthermore staff requests to clarify the commencement date and deletion of the liquidated damages provision in this document. Ms. Mamiya recommended the Board amend its prior Board action.

Eric Elkind was present to answer questions.

Unanimously approved as submitted (Yamamura/Johns).

Item D-13: Authorization to Issue Special Installment Agreement and Annual Renewal for Pending Revocable Permit No. S-7196, Association of Apartment Owners of Mana Kai-Maui, Permittee, Kamaole, (Kihei), Wailuku, Maui, TMK: (2) 3-9-004: Por. 001.

Ms. Mamiya went over the history of this item and told the Board the Association of Apartment Owners is willing to pay the \$19,100.00 of retroactive rent in thirty-six monthly installments. In terms of interest on the above rent, Ms. Mamiya noted in cases where retroactive rent was due to staff or other error or omission, the interest rate on the principal would be 0%. Therefore there would be no interest accrued on the above rent. Ms. Mamiya recommended the Board authorize the issuance of a Special Installment Agreement and the annual renewal for pending Revocable Permit No S-7196.

Member Johns questioned the Board's authority not to charge interest.

Ms. Mamiya explained the Board has the statutory authority to wave interest.

Ms. Irene Anzai, legal counsel for the applicants was present to answer questions.

The Board amended the Recommendation Section by amending subparagraphs A.1. and A.3. to read as follows:

“A.1. The total retroactive amount due the Department of Land and Natural Resources is [~~\$19,100.00~~] \$19,224.00 for the period of December 1, 1987 to December 31, 2002;”

“A.3. The first payment shall be due on February 1, 2003, in the amount of [~~\$530.75~~] \$534.00. Thereafter, monthly payments of [~~\$530.55~~] \$534.00 shall be made on the first day of each month;”

Unanimously approved as amended (Yamamura/Hirano).

Item D-2: Consent to Assign for General Lease No. S-3793, the Estate of Anna Ham, Assignor, to Roberta A.N. Rita, Assignee, Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-10: 06.

Ms. Mamiya informed the Board the estate of Anna Ham recently went through probate court and an offer by Roberta A.N. Rita has been accepted and approved by the court. Ms. Mamiya told the Board Ms. Rita has submitted a plan for the future improvements of the stabling operation. Ms. Mamiya recommended the Board consent to the assignment of General Lease No. S-3793 from the estate of Anna Ham to Roberta A.N. Rita.

Roberta Rita was present to answer any questions.

Unanimously approved as submitted (Johns/Yamamura).

Item D-26: Grant of Term, Non-Exclusive Easement to Frederic W.C. and Mary F. C. CONSTANT for Rockwell Purposes, Honuaula, Makawao, Maui, Tax Map Key: (2) 2-1-006: Por. 098.

Ms. Mamiya gave an overview of this item. She mentioned to the Board members the applicants are trying to resolve certain encroachment issues. According to an archaeological survey it was determined the rock wall has been in place for the past 55 years. Ms. Mamiya pointed out the Planning Branch will not sign off on the applicants renovation plans until the encroachment issue is resolved. She recommended the Board assess a \$500.00 administrative penalty for encroachment on public lands and authorize the issuance of a term, non-exclusive easement to the applicants.

Fred Constant was present to answer any questions.

Unanimously approved as submitted (Yamamura/DeMello).

Item D-23: Rescind Prior Board Action of August 23, 1996, Agenda Item D-17 (for the Re-issuance of a Revocable Permit) and Sale of Reclaimed Lands to Michael J. Fergus Trust, Lahaina, Maui, TMK: (2) 4-5-001: 049.

Ms. Mamiya explained how this piece of land came into existence and the transferring of ownership of the subject land. In 1996 the current owners, Kurisu & Fergus (K&F) requested a revocable permit for the subject lands. However when the appraisal was determined to be \$4,600 per month K&F requested to purchase the parcel. After speaking with the attorney general's office Land Division was advised that the parcel was not saleable because it could not be determined with the subject land was filled. After reviewing section 171-53 (b) staff determined that the lands were filled prior to June 12, 1962, (the day the law was enacted) the State would be able to sell the reclaimed lands. Therefore Mr. Fergus went out and obtained aerial photos that clearly show that the lands were filled in as early as 1949. Because title to parcel 8 has since transferred to Mr. Fergus as trustee of his revocable trust, Ms. Mamiya recommended the Board rescind its prior Board action, authorize the sale of the subject reclaimed land to the applicant and impose a fine of \$500 for encroachment onto State lands.

The Board asked Mr. Fergus if he was in agreement with staff that the value of the reclaimed lands will be assessed as filled lands.

Mr. Fergus answered yes.

Unanimously approved as submitted (Yamamura/DeMello).

Item D-10: Extension of 180-day Processing Period for Conservation District Use Application (CDUA) HA-3066 to develop a sustainable commercial Koa Timber Forestry operation in South Hilo, Hawaii.

Mr. Sam Lemmo planner with the Land Division told the Board the applicant is requesting an extension to his permit in order to have time for staff to analyze the Draft and Final EIS, hold the required public hearings, analyze the CDUA and preparation of a staff report. Staff believes an extension of six months should be adequate time. Mr. Lemmo recommended the Board approve an extension of the processing period to August 4, 2003 for the subject CDUA.

Mark Hee representing Koa Timber Forestry told the Board they were on the final phase of the EIS.

Unanimously approved as submitted (DeMello/Yamamura).

Item D-6: Certification of Election and Appointment of Soil and Water Conservation District Directors.

Member Johns recused himself.

Mr. Lemmo asked the Board to approve the certification of election and the appointment of the Soil and Water Conservation District Directors for the term ending June 30, 2005.

Unanimously approved as submitted by the remaining members (DeMello/Yamamura).

Item D-1: Consent to Renewal of Revocable Permit No. 12 for Lands under Governor's Executive Order No. 1598 to Estate of Harry M. Okumura, deceased; Waimanalo, Koolaupoko, Oahu, TMK: (1) 4-1-10: portion of 36.

Ms. Mamiya noted this item is a consent to the annual renewal of a revocable permit to the estate of Harry M. Okumura for maintenance of a bridge structure. She told the Board in 1987 control and management of the lands were transferred from the Department of Land and Natural Resources to the Board of Agriculture. Ms. Mamiya recommended the Board consent to the revocable permit between the Department of Agriculture and the estate of Harry M. Okumura.

Unanimously approved as submitted (Johns/Yamamura).

Item D-3: Resubmittal – Cancellation of Governor's Executive Order No. 3052 and Reset Aside to City and County of Honolulu for Police Station and Satellite City Hall purposes, Wahiawa, Oahu, TMK: 7-4-007: 006.

Ms. Mamiya noted this action is to cancel the existing Governor's Executive Order No. 3052 and to reset aside the land to the City and County of Honolulu for a police station and a satellite city hall. Ms. Mamiya recommended the Board approve the above item.

Unanimously approved as submitted (Johns/DeMello).

Item D-4: Grant of Perpetual, Non-Exclusive Easement to City and County of Honolulu for Drainage Easement Purposes, Kaneohe, Oahu, TMK: (1) 4-5-058: 017 Seaward.

Ms. Mamiya informed the Board the City and County of Honolulu is requesting a perpetual easement to continue the maintenance of a drainage pipe. She noted the City's Department of Facility Maintenance periodically flushes the drain lines to allow street drainage and to alleviate potential flooding in the neighborhood. Ms. Mamiya recommended the Board authorize the issuance of a perpetual non-exclusive easement to the City and County of Honolulu covering the subject area for drainage purposes.

Unanimously approved as submitted (Johns/Yamamura).

Item D-5: Rescind Prior Board Action of January 11, 1991 (Agenda Item F-3), Set Aside to Department of Land and Natural Resources for Departmental Offices, Baseyard and Nursery Purposes at Hoolehua, Molokai, TMK: (2) 5-2-1:6.

Ms. Mamiya told the Board the land was set aside to the Division of Forestry and Wildlife (DOFAW) because they planned to permanently relocate their temporary Molokai baseyard and plant nursery operations. On December 5, 2002, staff received notice from

DOFAW stating they were no longer interested in obtaining the parcel for a baseyard. Ms. Mamiya recommended the Board rescind its prior action on January 11, 1991.

Unanimously approved as submitted (Yamamura/DeMello).

Item D-7: Cancellation of Revocable Permit No. S-4110 to Yoshiko Kagawa, and Issuance of Revocable Permit to Mary A. Kagawa-Walker, Lot 10-B, Block D. Waimea Town Lots, Waimea, Kauai, TMK: 1-6-4:15.

Motion to Defer

Unanimously approved to Defer (Johns/Yamamura).

Item D-9: Set Aside to Department of Land and Natural Resources, Division of Forestry and Wildlife for Addition to Kealia Forest Reserve, Kawaihau, Kauai, TMK: 4-7-1: 3.

Ms. Mamiya briefed the Board and stated this action is merely a transfer of management jurisdiction and recommended the Board approve and recommend to the Governor the issuance of an executive order setting aside the subject lands to the Department of Land and Natural Resources, Division of Forestry and Wildlife.

Unanimously approved as submitted (Johns/DeMello).

Item D-11: Consent to Lease of Lands under Governor's Executive Order No. 2566 to Lanakila Rehabilitation Center, Inc., Waianae-Uka, Wahiawa, Oahu, TMK: (1) 7-6-01: 07.

Ms. Mamiya informed the Board the current lease will expire on January 31, 2003. In a letter dated December 19, 2002 the Department of Accounting and General Services (DAGS) and the Lanakila Rehabilitation Center, Inc. asked the Land Board to consent to the issuance of a new lease for thirty years. It was noted Lanakila requires a long-term lease to obtain a reasonable return on their investment to renovate the existing facility. Ms. Mamiya recommended the Board consent to the lease between DAGS and Lanakila Rehabilitation Center, Inc.

Unanimously approved as submitted (Johns/DeMello).

Item D-12: Amend Prior Board's Action of May 28, 1999, Agenda Item D-22, by Revising the Applicant, Purpose of Request, and Legal Reference for the Perpetual, Non-Exclusive Easement, Over State Lands Identified as TMK: (2) 3-8-046: Por. 014, Owa, Wailuku, Maui.

Ms. Mamiya acknowledged this action is to amend a prior Board action by adding Verizon Hawaii, Inc. After Board approval in 1999, staff was informed that telecommunication lines were installed within the subject easement. Ms. Mamiya recommended the Board authorize an amendment to its prior action by revising the

“Applicants” to: Maui Electric Company, Ltd and Verizon Hawaii, Inc; Revise the “Legal Reference” to: Section 171-95 HRS and Revise the “Character of Use” to: Right, privilege and authority to construct, use, maintain, repair replace and remove electrical and telecommunication lines, poles, guy wires, and anchors over, under and across State lands.

Unanimously approved as submitted (Yamamura/DeMello).

Item D-14: Consent to Partial Assignment of Grant of Non-Exclusive Easement (LOD No. S-28403), Leslie Ann Danziger, Assignor, to Robert Arnold Luyken and Diane Jean Luyken Garret, husband and wife, Assignee, Hoolawa-Mokupapa, Hamakualoa, Makawao, Maui, TMK: (2) 2-9-002: Portion of 012.

Ms. Mamiya pointed out in July 2000 the Board approved the consent to assign said easement to Leslie Ann Danziger. Recently Ms. Danziger sold the parcel in question to the Luykens (The other parcel was sold to Heather Paige Spell) therefore Ms. Mamiya is recommending the Board consent to a partial assignment (one-half of Assignor’s right title and interest) of the easement to Robert Arnold Luyken and Diane Jean Luyken Garret.

Unanimously approved as submitted (Yamamura/ DeMello).

Item D-15: Consent to Partial Assignment of Grant of Non-Exclusive Easement (LOD No. S-28403), Leslie Ann Danziger, Assignor, to Heather Paige Spell, Assignee, Hoolawa-Mokupapa, Hamakualoa, Makawao, Maui, TMK: (2) 2-9-002: Portion of 012.

Ms. Mamiya told the Board in July 2000 they approved the consent to assign said easement to Leslie Ann Danziger. Recently Ms Danziger sold the parcel in question to Heather Paige Spell. Therefore Ms. Mamiya is recommending the Board consent to a partial assignment (one-half of Assignor’s right title and interest) of the easement to Heather Paige Spell.

Unanimously approved as submitted (Yamamura/DeMello).

Item D-18: Forfeiture of General Lease No. S-5576, Rex Provisor and Pantip Provisor, Lessee, Papa, South Kona, Hawaii, TMK: 3rd/8-8-04: 11.

Ms. Mamiya informed the Board in June 2002 the Lessee was served a Notice of Default for failure to keep rental payments current and failure to post required liability insurance. The lessee cured the rent but has not posted the liability insurance. Currently the lease rent is due in the amount of \$730.00 for the period for 12/09/02 to 06/08/03. Ms. Mamiya is recommending the Board authorize the cancellation of General Lease No. S-5576.

Unanimously approved as submitted (DeMello/Johns).

Item D-19: Consent to Sublease General Lease No. S-4302, Yamada Transfer, Inc., Lessee, to Planet Granite, LLC, Sublessee, Waiakea, South Hilo, Hawaii, TMK: 3rd/2-2-37:89.

Ms. Mamiya informed the Board this item is being brought before them in order to reinstate the performance bond. She recommended the Board consent to the sublease between Yamada Transfer Inc., and Granite Planet, LLC and reinstate the performance bond condition as stated in the lease agreement.

Unanimously approved as submitted (DeMello/Yamamura).

Item D-20: Consent to Lease of Lands under Governor's Executive Order No. 2730 to Lanakila Rehabilitation Center, Inc., Kaliu, Honolulu, Oahu, TMK: (1) 1-7-15: 02.

Ms. Mamiya disclosed that Lanakila Rehabilitation Center, Inc. currently has a lease (under the control and management of the Department of Human Services), which expires in 2018, but in order to qualify for Community Development Block Grant funding they would require a longer-term lease. Therefore Ms. Mamiya is recommending the Board consent to the lease between Department of Human Services and Lanakila Rehabilitation Center, Inc for fifty years commencing February 1, 2003 and expiring on January 31, 2053.

Unanimously approved as submitted (Johns/DeMello).

Item D-21: Grant of Perpetual, Non-Exclusive Easements to the County of Maui, Board of Water Supply for Access, Utility and Waterline Purposes, Honokowai, Lahaina, Maui, TMK: 4-4-02: por. 18.

Ms. Mamiya briefed the Board and recommended the issuance of a perpetual, non-exclusive easement to the County of Maui, Board of Water Supply for the subject area.

Unanimously approved as submitted (Yamamura/DeMello).

Item D-22: Amend Prior Action of October 27, 1989 (Agenda Item F-13); Rescind Prior Action of Sale of March 23, 1990 (Agenda Item F-4); Sale of Remnant to Edward Taylor, Hamakualoa, Maui, TMK: (2) 2-7-7 and 2-7-8.

Ms. Mamiya noted in 1989 the Board authorized the sale of two remnants. Over the years the lands have changed hands several times therefore, Ms. Mamiya is recommending the Board amend its prior action and authorize the sale of remnant F to Edward Taylor.

Unanimously approved as submitted (Yamamura/DeMello).

Item D-24: Rescind prior Board Action of December 13, 1996 (Agenda Item D-12); Issuance of Revocable Permit to John Lehnert, Waimanalo, Oahu, Tax Map Key: (1) 4-1-27: 2.

Motion to Defer

Unanimously approved to Defer (Johns/Yamamura).

Item D-25: Amend Prior Board Actions of November 22, 1996 (Agenda Item D-12), June 13, 1997 (Agenda Item D-21) and December 10, 1999 (Agenda Item D-12) on the Issuance of Revocable Permit to the Matsuko Matusmoto Revocable Trust, Waimanalo, Oahu, Tax Map Key: (1) 4-1-27: 4.

Motion to Defer

Unanimously approved to Defer (Johns/Yamamura).

Item M-1: Issuance of Revocable Permit to Can-Am Coatings, Inc., near Pier 42, Kalihi Kai, Honolulu Harbor, Hawaii, Tax Map Key No. 1st/1-2-25: 42 (Portion).

Member Yamamura recused himself.

Mr. Peter Garcia from the Department of Transportation (DOT) addressed the Board and said the permit would include 1530 square feet of warehouse space and 70 square feet of office space. The applicant would be using the area for storage of water based coatings and vehicles. Mr. Garcia recommended the Board authorize DOT to issue the applicant a revocable permit for the above area.

Unanimously approved as submitted by the remaining members (Johns/ DeMello).

Item M-2: Third Amendment to Harbor Lease No. 87-30 Issued to the Hawaii Maritime Center situated at Pier 7, Waikahalulu, Honolulu Harbor, Oahu.

Member Yamamura recused himself.

Mr. Garcia explained DOT received a request from the Bishop Museum (operators of the Hawaii Maritime Center) to amend a percentage rental of the lease for a 20-year period. Bishop Museum has sited the aftermath of 9/11 as contributing to its economic conditions. DOT has set the rental reopening to take effect June 1, 2003 and changed the base minimum rental for the lease to \$18,140.00 per annum. Mr. Garcia recommended the Board authorize the third amendment to the subject lease for a twenty-year term period.

Unanimously approved as submitted by the remaining members (Johns/DeMello).

Item M-3: Issuance of a Revocable Permit to LRF, Inc. at Piers 31 to 34, Honolulu Harbor, Iwilei, Oahu.

Mr. Garcia told the Board the permit would allow the applicant to install and operate a temporary remediation system to recover hydrocarbon vapors and floating hydrocarbons. Mr. Garcia recommended the Board authorize DOT, Harbors Division to issue the applicant a revocable permit for the purpose stated.

Unanimously approved as submitted (Johns/ DeMello).

Item M-4: Issuance of Revocable Permit to Kohala South Investors, LLC to maintain a water line, meter box and egress and access to the Kawaihae Shopping Center at Kawaihae, Island of Hawaii, Tax Map Key: 3rd/6-1-3: 41 (Portion).

Mr. Garcia indicated the permit would be for the maintenance of a water line, meter box and egress and access to the Kawaihae Shopping Center. He recommended the Board authorize the issuance of the revocable permit to Kohala South Investors, LLC.

Unanimously approved as submitted (DeMello/Yamamura).

Item M-5: Amendment to Prior Land Board Action of November 16, 2001, under Agenda Item K-3 Regarding the Issuance of a Lease by Direct Negotiation to Island Movers, Inc. at Pier 42, Honolulu Harbor, Oahu.

Member Yamamura recused himself.

Mr. Garcia pointed out DOT, Harbors Division issued a 5 year permit to Island Movers in November 2001 and because DOT has no immediate plans to develop the subject location they would like to amend the subject land disposition to issue a ten year lease to Island Movers. Mr. Garcia recommended the Board amend its prior action and issue a lease term of 10 years together with a 115% step-up on the sixth through tenth years of the lease term.

Unanimously approved as submitted by the remaining members (Johns/DeMello).

Item M-6: Issuance of Revocable Permits to URS Corporation and Earth Tech, Inc. at Piers 18 to 38, Honolulu Harbor, Iwilei, Oahu.

Member Johns recused himself.

Mr. Garcia conveyed the use of the revocable permits would be to install and operate self-contained in-site data logger units in 50 monitoring wells at piers 18 through 38. The data logger will be used to monitor tidal changes in ground water elevations. Mr. Garcia recommended the Board authorize DOT, Harbors Division to issue revocable permits to the applicants.

Unanimously approved as submitted by the remaining members (Hirano/DeMello).

Item M-7: Issuance of Revocable Permit to Dewain A. Dedrick, Near Pier 24, Honolulu Harbor, Hawaii, Tax Map Key No. 1st/1-5-38: 55 and 4 (Portion).

Member Yamamura recused himself.

Mr. Garcia informed the Board the applicant would be using 14,400 square feet of warehouse, 1,854 square feet of office space and 752 square feet of open paved space to receive and cut bulk shipments of stone. Mr. Garcia recommended the Board authorize DOT to issue the applicant a revocable permit for the stated purpose.

Unanimously approved as submitted by the remaining members (Johns/DeMello).

There being no further business, Member McCrory adjourned the meeting at 10:12 a.m.

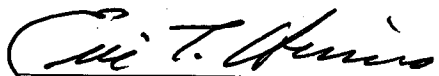
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Terry Crowell

Approved for submittal:



ERIC T. HIRANO
Acting Chairperson
Board of Land and Natural Resources