

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

DATE: FRIDAY, JANUARY 28, 2005
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson Peter Young called the meeting of the Board of Land and Natural Resources to order at 9:08 a.m. The following were in attendance:

MEMBERS

Mr. Peter Young
Ms. Kathryn Inouye
Mr. Toby Martyn (arrived at 12:20 pm)

Mr. Timothy Johns
Mr. Ted Yamamura
Mr. Ron Agor

STAFF

Ms. Dede Mamiya, Land
Ms. Martha Yent, Parks
Mr. Paul Conry, DOFAW
Mr. Michael Shinozuka, DOT

Mr. Sam Lemmo, OCCL
Ms. Karen Motosue, Parks
Ms. Athline Clark, DAR
Mr. Steve Molmen, DOBOR

OTHER

Mr. Colin Lau, Deputy Attorney General
Mr. Harry Kim, D-2
Ms. Linnel Nishioka, D-6
Mr. Jim Fox, D-2
Mr. Gregory Dunn, E-3
Mr. Mich Hirano, K-1
Mr. Martin Luna, K-2
Mr. Gayle Veber, C-5
Mr. Kent Unterman, C-5
Mr. Les Silva, D-3

Mr. Russell Watanabe, D-19
Mr. Jon Miyata, D-15
Mr. Michael Moore, J-2
Mr. Joe Krueger, K-1
Mr. Ron Gillespie, K-2
Mr. Don Bryan, C-5
Mr. Peter Simmons, C-5
Mr. Guy Silier, C-5
Mr. Jerry Plummer, D-3

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

Item A-1: Minutes of January 13, 2005

Member Inouye recused herself

The Board made the following changes:

Page 1 and 2, third paragraph

“Mr. Bruce [Flash] Plasch”

Unanimously approved as amended by the remaining Board members (Johns/Yamamura).

Item A-2: Minutes of January 14, 2005

Member Inouye recused herself

The Board made the following changes:

Page 1 under “Others” and Page 4, second paragraph

“Mr. Peter Starn”

Page 1 under “Others” and Page 4, third paragraph

“Mr. [Bill] Phil Deaver”

Page 2, Item D-12

Ms. Mamiya indicated [she] staff has discussed the proposed waiver of restrictions . . . Ms. Mamiya recommended the Board find that the restrictions on Agricultural use as contained in both Land Patent Grant No. S-15,315 and [~~Load~~] Land Office Deed No. S-26,644 . . .”

Page 3, Item D-29, second sentence

“The Coco Palms Hotel was severely damaged on September 11, 1992 by Hurricane Iniki and [~~because of disputes over repairs the hotel~~] has been closed since then.”

Page 4, second paragraph, add the following

“Mr. Starn requested the Board clarify the consent is for both the periods from 1993 to May 30, 2061 and from March 31, 2061 in perpetuity.”

Page 4, Item D-26, second sentence

“~~[To avoid the burden, expense, delay and uncertainties of litigation]~~ the Department of the Attorney General and Hale Opio negotiated a Settlement and Release Agreement.”

Unanimously approved as amended by the remaining Board members (Johns/Yamamura).

Item D-2: Acquisition of Private Lands and Set Aside to Department of Land and Natural Resources, Division of State Parks, Holualoa, North Kona, Island of Hawaii, TMK: (3) 7-7-04:26.

Dede Mamiya, Administrator of the Land Division asked the Board for authorization to acquire and set aside the subject property currently owned by Wayne Blasman to the Division of State Parks. She indicated according to a 2000 Special Management Area permit, Mr. Blasman proposed building a condominium on the subject site. Concerns were raised by the community regarding the cultural and historic significance of the area and subsequently three parties filed a request for a contested case hearing. Currently, talks have been ongoing between the property owner and Mayor Harry Kim regarding the purchase of the subject parcel. Ms. Mamiya noted there is a desire for the State to acquire the property and add it to State Parks' inventory. She reminded the Board in July 2004, the Board approved the allocation of \$600,000 of federal grant money from the Land and Water Conservation Fund Program to be used for the purchase of the subject parcel. Ms. Mamiya recommended the Board authorize the acquisition of the subject private lands subject to eminent domain proceedings if necessary and approve the Set Aside to the Division of State Parks once the land is acquired.

Martha Yent, Interpretive Program Manager for State Parks told the Board she is working on acquiring 1.2 million for the purchase of the subject parcel. She noted that this figure is an amount arrived by Mr. Blasman and State Parks and they are in the process of conducting an appraisal of the area. Ms. Yent announced the subject land would be included as part of Keolonahihi State Historical Park.

Harry Kim, Mayor of Hawaii testified in support of staff's recommendation. Mayor Kim let it be known he feels the applicant for this item should be the County Government of Hawaii on behalf of the people of Hawaii. Mayor Kim conveyed the specialness of this land and also the mistreatment of this land. He spoke of the efforts by Martha Yent in working towards acquiring the funds to purchase this parcel of land. Mayor Kim asked the Board for their favorable response on this matter. Lastly, he pointed out a conversation he had with Mr. Blasman in which Mr. Blasman agreed to hold up development of the subject parcel and also hold the purchase price of the parcel at 1.2 million dollars.

Unanimously approved as submitted (Johns/Inouye).

Item D-19: Waiver of Restrictions – Land Patent Grant S-13,932 and Quitclaim Deed No. S-20,648, Watanabe Floral, Inc., Lalamilo Farm Lots, Lalamilo, South Kohala, Hawaii, TMK: (3) 6-6-05:02.

Ms. Mamiya communicated when the Lalamilo farm lots were originally conveyed it included a restriction to agriculture use that was defined as truck and orchard crops. She also pointed out that recently the County of Hawaii, Planning Department received a permit application from Verizon Wireless for a cell tower on the subject property. Staff provided comments that the property was subject to deed restrictions that limit its use. As a means of rectifying the situation Ms. Mamiya is asking to waive the restrictions with compensation for the difference in the subject use. Ms. Mamiya recommended the Board find that the restrictions on agriculture use and other restrictions listed in the submittal are not in the public interest pursuant to Chapter 171-63, HRS and waive the use restrictions contained in the Deed.

Unanimously approved as submitted (Johns/Yamamura).

Item D-6: Appointment and Selection of a Hearing Officer to Conduct Hearings for Petitions for a Contested Case Hearing. Petition Contesting the BLNR's Proposed Sale of 65-year Lease at Public Auction of Water Rights for the Use of the "Blue Hole" Diversion and Portions of a Water Transmission System, Lihue-Koloa Forest Reserve (Wailua Section), Wailua, Lihue, Kauai, TMK: (4) 3-9-1:01 & (4) 3-8-01:1 for Hydropower General (Non-Polluting and Non-Consumptive Use).

Member Johns recused himself.

Ms. Mamiya reminded the Board at its last meeting the matter of the sale of a water lease was brought before the Board at which time a request for a contested case hearing was requested. Due to an oral request for a contested case by the Office of Hawaiian Affairs and the Native Hawaiian Legal Corporation on behalf of Life of the Land no action was taken on this item. Later a written request was received by the Office of Hawaiian Affairs and the Attorney General's office found sufficient evidence that the Board should conduct a hearing on standing. Native Hawaiian Legal Corporation communicated they would not be filing a written request for a contested case hearing. Ms. Mamiya recommended the Board authorize the appointment of a hearing officer to conduct all hearings and delegate the authority for selection of the hearing officer to the Chairperson.

Linnel Nishioka representing Kauai Island Utilities Cooperative noted they will make their arguments to the hearing officer regarding whether a contested case hearing should be held.

Unanimously approved as submitted by the remaining Board members (Agor/Inouye).

Item D-15: Issuance of Revocable Permit to Hawaii Planing Mill, Ltd., Waiakea, South Hilo, Hawaii, TMK: (3) 2-1-06:33.

Ms. Mamiya disclosed the subject property has remained vacant for several years and the applicant is requesting a short-term month-to-month permit. Currently the applicant is negotiating with the adjacent property owners Kamehameha Schools for a long-term lease. Staff is anticipating auctioning the subject property and the applicant realizes this is only a temporary lease. Ms. Mamiya recommended the Board authorize the issuance of a revocable permit to Hawaii Planing Mill, Ltd.

John Miyata, Vice President and Chief Financial Officer of Hawaii Planing Mill, Ltd let it be known if their application is granted they would like to erect fencing around the property prior to the permit being issued.

Ms. Mamiya suggested Mr. Miyata speak with the Hilo District Land Agent as she believes the documents can be expedited.

Unanimously approved as submitted (Johns/Yamamura).

Item M-1: Amendment No. 3 to Lease No. DOT-A-92-0018 Restaurant and Lounge Concession Lease, Host International Inc., Honolulu International Airport.

Item M-2: Issuance of Lease to Federal Aviation Administration (FAA) United States of America (USA), Honolulu International Airport.

Item M-3: Issuance of Direct Lease – John F. O’Toole Kalaeloa Airport.

Item M-4: Five-Year Extension of Cooperative Agreement No. H-89-8 Issued to the United States Department of the Interior at Kawaihae, Kohala, Hawaii.

Item M-5: Issuance of Direct Lease – Offshore Flight School, Inc., Honolulu International Airport.

Item M-6: Issuance of a Retail Concession Hilo International Airport and Kona International Airport at Keahole.

Item M-7: Consent to Assignment of Harbor Lease No. H-85-1, Consent to Mortgage of Harbor Lease No. H-85-1, Consent to Extension of Term on Harbor Lease No. H-85-1, and Consent to Sublease of Harbor Lease No. H-85-1, Situated at Pier 33, Honolulu Harbor, Iwilei, Honolulu, Oahu, TMK: 1st/ 1-5-35:15.

Unanimously approved as submitted (Johns/Inouye).

Item J-2: Petition for Amendment to Hawaii Administrative Rules, Title 13, Chapter 256, Subchapter 10, to Establish a Restricted Zone at Honoli'i Bay, South Hilo, Hawaii, Designated as a Swimming, Diving, Fishing, Canoeing, Kayaking and Surfing Area, and Prohibiting the Operation of Commercial Surfboard Instruction Schools or Commercial Surfboard Instruction Activity in this Zone.

Steve Molmen, Property Manager for the Division of Boating and Ocean Recreation (DOBOR) disclosed the division believes a comprehensive approach should be undertaken with respect to matters relating to commercial surf instruction activity. He pointed out this issue should not be addressed in a piecemeal fashion. Mr. Molmen indicated DOBOR does not presently intend to issue any commercial operator permits for Honolui'i Beach. Mr. Molmen recommended the Board deny the petition in favor of a comprehensive approach to matters relating to commercial surf instruction activity.

Chairperson Young informed those in attendance that the Department is looking at a Comprehensive Coastal Policy and has been in discussion with DOBOR with regards to an Ocean Recreational Policy, specifically addressing surf schools.

Michael Moore attorney with the law firm Tsukazaki, Yeh and Moore came forward to represent the petitioner in this matter. Mr. Moore feels the Board can address today's agenda item prior to the development of a comprehensive plan. He went on to speak of the location of Honoli'i Bay and its popularity with the people. He let his feelings be known that Honoli'i should not allow commercial surf schools to operate there. Mr. Moore reminded the Board of other areas in Hilo that have restrictions placed on beach areas. Lastly, he pointed out to the Board a Department rule, which states if there is a proposed rule changes effecting only one county, a hearing should be held on that island to enable citizens of that area to testify.

The Board directed staff to report back to the Board within six months with regards to the divisions Comprehensive Approach Plan and within those six months no commercial permits will be issued in the Honoli'i area.

Unanimously approved as submitted (Johns/Inouye).

Item J-1: Authorization to Enter a Memorandum of Agreement wit the University of Hawaii Sea Grant Extension Services, for the Clean Vessel Act Education Program.

Unanimously approved as submitted (Johns/Agor).

Item E-3: Approval to enter a grant-in-aid agreement with Hawaii Nature Center for environmental education programs on Maui and Oahu.

Member Johns recused himself.

Karen Motosue, Assistant Administrator of State Parks recommended the Board authorize the grant-in-aid agreement with the Hawaii Nature Center for \$75,000.

Gregory Dunn, Executive Director of the Hawaii Nature Center spoke of the environmental experiences his organization has provided for over 20,000 school children on Oahu and Maui. They are currently looking at expanding these services to Kauai and Hawaii.

Unanimously approved as submitted by the remaining Board members (Inouye/Agor).

Item E-2: Approval to enter a grant-in-aid agreement with The Trust for Public Land for land acquisition at Mu'olea Point in Hana, Maui.

Member Johns recused himself.

The Board questioned how much federal, county and private monies have been committed for the purchase of the subject land. Ms. Motosue pointed out the federal government will be providing \$2,800,000, the County of Maui has requested \$500,000 and the rest would come from private funds. Ms. Motosue indicated once the purchase of the parcel was completed the acquired property would be conveyed to Maui County for long-term ownership.

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

Item E-1: Forfeiture of General Lese No. S-5288, Lot B-14, TMK: 5-2-02:08 Ahupuaa O Kahana State Park, Oahu.

Ms. Yent briefed the Board on Keith George's lease terms. She pointed out the lease calls for twenty-five (25) hours of interpretive service in lieu of rent and the requirement to bring his home up to code. As of present Mr. George has done neither to correct his default nor come into compliance. Attempts have been made by the Kokum Council to resolve this matter to no avail.

Unanimously approved as submitted (Inouye/Agor).

Item K-1: Conservation District Use Application (CDUA) MA-3204 for the Lasagna Watershed Flood Control Project by the County of Maui, Department of Public Works and Environmental Management at Subject Parcel TMK: (2) 4-7-001:018, Waianukole, Lahaina, Maui and Adjacent Submerged Lands.

Sam Lemmo, Administrator of the Office of Conservation and Coastal Lands announced that the purpose of the Lahaina Watershed Flood Control Project is to reduce flooding in Lahaina town as well as erosion problems on land and to relieve the effects of excess

sedimentation on the near shore coral reefs. According to the applicant, the proposed project is estimated to reduce total annual sediment outflow by approximately 25%. Mr. Lemmo indicated the proposed project will result in a net beneficial impact to the near shore reef ecosystem resulting from an estimated total sediment discharge reduction of approximately 1,320 tons per year throughout the project area. Mr. Lemmo noted the proposed outlet at Waiānukōle will cause an impact over a smaller near shore area than currently impacted by sediment discharge. Mr. Lemmo recommended the Board approve this application for the Lahaina watershed Flood control project.

The following changes were made to the submittal.

1. Under “Proposed Use” fourth paragraph

“The channel cross section is designed to be trapezoidal with a [665] 65-foot bottom width and an average depth of [10] 10-14 feet. The channel will be set at an approximate grade of [0.3%] 0.05% and flow into a rock riprap sediment basin [10²] 300’ long and 58’ wide.”

Unanimously approved as amended (Yamamura/Johns).

Item K-2: Enforcement Case MA-05-29 Regarding Unauthorized Renovations to an Existing Single Family Residence (SFR); Unauthorized Renovations to an Existing Structure (Energy Shack); Unauthorized Construction of a Windmill and Solar Array; Unauthorized Construction and Replacement of a Hot Tub and Associated Deck and Solar Panels; Unauthorized Construction of a Yurt; and Unauthorized Construction of a Garden Shed by Robert Gillespie, Subject Parcel TMK: (2) 1-6-004:006, Hana, Maui.

Mr. Lemmo communicated this action is an enforcement action involving unauthorized renovations and construction of various structures. He disclosed a single-family residence built in 1969 occupies the subject lot. In addition to the home several small structures occupy the area. Mr. Lemmo believes the other structures aside from the home were either renovated or constructed in 1999 and 2002. He told the Board the renovations and construction of the various structures never received department approval. As background information, Mr. Lemmo revealed in 1998, the landowner, Mr. Gillespie was taken through the HOAPS program due to a violation of an authorized structure. Mr. Gillespie paid the fine and was required to either take down the subject structure or apply for an after the fact permit. To date, Mr. Gillespie has not taken down the structure nor has he applied for a permit. Staff noted receiving a letter from Mr. Gillespie but after a failed attempt to reach him the matter was left unresolved. Mr. Lemmo recommended the Board find the landowner in violation of Chapter 183C HRS and Chapter 13-5, Hawaii Administrative Rules (HAR) and is subject to the nine conditions listed in staff’s submittal.

Martin Luna of Carlsmith Ball came forward to represent the landowner, Mr. Gillespie. Mr. Luna informed the Board his client was not aware of the fact that his property was on

conservation land. He let it be known in Mr. Gillespie's 1999 letter to the department he included a map, which shows the existence of the house, energy shack and the hot tub. The items that currently exist that were not there in 1999 were the yurt, garden shed and the gazebo. Mr. Luna pointed out in the 1999 letter sent to the department, Mr. Gillespie included a map, which showed further improvements he intended on doing on his property. Due to this notification, Mr. Luna feels the fines levied on his client are excessive. He asked the Board that the fines assessed be based on only the improvements done after the 1998 fines, which would only, included the garden shed. Mr. Luna proposed a fine of \$2500 for the garden shed.

When asked by the Board if he obtained a county permit for the improvements on the structures Mr. Gillespie replied that he did not feel a permit was necessary as the structure was not changed. He also noted he did not obtain a permit for the additional structures on the subject parcel.

Addressing Mr. Luna's comment that the department was sent a map in 1998, which indicated that the existence of the additional structures on the subject parcel Mr. Lemmo noted at that time, he was focusing on the gazebo, which is the subject of the violation. Mr. Lemmo confirmed he may have dropped the ball by failing to contact Mr. Gillespie to inform him his application was incomplete but Mr. Lemmo in no way feels that this action was an authorization to construct the additional structures on the land.

Mr. Gillespie, the landowner confirmed he personally went through the HOAPS program in 1998 and signed the documents pertaining to the program. Mr. Gillespie told the Board at the time he embarked on the renovations he did not know he needed a permit to do the work. He pointed out the work done on the home was interior work that did not include demolishing, constructing or reconstructing of his home. Mr. Gillespie told the Board the work done was just part of home maintenance.

The Board amended the Recommendation as follows:

1. Recommendation 1)

"The alleged is fined a total of [~~\$12,000~~] \$6,000 for six Conservation District violations;

2. Delete Recommendation 4)

3. Recommendation 5)

"The alleged/landowner shall either remove or apply for an After the Fact (ATF) Conservation District Use Application (CDUA) within 60 days of the date of the Board's action for the subject unauthorized windmill, hot tub, yurt and associated improvements, solar panels and array, concrete pad and garden shed to determine its final disposition otherwise this action to reduce the fine is void."

Unanimously approved as amended (Yamamura/Inouye).

The Board informed Mr. Gillespie and Mr. Luna of their right to a contested case hearing.

Item C-5: Continuation and Amendment of Timber Land License No. H-101 held by Tradewinds Forest Products, LLC.

Paul Conry, Administrator of the Division of Forestry and Wildlife brought before the Board Time Land License H-101 which is held by Tradewinds Forest Products, LLC. As background information, Mr. Conry reminded the Board at the October 8, 2004 Board meeting a request was made to return to the Board with results to show the applicant was showing satisfactory progress. At that meeting the Board asked for the result of product test as well as start up capitol and a detailed project schedule. Mr. Conry went into detail regarding seven different areas: Strength test results, written commitments for \$1 million in start-up funding, detailed project schedule including the permitting process, access to wood resources, a mill site, a community liaison and community advisory board and construction funding. Mr. Conry informed the Board that the production plans have changed from the original veneer and plywood manufacturing mill. Tradewinds will be peeling and drying veneer at their mill for shipment to a plant on the mainland for final processing into laminated veneer lumber. Mr. Conry recommended the Board approve the Department's continued partnership with TFP as defined by the TLL and approve the amendment to the TLL as detailed in staff's submittal.

Don Bryan came forward to speak on behalf of Tradewinds Forest Products, LLC. Mr. Bryan told the Board of various accomplishments his company has attained since the October 2004 Board meeting. He let it be known they have secured a engineering firm to deal with the initial design and permitting process, has a commitment with a company to build the mill, has offered the community liaison job to someone, is working on the development of a community advisory board, are in negotiations with Pru Timber to supply timber as well as the completion of the strength test with satisfactory results. Mr. Bryan pointed out his company's intention to build a five mega-watt power plant and noted they've been working with Hawaiian Electric and Hawaiian Electric Light Company on this issue.

Gayle Verber of Verber Partners spoke in regards to financial issues, which includes raising the necessary capitol for this project. He let it me known Verber Partners have been in existence for the past eleven years. Mr. Verber went on to detail his previous work experiences. He confirmed his company has agreed to assist Tradewinds in the fund raising process. Mr. Verber spoke of the funding process and how he intends to raise the 1.2 million for this project.

Peter Simmons of Kamehameha Schools conveyed their commitment to invest in Tradewinds provided they meet certain thresholds. Mr. Simmons pointed out

Kamehameha Schools has already spent about 125 thousand doing financial analysis and due diligence on this project.

Kent Unterman of Koa Plus asked the Board not to derail the process Tradewinds is going through but to instead give them time to complete the process. He did announce his wish that the Board not give Tradewinds an unreasonable amount of time to reach all thresholds established by the division.

Guy Silier, owner and operator of Forest Solutions, which is located on the Hamakua Coast of Hawaii for the past nine years testified. Mr. Silier let it be known they've established and have been running Pru Timber's operation. He informed the Board Pru Timber will not wait around to sell their timber to Tradewinds but will sell it as quickly as they can to whomever will pay a fair price.

Written testimony was received from James E. Quinn

The Board amended the Timber Land License as follows:

1. Amended Condition 4) as follows

"4. The Licensor agrees to not unreasonable terminate the TLL if the Licensee is making good faith efforts to complete the facility in accordance with the schedule here in and the mill completion date is expected by January 1, 2008."

2. Added 2 new conditions to the Timber Land License

"6. The Licensee will provide documentation of securing \$1.0 million in startup funding by March 31, 2005 and that failure to do so will be grounds for issuing a notice of default of the terms of the license."

"7. The Licensee will provide documentation of securing required construction funding by October 31, 2005 and that failure to do so will be grounds for issuing a notice of default of the terms of the license."

Unanimously approved as amended (Johns/Inouye).

Item D-3: Re-submittal – Sale of Remnant to Carol A. Plummer and Jerry Plummer, Ookala, North Hilo, Hawaii, TMK: (3) 4-1-03: Portion of Remnant 2.

Ms. Mamiya briefly went over the subject submittal. She indicated there is a house that is encroaching upon a portion of State land that is part of a road. She pointed out back in 1940 a land exchange was to have taken place but there were some errors and the area of encroachment was not sold to the owner therefore the encroachment was not corrected. In 1962, staff asked the Board to sell this remnant for \$1.00 but the Attorney General's Office

indicated the remnant could only be conveyed at fair market rent. Recently, the Plummer's approached staff to clear up this situation. Ms. Mamiya communicated the neighboring property owner, Les Silva has raised concern about the sale of the remnant and the impact it would have on his access. Ms. Mamiya recommended the Board authorize the sale of the remnant as identified in staff's submittal as Exhibit I.

Jerry Plummer the applicant let it be known the house has been in place for over sixty years. He noted his agreement with staff's recommendation but indicated his main concern is to purchase the portion of state land under his home. Addressing the issue that Mr. Plummer moves his home so it does not sit on state property, he conveyed it is beyond his ability, financially and physically.

Les Silva, the neighboring property owner provided the Board with pictures of the subject area. He told the Board he believes that the Plummer's home is not on the roadway but approximately one foot away. Mr. Silva also pointed out if a portion of the Plummer's home is located on the roadway it would include the porch and an extension to the home, which could be removed. Mr. Silva disclosed if the State agrees to sell a portion of land to the Plummer's that they sell only the portion up to his because he will not be able to take heavy equipment to his property. Mr. Silva announced one of the reasons he purchased his property was because it came with a 50-foot easement. He indicated prior to the purchase of his parcel, he called more than one individual to confirm there was a 50-foot easement, which to him was very important. He agreed with the Board that he would be okay with the situation if the movement of the boundary line did not effect the way he operates on the existing pavement.

Ms. Mamiya reminded the Board the Plummer's will be required to do a survey and after the area is surveyed and if there are any discrepancies the item will be brought back to the Board.

The Board asked that a survey be provided that shows the recorded boundary, house, paved area of the road and fences (on the other side of the road). The parties pretty much agreed to allow the Plummer's to buy the remnant up to the paving of the road and the Plummer's would not put up any fencing along that boundary until Mr. Silva completes construction of his house and shop.

Written testimony was received from Board Member DeMello.

Motion to defer

Unanimously approved to defer (Inouye/Johns).

Item K-3: Enforcement Case OA-04-11 Regarding Failure to Comply with the Board of Land and Natural Resources Order to Remediate Land Located in the Conservation District and for Continuing to Grub and Grade, and Widen the Top Road without Authorization by O. William and Joyce A. Chandler, Subject Parcel, TMK: (1) 4-4-017:112 and 111, Kaneohe, Oahu.

Mr. Lemmo indicated the landowner has requested a contested case hearing.

**Motion to defer due to a request for a contested case hearing
Unanimously approved to defer (Johns/Yamamura).**

Item D-21: Consent to Assign General Lease No. S-5024, Peter K. Baldwin, Assignor, to Peter K. Baldwin and Cecilia Williams, Assignee, Waimea, Kauai, TMK: (4) 1-4-03:03.

Member Johns recused himself.

**Motion to withdraw
Unanimously approved to withdraw by the remaining Board members
(Agor/Inouye).**

Item D-1: Amend Prior Board Action of November 5, 2003, Agenda Item D-3, Issuance of Direct Lease to Black Pearls, Inc., dba Kona Blue Water Farms for Mariculture Purposes, Kalaloo, North Kona, Hawaii, TMK: 7-3-43: seaward of Kalaloo.

Item D-4: Cancellation of Revocable Permit Nos. S-4241 & S-5828 to Spencer K. Schutte and Issuance of Month-to-Month Revocable Permit to Louella N. Schutte for Pasture Purposes; Waimea, South Kohala, Hawaii, TMK: (3) 6-4-31:7, 9 & 10 (Formerly 3rd/ 6-4-02:20, 145 & 146).

Item D-5: Consent to Assign General Lease No. S-3162, Scott Hayashi, Personal Representative of the Estate of Hiroo Hayashi, Deceased, and the Sakaitani Family Trust, Assignor, to Scott Hayashi and Lance Hayashi, and the Sakaitani Family Trust, Assignee, Waiakea, South Hilo, Hawaii, TMK: (3) 2-1-07:28.

Item D-7: Grant of Perpetual, Non-Exclusive Easement to Maui Electric Company, Limited and Verizon Hawaii Inc. for Utility Purposes and Issuance of a Construction Right-of-Entry, Makawao, Maui, TMK: (2) 2-9-3:portion of 8.

Item D-8: Grant of 55-Year Term, Non-Exclusive Easement to Kauilani LLC for Seawall Purposes, Honolulu, Oahu, TMK: (1) 3-6-02:02, seaward.

Item D-9: Issuance of Direct Lease to Sevath Tanaka for Private, Non-Commercial Pier Purposes, Kaneohe, Oahu, TMK: (1) 4-5-01:39 seaward.

- Item D-10:** Issuance of Patent in Confirmation of Land Commission Award No. 8750 to Kauleokeahi, situate at Kamaoa, District of Kau, Island of Hawaii, TMK: (3) 9-3-03:12 and 13.
- Item D-11:** Consent to Assign Lease of Non-Exclusive Easement S-5202, Gabriel Ruiz Baltazar, Assignor, to Marlene E. Ress, Assignee, Situated at Kaalaea, Kooalupoko, Oahu, TMK: 4-7-16:61 seaward.
- Item D-12:** Permission to Hire Consultant for Mana Quarry Industrial Park Project.
- Item D-13:** Appointment and Selection of Hearing Officer to Conduct all Hearings for a Contested Case Hearing. Civil No. 95-0132: Michael Edward Miller, et al., Plaintiffs vs Waioli Corporation, et al., Defendants. By Order of the Circuit Court of the Fifth Circuit, issued December 27, 2004 Directing the State of Hawaii to Provide Plaintiffs with a Contested Case Hearing in the Matter of Plaintiffs' Appeal of the Board of Land and Natural Resources' Decision, at its July 10, 1998 Meeting, under agenda Item D-5, to Deny Plaintiff's Request for an Access and Utility Easement in favor of Plaintiffs' Landlocked Property located in Waioli, Hanalei, Kauai, TMK: (4) 5-5-08:17.

Written testimony was received from Donald H. Wilson and Joe Moss

- Item D-14:** Rescind Prior Board Action – Approval of Water System Transfer Agreement and Issuance of Revocable Permit for Access and Utility Purposes to City and County of Honolulu, Board of Water Supply on lands encumbered by Executive Order No. 1020, Waimano, Ewa, Oahu, TMK: (1) 9-7-25:por. 01.
- Item D-16:** Grant of Perpetual, Non-Exclusive Road and Utility Easement to Parker Ranch, Inc. (PRI); Grant of Perpetual, Non-Exclusive Sewer Transmission Line Easement to Waimea Wastewater Company Inc. (WWCI), Waimea, South Kohala, Hawaii, TMK: (3) 6-7-02:015.
- Item D-17:** Amend Prior Board Action of January 14, 2005, Agenda Item D-28, on the Consent to Assign Grant of Easement Bearing LOD No. 27,709, Lanpar/HTL Associates, Assignor, to Global Resort Partners, Assignee, Anaehoomalu, South Kohala, Hawaii, TMK: (3) 6-9-07:14.
- Item D-18:** Issuance of Construction Right-of-Entry Permit to Chevrontexaco Products Company on Land Encumbered by General Lease No. S-4488, Univeristy of Hawaii, Lessee, Kalihi-Kai, Honolulu, Oahu, TMK: (1) 1-2-25: por.17.

Item D-20: Amend Prior Board Action of December 12, 2003, Item D-38, Regarding the Holdover of Leases for Various Lessees, Kokee Campsite and Puu Ka Pele Park Lots, Waimea, Kauai, TMK: (4) 1-4-04:47.

Item D-22: Amend Prior Board Action of December 12, 2003, Item D-38, Regarding the Holdover of Leases for Various Lessees, Kokee Campsite and Puu Ka Pele Park Lots, Waimea, Kauai, TMK: (4) 1-4-04:47.

Unanimously approved as submitted (Johns/Martyn).

Item K-4: Request for Approval to Pursue a Statewide Comprehensive Board of Land and Natural Resources (BLNR) Coastal Policy.

Mr. Lemmo disclosed this agenda item came about as a result of his office's efforts to develop a coastal/shoreline policy with respect to beach protection. Staff is presently working on an Integrated Shoreline Policy, which is one component of the overall coastal policy. Mr. Lemmo informed those present that they are in the process of developing the Hawaii Coastal Hazard Mitigation guidebook. This pamphlet will serve as a guidebook on how to address shoreline management problem as well as planning coastal management. Mr. Lemmo recommended the Board authorize the Department, starting with OCCL, to proceed with the formulation of a comprehensive Coastal Policy, starting with an Integrated Shoreline Policy for the State of Hawaii and authorize OCCL to work directly with the Hawaii Ocean and Coastal Council, County agencies and other agency stakeholders on the development of a policy to protect beaches and coastal communities from the negative impacts of erosion and other coastal hazards and that the OCCL report back to the BLNR on a quarterly basis on the status of this effort.

Unanimously approved as submitted (Johns/Yamamura).

Item C-1: Mutual Agreement Between the Division of Forestry and Wildlife and the Counties of Kauai, Maui, Hawaii, and the City and County of Honolulu.

Item C-2: Establishment of a Statewide Forest Product Fee Schedule for resources sold from lands managed by the Division of Forestry and Wildlife.

Item C-3: Request for Approval of Contract with Medallion Hawaiian Hardwoods to provide professional services for the federally funded Rural Development Program for the Division of Forestry and Wildlife.

Unanimously approved as submitted (Johns/Yamamura).

Item C-4: Request to Make Amendments to Four Forest Stewardship Contracts.

The Board made the following changes:

1. Page 2, second paragraph

“The Nature Conservancy is requesting to add 1 year onto their contract to access [~~\$59,589~~] \$62,740 in unspent previously allocated funds.”

2. Exhibit 1, year 2008, “Revised Budget” should read \$9,333.

3. Exhibit 4, year 2003 under “Revised Budget” should read \$18,920.

4. Exhibit 4, year 2004 under “Revised Budget” should read \$8,516.

5. Exhibit 4, Total under “Revised Budget” should read \$27,436.

Unanimously approved as amended (Johns/Yamamura).

Item F-1: Request for Approval to Enter into a DLNR/Bishop Museum Contract for Rapid Assessment and Data Management of Marine Alien Species in Hawaii (March 1, 2005 – March 30, 2006).

Unanimously approved as submitted (Johns/Yamamura).

Item F-2: Request for Approval of Marine Protected Area and Marine Managed Area Definitions and Framework, in Concept, and Authorization to Conduct a Public Process to Discuss the Development of a Marine Managed Area Policy.

Athline Clark, Planner with Aquatic Resources informed the Board her division will be working on one of the components of one of the subchapters of the Statewide Comprehensive Coastal Policy. Her division will be focusing on the “Ecosystem” chapter. Their goal is to take the Marine Protected Area system and come up with three definitions in an attempt to determine clearly defined goals and objectives for each type of system. Lastly Ms. Clark spoke about an international and national effort to clearly define Marine Protected Areas and Marine Managed Areas and the division’s expectation to have a definition that is based on the national definition. Ms. Clark recommended the Board approve the proposed definitions of marine protected areas and marine managed areas, approve in concept the suggested frame work and authorize the Department to conduct a public process, including public meetings, to seek additional input, with significant stakeholder participation into the proposed definitions and marine managed area framework and report back to the BLNR on the status of this effort.

Unanimously approved as submitted (Johns/Agor).

- Item L-1: Certification of Election of Waiakea Soil and Water Conservation District Director.**
- Item L-2: Certification of Appointment and Election of Puna Soil and Water Conservation District Directors.**
- Item L-3: Approval for Award of Construction Contract – Job No. F00NH90A, Conservation Education Facility, Hawaii.**
- Item L-4: Approval for Award of Construction Contract – Job No. J00CF72A, Kaena Point State Park ADA Barrier Removal Kaena, Oahu, Hawaii.**

Unanimously approved as submitted and renumbered (Johns/Martyn).

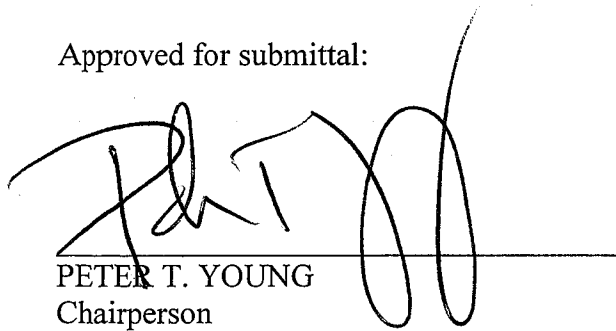
There being no further business, Chairperson Young adjourned the meeting at 1:00 p.m. Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Terry Crowell

Approved for submittal:



PETER T. YOUNG
Chairperson
Department of Land and Natural Resources