

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

DATE: October 24, 1980

TIME: 9:00 A. M.

PLACE: Kahului Library
Kahului, Maui

ROLL
CALL

Chairman Susumu Ono called the meeting of the Board of Land and Natural Resources to order at 9:00 A. M. The following were in attendance:

MEMBERS

Mr. Moses Kealoha
Mr. Roland Higashi
Mr. Thomas Yagi
Mr. Susumu Ono

(Mr. Stanley Hong and Mr. Takeo Yamamoto were absent and excused.)

STAFF

Mr. Libert Landgraf
Mr. Ralston Nagata
Mr. James Detor
Mr. Alvin Haake
Mr. William Li
Mrs. Joan K. Moriyama

OTHERS

Mr. Johnson Wong
Mr. Peter Garcia

MINUTES

The minutes of September 26, 1980 were unanimously approved as circulated. (Kealoha/Higashi)

Added
Item

Mr. Kealoha moved, seconded by Mr. Higashi, and the board unanimously approved to add the following item to the board agenda:

Item F-1-f (COLLATERAL AGREEMENT) By and between STATE OF HAWAII, WILLIAM H. MASOTTI and ELAINE S. MASOTTI, husband and wife, covering Lot 25, Wahikuli House Lots, 5th Series, Lahaina, Maui (SSA No. S-5502)

ITEM B-1

FOLLOW-UP ON THE GROUNDING OF AN ANGEL LIBERTY AT FRENCH FRIGATE SHOALS, NORTHWESTERN HAWAIIAN ISLANDS

Mr. Ono made the presentation for the Fish and Game staff. This item pertained to the Anangel Liberty that ran aground at French Frigate Shoals. The state was concerned about the possible impact of that grounding and the subsequent dumping of clay onto the water. A review has indicated that there is no significant impact.

Staff's recommendation was to close the case with a definite statement that no further legal action be taken against the owners. Mr. Ono said he would like to include a further recommendation that we seek compensation, if at all possible, for the administrative and investigative costs connected with this case. If it is not practical to pursue it, then he said to let the matter drop. Background information will be transmitted to the attorney general's office, who will be asked to review this matter.

ACTION Unanimously approved as recommended by staff, with the additional recommendation as stated above. (Yagi/Kealoha)

ITEM C-1 REQUEST TO RESCHEDULE UPLAND GAME BIRD HUNTING ON THE ISLAND OF HAWAII

This was a request to reschedule the upland game bird hunting on the Island of Hawaii, confined only to the area which is known as Unit A, Mauna Kea Game Management area. The reason for this request is because of a conflict with the feral sheep and goat eradication and the hunting program that is going on at Mauna Kea, as a result of last summer's court order.

In May of this year, the board approved Saturday and Sunday hunting for sheep and goat on Mauna Kea for an indefinite period. Beginning November 1, 1980, game bird hunting season begins and it would be for Saturdays, Sundays and holidays. So there is a conflict there.

After discussing this matter with Deputy Attorney General Edwin Watson, Mr. Landgraf said he is reluctant to come before the board to ask for permission to suspend sheep and goat hunting. He didn't think the court would be sympathetic in suspending sheep and goat hunting. He said the best alternative is to let game bird hunting continue on Mauna Kea over the weekends and have sheep and goat hunting during the weekdays.

Another alternative would be to have mammal and bird hunting going on at the same time. Staff is very reluctant to do this because we would be mixing two types of hunters and doubling the number of people on the mountain.

Mr. Landgraf said they would like to have bird hunting continue for Unit A, on Mauna Kea only, on Wednesdays, Thursdays and holidays so there will be no conflict with the sheep and goat hunting.

Mr. Higashi asked whether under Regulation 23 (mammal hunting), there is a specific type of weapon that is allowed. Mr. Landgraf said for mammal hunting, high-powered rifles are used. That is the permitted weapon for sheep and goat hunting on Mauna Kea. For bird hunting (Regulation 3), shotguns are used.

Mr. Higashi asked if we go with both mammal hunters and bird hunters whether we can enforce lesser powerful weapons to be used within Regulation 23.

Mr. Landgraf didn't know. He said he would have to see if we can change the regulation. Also, he didn't know what kind of problem this would create on the enforcement people.

There was a brief discussion on colored vests. Mr. Higashi felt that if we cut the weapons to less powerful ones, hunters won't need to wear colored vests. Mr. Landgraf said at the present time the only people required to wear colored vests are the mammal hunters, the ones with the high-powered weapons. Bird hunters are not required to wear colored vests. However, it would be his recommendation that both bird hunters and mammal hunters wear colored vests because of the increase in the number of people.

Mr. Higashi asked what would happen if the board did not act on this matter today. Mr. Landgraf said, based on the court order, he would have to come back to the board. The only other alternative would be to suspend bird hunting.

ACTION Mr. Higashi moved that the board declare Unit A open for upland game bird hunting on Saturdays and Sundays during the period November 1, 1980 to January 18, 1981; and Unit A open for mammal hunting on Wednesdays and Thursdays, subject to court approval. Mr. Higashi further moved that if it is not favorable under this condition that the chairman be authorized to negotiate to see what would be reasonable, as far as the terms and conditions bird game hunting season goes, or any other suggestion that the court may have that would allow mammal hunting.

Mr. Yagi seconded the motion.

Mr. Wong asked whether the regulation relating to mammal hunting spells out that it be permitted on weekends or during a particular period.

Mr. Landgraf said it is by court action. The court was informed of our plan, and it specified weekends only.

Mr. Wong was concerned whether there is anything in the regulation which we are deviating from, which means we may have to amend the regulation.

Mr. Landgraf said if the board acts on this item today, we would be changing the regulation for mammal hunting from Saturdays and Sundays to Wednesdays and Thursdays.

Mr. Wong said if that is the case, we have to amend the regulation.

Mr. Higashi said Regulation 23, in its entirety, does not allow hunting on a year-round basis.

Mr. Landgraf said the question that he had was, if we are going to open up mammal hunting all year round we are going against what Regulation 23 says. The answer that he got was that court order has precedent over Regulation 23.

Mr. Kealoha said the way the submittal is written, we are not taking out hunting of mammals on Saturdays and Sundays. We are including Wednesdays and Thursdays. We are not saying stop Saturdays and Sundays.

Mr. Landgraf said the intent is to close Saturdays and Sundays, subject to court approval.

Mr. Higashi amended his original motion to include closing of mammal hunting on Saturdays and Sundays. Mr. Kealoha seconded the motion.

On the call of the question, the amended motion was unanimously carried.

PERMISSION TO ADVERTISE FOR THE SERVICES OF A CONSULTANT TO PLAN RECONSTRUCTION OF ENDANGERED SPECIES CAPTIVE PROPAGATION PROJECT, ISLAND OF HAWAII

ITEM C-2

This was a request for permission to advertise to solicit for services of a consultant to plan reconstructing of endangered species captive propagation project at Pohakuloa on the Island of Hawaii.

For over 1½ years now staff has been concerned with the makeshift facilities at Pohakuloa, specifically with the rearing of Hawaiian Crow. This has created disease problems, different conditions, etc.

Looking at the total program of captive rearing, Mr. Landgraf felt that we should take a good, hard look and have questions answered by a competent person in this field. Do we want to continue this program? Should we have it at Pohakuloa, or somewhere else? Then there is also the question of the type of staffing, the type of facilities, etc.

Unless they have a good basic plan, Mr. Landgraf said he would be reluctant to go before the board, or to the legislature, asking for substantial funding for Pohakuloa.

Mr. Higashi said one of the problems at Pohakuloa is the increase use of the area by the military. He said our department should initiate some kind of action and dialogue with the military as to its flight patterns.

Staff has done this. Mr. Landgraf said they have changed their flight patterns for light planes and helicopters. However, the military has made some substantial improvements, and they can come in with C-130's, and they have come in with C-130's. They consider this as an emergency or just a practice, and not a normal operating procedure. However, this does not preclude them from making it a standard operating procedure, Mr. Landgraf said.

Mr. Higashi said it was his understanding that the Hawaiian Crows go crazy when the big planes go over. Mr. Landgraf said the people who are renting the State Parks cabins have also complained about the planes.

Mr. Higashi said we cannot move the cabins. But if the consultant feels that there should be some changes, we should ask the military to start thinking about helping us, by bearing some of the costs of putting in the facilities somewhere else.

Mr. Landgraf pointed out that this is no reflection on his wildlife staff. This is a totally different ballgame. It was a small project, and it just got bigger.

Mr. Ono said, "subject to governor's approval" should be made a part of the motion.

ACTION Unanimously approved as submitted, subject to governor's approval.
(Higashi/Yagi)

ITEM E-1 RESUBMITTAL - DETERMINATION OF AN EIS REQUIREMENT FOR DEMOLITION OF ALEXANDER YOUNG BUILDING, HONOLULU, OAHU (SUBMITTAL WAS DISTRIBUTED AT BOARD MEETING)

Mr. Ono asked Mr. Kealoha, the vice chairman, to chair this portion of the meeting because of the nature of this subject matter. He serves as a State Historic Preservation Officer and is directly involved in the process.

The submittal, which was distributed to the board members, was essentially the same submittal which was presented to the board at the last meeting. Attached to it was a proposed environmental assessment and determination.

The owner has submitted an assessment and has allowed us a 14-day extension to the 90-day period provided under Chapter 6E-10. So this will give us until October 30, 1980 within which time to review this project.

Mr. Nagata said early this week he received a copy of a legal memorandum from the attorney general's office to the Environmental Quality Commission.

The issue was, in the administration of the Hawaii Revised Statutes, Chapter 6E, does DLNR grant approvals within the meaning of Chapter 343, HRS? Regarding Chapter 6E-10, which involves private property, the answer in the legal memo says no. The memo goes on further to say, while the statutes require the department to act on one of several ways within 90 days after notification, the department's concurrence or consent is not necessary for the construction or other change of historic property after 90 days have elapsed. Only legal action can compel property owners to stop after the 90 days have elapsed. Therefore, it concluded that Chapter 6E-10 does not involve the type of discretionary consent contemplated by the HRS, regarding Chapter 343, having to do with environmental requirements.

Mr. Nagata said he discussed this matter with Mr. Ono, the State Historical Preservation Officer. It was felt that it would be best to continue their initiative concerning the possible EIS requirement. They also felt that because there may be other environmental concerns that they may not be fully aware of which should be fully addressed, it would be best to require an EIS. Also, the requirement of an EIS would enable the staff or the property owners, or whoever the agency might be, in providing consent to their demolition or the development.

Mr. Wong asked what was the staff's legal basis for requiring an EIS.

Mr. Nagata said the legal basis is Chapter 6E. They felt that this was pointed out in the legal memo presented to the Environmental Quality Commission. Mr. Wong said that is only a ministerial function.

Mr. Nagata said in the EIS requirement, under exempt classes of actions, demolitions are normally allowed as an exempt action. However, if a property is listed in the Hawaii and/or National Register, then it shall not be exempt. He said if the building department and our department do not have jurisdiction under the EIS regulations, then there is going to be a big loophole there, in terms of who would then be able to take action regarding EIS requirements.

Mr. Wong asked Mr. Nagata whether they have any choice to stop any proposed demolition, assuming that the EIS is completed.

Mr. Nagata said no, but that would allow us the opportunity to accept the documents and would allow them an opportunity to see what complete analysis of the situation holds for them.

Mr. Ono said these legal questions should have been addressed earlier. This is not a new subject matter and it was on the agenda before. He suggested that we proceed with the substance of the recommendation and have the legal questions addressed as a separate matter.

Mr. Ono said as the State Historic Preservation Officer, he has reviewed staff's recommendation and he fully concurs with what was being recommended. If the environmental assessment had not indicated further need for an EIS, he said he would not have concurred with staff's recommendation. With the environmental assessment that was made, he felt that there is further room for more review to get the unanswered questions fully answered. He recognized the owners desire to avoid as much cost as possible and getting away from processes as much as possible, but he felt in this case it would be worthwhile to both the owner and the state to require an EIS. This is the first time we are addressing this, so he said it is worthwhile even just to test it.

Mr. Higashi asked how long this EIS process would take, and how extensive it is going to be. Mr. Nagata said it would take several months. It was his understanding that they would need to address all environmental impacts, both social as well as economic.

Under Section 6E-10(a), HRS, the department may decide on any one of the following options within 90 days of notice by the owners:

1. Commence condemnation proceedings for purchase of the property; or
2. Permit the owner to proceed with his construction, alteration or improvement; or
3. Undertake or permit the investigation, recording, preservation, and salvage of any historic information.

Mr. Higashi asked whether we are addressing any of the above options. He said there is nothing in the submittal that says what we are going to do.

Mr. Nagata said option one doesn't seem feasible. The second option doesn't seem to be applicable because that is regarding construction. The third option is merely to record, salvage historical information, such as photographs, drawings, etc. The indication that Mr. Nagata got from the attorney for the property owner, is that they would want to be as supportive as possible of our concerns in this kind of area.

Mr. Kealoha asked Mr. Nagata whether we are requiring an EIS for the demolition, the development, or both.

Mr. Nagata said we are requiring an EIS because of the proposed demolition. It is not an exempt action so we have to address that question.

Mr. Kealoha said the submittal should then be amended to make it clear that an EIS is for the demolition of the building.

Mr. Nagata said when the owner went to the building department for a demolition permit, they told the building department that they want to demolish the building. When they first wrote to us, their intent was to demolish the building. In the information prepared for the assessment, and in the discussion held with them, they brought out a proposal for the development. Therefore, that prospective should also be brought in.

Mr. Kealoha said this is one of the most confusing positions that the board members have ever been confronted with. We don't know whether the EIS is for the demolition and the development, or for both.

Mr. Nagata said the demolition has triggered it, but the idea is to look at the overall picture.

For the record, Mr. Ono stated that the Friends of Alexander Young Building submitted a letter dated October 22, 1980, and signed by Mr. Gerhard Frohlich, expressing that "an EIS is essential before a final determination can be made concerning the propriety of the owners' plans."

ACTION

Mr. Ono moved that the recommendation be approved, subject to further review on the legal aspect, and should it be ruled that this body has no jurisdiction on the EIS matter in this present case, that it be made known back to the board and to the applicant as well.

Mr. Higashi asked whether this would start a precedent on any other project that may come up in which the state does not exercise its rights, similar to this case, under Section 6E-10, that an EIS has to be filed.

Mr. Nagata said each situation would have to be reviewed on case-by-case basis.

Mr. Yagi seconded the motion.

On the call of the question, Mr. Higashi and Mr. Kealoha voted no.

The board was informed that if no action is taken, it would automatically permit the demolition of the building.

Mr. Yagi moved to reconsider Item E-1. Mr. Ono seconded the motion. There was no objection by the board.

Acting Chairman Kealoha moved for a ten-minute recess.

The board reconvened with Acting Chairman Kealoha presiding.

Mr. Ono moved to approve Item E-1 as recommended by staff, subject to legal review, and should the legal opinion state that the land board has no jurisdiction over this matter, the board, as well as the applicant, should be so informed as soon as possible.

Mr. Yagi seconded the motion.

Mr. Nagata asked how this would affect the staff, in terms of time. What would happen if we get a negative response? He was advised to report back to the board at the next meeting for information only.

As expressed earlier, Mr. Higashi said he didn't want this case to prejudice other cases. He didn't want the small land owners to be spending \$6,000 to \$10,000 just to file an EIS.

He requested that in the future, the board should have all of the information well in advance why we are requiring an EIS. Also, in the procedural process, he said the board should be able to address all concerns and options and be able to make the recommendation when the matter comes up.

Mr. Kealoha said the records should reflect Mr. Higashi's concerns, particularly on the small land owners. He said the board has learned a lot with respect to this problem in the area of historic sites. Hopefully, he said, the board would not have to encounter any more such problems, and all agencies will do their homework so they can prepare the board members well in advance before they are asked to make such a big decision.

On the call of the question, the motion was unanimously approved.

Mr. Kealoha relinquished his chair as acting chairman at this point and turned over the chairmanship to Mr. Ono.

ITEM F-1 DOCUMENTS FOR CONSIDERATION

HAWAII

Item F-1-a SUBLEASE

PHILIP C. MEYER, husband of Joan Meyer, as sublessor, to CARL C. MEYER RANCH CORPORATION, as sublessee - All of the land described as Parcel 2, Kaohe 6, Hamakua - GL No. S-4473

Item F-1-b ASSIGNMENT OF GRANT OF EASEMENT

SHELL OIL COMPANY, a Delaware Corporation, to PAULEY PETROLEUM, INC., a Delaware Corporation - Non-exclusive easement and right-of-way, five feet wide, portion of Government land at Waiakea, South Hilo (GL No. S-4097)

Mr. Kealoha asked whether the new assignee is licensed to do business in Hawaii today. Mr. Detor said yes.

Item F-1-c MORTGAGE

H. EUNICE NURSERY, INC., a Hawaii Corporation, mortgagors, to the UNITED STATES OF AMERICA, acting through the FARMERS HOME ADMINISTRATION, UNITED STATES DEPARTMENT OF AGRICULTURE, mortgagee - Lot 18, Pana-ewa Farm Lots, Second Series, Waiakea, South Hilo - GL No. S-4446

MAUI

Item F-1-d REVOCABLE PERMIT

HALE PAU HANA HOMEOWNERS ASSOCIATION - Government Beach Reservation, Kamaole Beach Lots - for construction of a rubble rock revetment - \$39.00

This is an after-the-fact permit to cover a rubble rock revetment that was constructed by the applicant in January on an emergency basis following a storm. This was necessary in order to prevent further erosion of the land. The permit would be retroactive to March 1, the date they completed the improvement.

This request is a separate and apart from the permit which the board voted to cancel in August. That permit, Revocable Permit No. 5731, was held by Hale Pau Hana, covering government beach reserve fronting the condominium at Kihei. They had constructed shuffle board court, torches, shower facility and stair case onto portion of government land.

The board had previously authorized issuance of a permit under certain terms and conditions, including the posting of signs saying that this is public property, which they did not abide by it. Consequently, the board voted to cancel that permit. Along with that cancellation, they were asked to remove the improvements that were placed on the government land and a certified letter was sent to them to that effect. That time expired on September 4. In the interim those improvements have not been removed.

Mr. Detor said Mr. Meyer Ueoka, the attorney representing the Homeowners Association, wrote to the chairman, requesting that the time within which to remove those improvements be extended to November 30, 1980.

Mr. Ono informed the board that he met with Mr. Ueoka when he personally delivered this letter to him. At that time Mr. Ueoka verbally requested that the chairman poll the board members to see if they would

reconsider the August action on the revocation of the permit. Mr. Ono expressed his personal views to Mr. Ueoka, which was on the negative side. He did, however, make a commitment to Mr. Ueoka that he would bring this matter to the board for possible reconsideration.

To follow through on what was committed to Mr. Ueoka, Mr. Ono said he would like to bring this up on a more formal basis at a future meeting if the board is willing to entertain reconsidering the revocation.

Mr. Yagi asked Mr. Ono what he meant by "bring this up on a more formal basis." He asked whether this is for granting extension to November 30, 1980.

Mr. Ono said this is actually a two-part request. One is for the extension of time to remove the improvements that were placed on the state property; secondly, whether the board members would entertain a request to reconsider the original action in which the permit was revoked.

Mr. Yagi moved to grant an extension to November 30, 1980 within which to remove the improvements. Mr. Higashi seconded, and the motion was unanimously carried.

On the matter of whether the board should reconsider the original action revoking the permit, Mr. Ono said he would need an informal reading from the board.

With respect to the motion that was just made and approved, Mr. Kealoha said he has not heard whether the applicant intends to put up signs for the remainder of the extended period. Apparently, they are still assuming that it is a private property.

Mr. Detor said they don't address that question at all. All they are asking for is an extension of time. They've had three months within which to remove those improvements and they made no move. Their letter did not even come in until the time had expired.

Mr. Haake substantiated the fact that no sign has been posted.

Mr. Higashi's concern was whether they have changed their attitude since our discussion with them. The board revoked this permit because of their attitude in which they handled the situation.

Mr. Haake said since that time they have changed officers. We had problems with the previous officers. The present officers seem to be sincere.

Mr. Kealoha said inasmuch as the board has cancelled the permit, and we are extending the time to remove the improvements, the sign indicating that this is public property should still be posted during the extended period. As far as putting the matter on the board agenda for reconsideration, Mr. Kealoha said not right now.

Mr. Ono said he will convey this reading to Mr. Ueoka.

Mr. Ono said it was his understanding that there are several other potential or alleged violations on the coastline along that area. He asked

the staff to check these areas. If there is a request for reconsideration, or an application for a permit comes in, the board can then take action at that time.

The board then voted to approve Item F-1-d of today's agenda by unanimous vote.

OAHU

Item F-1-e REVOCABLE PERMIT
E. N. NAGAO, LTD., General Contractor - Sand Island, Honolulu - for storage purpose - \$262.50

Mr. Detor asked that the lot number be amended to read "Lot 531-B."

Mr. Yagi asked how a tenant is selected at Sand Island. Mr. Detor said there is a waiting list.

Mr. Kealoha said this application was not clear to him and asked for deferral until the next board meeting.

The board had no objection to deferring Item F-1-e.

Added

MAUI

Item F-1-f COLLATERAL AGREEMENT
STATE OF HAWAII, WILLIAM H. MASOTTI and ELAINE S. MASOTTI, husband and wife, covering Lot 25, Wahikuli House Lots, 5th Series, Lahaina, Maui (SSA S-5502)

ACTION Mr. Yagi moved, seconded by Mr. Kealoha, and the board unanimously approved Item F-1 as submitted, except Item F-1-e which was deferred.

ITEM F-2 DOT REQUEST FOR LAND EXCHANGE FOR ACQUISITION OF LAND REQUIRED FOR NORTH AND SOUTH KONA BELT ROAD, HAWAII

ACTION Unanimously approved as submitted. (Higashi/Kealoha)

ITEM F-3 STAFF RECOMMENDATION FOR PUBLIC HEARING FOR WITHDRAWAL OF LAND FROM FOREST RESERVE AREAS AT HUMUULA, NORTH HILO AND KAOHE, HAMAKUA, HAWAII

ACTION Unanimously approved as submitted. (Higashi/Kealoha)

ITEM F-4 STAFF RECOMMENDATION FOR CANCELLATION OF GENERAL LEASE NO. S-4462, OLAA, PUNA, HAWAII

ACTION Unanimously approved as submitted. (Higashi/Kealoha)

ITEM F-5 RESUBMITTAL - THE MCCARTHY COMPANY APPLICATION FOR ROAD EASEMENT, KIHEI, MAUI

ITEM F-6 KOA RESORT DEVELOPMENT COMPANY APPLICATION FOR ROAD EASEMENT, KIHEI, MAUI

ACTION Items F-5 and F-6 were unanimously approved as submitted. (Yagi/Higashi)

ITEM F-7 MAUI ELECTRIC COMPANY, LTD. REQUEST FOR AMENDMENT OF PREVIOUS BOARD ACTION AUTHORIZING SALE OF EASEMENT AT MAHINAHINA, LAHAINA, MAUI

ACTION Unanimously approved as submitted. (Yagi/Higashi)

ITEM F-8 MAUI ELECTRIC COMPANY, LTD. AND HAWAIIAN TELEPHONE COMPANY APPLICATION FOR ELECTRIC AND TELEPHONE TRANSMISSION LINE EASEMENT, MAHINAHINA, LAHAINA, MAUI

ACTION Unanimously approved as submitted. (Yagi/Higashi)

ITEM F-9 STAFF RECOMMENDATION FOR AMENDMENT OF PREVIOUS BOARD ACTION AUTHORIZING SALE OF EASEMENT AT UALAPUE, MOLOKAI

ACTION Unanimously approved as submitted. (Yagi/Kealoha)

ITEM F-10 C&C OF HONOLULU REQUEST FOR RIGHT OF ENTRY FOR PROPOSED KALUANUI EXPLORATORY WELL, SACRED FALLS STATE PARK, KOOLAULOA, OAHU

ACTION Unanimously approved as submitted. (Kealoha/Yagi)

ITEM F-11 K. C. DRIVE INN, LTD. APPLICATION TO PURCHASE REMNANT PARCEL LR-67-A (TMK 3-2-7:22), HONOLULU, OAHU

ACTION Unanimously approved as submitted. (Kealoha/Yagi)

ITEM F-12 STANLEY KAWABATA REQUEST FOR EXTENSION OF TERM OF GENERAL LEASE NO. S-3768 COVERING LOT 28, WAIMANALO AGRICULTURAL SUB-DIVISION, WAIMANALO, KOOLAUPOKO, OAHU

ACTION Unanimously approved as submitted. (Kealoha/Yagi)

ITEM F-13 CONVEYANCE IN FEE OF TWO REMNANT PARCELS TO UNIVERSITY OF HAWAII, WAAHILA AND KANEWAI, HONOLULU, OAHU, TMK 2-8-29:POR. 1 AND WITHDRAWAL OF PORTION OF LAND FROM GOVERNOR'S E. O. NO. 1807 (UNIVERSITY OF HAWAII) FOR SUBSEQUENT TRANSFER TO THE CITY AND COUNTY OF HONOLULU

The U. H. purchased from the City and County of Honolulu some 5.248 acres for \$31,711.50 at that time, with funds appropriated from the legislature. They want to sell it back to the City and County since they don't need the area any more. This does not include the two remnant parcels which belong to the state. These two parcels will be conveyed to the University for subsequent transfer to the City and County.

Mr. Wong said we should at least get some money for the two remnant parcels.

Mr. Detor said he was going to amend the submittal to include that. He suggested that we charge the University, who in turn will charge the city a proportionate amount equal to what the unit rate is. He said this is not included in the \$77,000.00 which the University proposes to charge the city.

The University wants to cancel the executive order, which set aside the subject parcel after the University purchased it, and then sell to City and County of Honolulu. Money will go to the University since they paid for the land originally.

The city will pay to the University \$77,000. That amount represents the original principal, plus interest at 6% of the original purchase price of \$31,711.50. They won't get the cash, however. They will be credited against the improvement district bill which the University owes the city.

Mr. Detor said the original appropriation by the legislature was to purchase the land from the city, and the executive order was subsequently issued. It is now technically necessary to cancel the executive order. Once that is cancelled, the University is free to sell it. We have no say on that, but we do have a say on the two remnants.

Mr. Ono said the University may own the land, and it is true they have the legal right to do what they want to do, but they should have at least informed this board what they plan to do before they went to the city. We have lots of requests from the University to use state land.

Mr. Higashi said Mr. Ono's concern is well taken and he agrees with him.

Mr. Detor said we can defer this matter and ask the University to have a representative at the next meeting.

ACTION Mr. Ono said he would like to defer this matter until the next board meeting. There was no objection by the board.

ITEM F-14 STAFF RECOMMENDATION FOR CANCELLATION OF GENERAL LEASE NO. S-4338, WAILUA, KAUAI

Mr. Detor asked to withdraw this request since all of the breach has been cured by the lessee.

Mr. Ono said when the next deadline comes and the lessee falls back again, we have to start a new process. We had a hard time bringing this lease up to date in meeting all of the conditions. He asked the staff to give a warning when we send him the letter of notification.

ACTION The board had no objection to the withdrawal of this item.

ITEM F-15 CITIZENS UTILITIES COMPANY AND HAWAIIAN TELEPHONE COMPANY APPLICATION FOR POLE LINE EASEMENT, KAPAA, KAUAI

ACTION Unanimously approved as submitted. (Higashi/Kealoha)

ITEM F-16 COUNTY OF KAUAI, DEPARTMENT OF WATER SUPPLY, REQUEST FOR RIGHT OF ENTRY TO REPAIR AND MAINTAIN WATER PIPELINE AT WELIWELI, KONA, KAUAI

ACTION Unanimously approved as submitted. (Higashi/Kealoha)

ITEM F-17 STAFF RECOMMENDATION FOR UPDATE OF ADMINISTRATIVE RULES FORMAT AND UPDATE OF SCHEDULE OF FEES

At the July 11, 1980 meeting, the board authorized the staff to hold a public hearing in connection with the upgrading of our document fees. At that time staff had suggested a schedule to the board, which was considerably higher than what was shown in the attached schedule. Subsequent to that meeting, staff was advised by the attorney general's office that we could not raise it that high.

According to Section 92-28 of the revised statutes, any fees that are statutorily provided for can only be raised 50%, no more. Staff felt that we were okay because all what the statute does is give the board the authority to set the fees, but the attorney general's office said it does apply.

Mr. Ono suggested that the staff come up with an amendment to the statutes to change the language.

ACTION Unanimously approved as submitted. (Higashi/Kealoha)

ITEM F-18 DSSH REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING SPACE IN THE MAUI PROFESSIONAL CENTER, WAILUKU, MAUI

ACTION Unanimously approved as submitted. (Higashi/Kealoha)

ITEM F-19 DSSH REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING ROOMS 611, 613, 615 AND 617 OF THE BETHEL-PAUAHI BUILDING, HONOLULU, OAHU

ITEM F-20 DLIR REQUEST FOR APPROVAL OF EXTENSION OF LEASE COVERING SUITE 600, 1164 BISHOP STREET, HONOLULU, OAHU

ACTION Items F-19 and F-20 were unanimously approved as submitted. (Kealoha/Higashi)

ITEM H-1 RESUBMITTAL - CDUA FOR NONCONFORMING SINGLE FAMILY DWELLING USE AT HONALO, KONA, HAWAII (ROBERT W. CARLSMITH ON BEHALF OF GARY W. KLEVER)

Mr. Li distributed an amended submittal to the board to replace the submittal that was in the board folder. This matter was deferred twice.

According to the tax records obtained from the tax office, there was only one parcel (Parcel 8). Subsequently, there was a subdivision of this parcel in 1973. Mr. Li said based on DLNR Regulation No. 4, this does not qualify as a nonconforming use.

Staff had series of conferences with Mr. Carlsmith, the attorney who represented the applicant. Staff also obtained a legal opinion from the attorney general's office, and also obtained a determination from the Hawaii County Department of Planning.

Question was on the kuleana which has been awarded and identified as L. C. Aw. 7958. That kuleana is located in-between the subject parcel. The legal opinion states that this parcel qualifies as a nonconforming use because the subject parcel is entirely separated by this kuleana.

According to the Hawaii County Planning Department, they found in their records that the subject site has been a separate parcel since 1947.

Staff recommended approval subject to the eight conditions as listed in the amended submittal.

Mr. Higashi commended Mr. Li for doing an excellent work on a very difficult case. He said it was a learning experience for both the staff and the applicant.

Mr. Kealoha agreed with Mr. Higashi. The staff did a real good job. He said the people on Kauai can use the method used in this case. There are similar circumstances on that island, too.

Mr. Li thanked the board.

ACTION Unanimously approved the amended submittal as recommended by the staff.
(Higashi/Kealoha)

ITEM J-1

CONSENT TO FIRST ADDITIONAL MORTGAGE AND SECURITY AGREEMENT,
LEASE NO. A-62-34, HONOLULU INTERNATIONAL AIRPORT, OAHU (AIR
SERVICE CORPORATION)

ACTION Unanimously approved as submitted. (Kealoha/Yagi)

ITEM J-2

RESUBMITTAL FOR LEASE, LEI STAND CONCESSIONS, HONOLULU INTER-
NATIONAL AIRPORT, OAHU

Mr. Garcia asked to amend the submittal by deleting No. 10 (Martina Macalino) from the list. That account is delinquent so they cannot issue a lease.

Mr. Ono asked what is going to happen to the 10th slot. Mr. Garcia said they are going after that particular individual for payment so he can cure the breach. If he cannot comply, they will have to go back to the waiting list.

The original purpose of the lease was for lei stand concessions and the lease is now being amended for lei stand concessions for the sale of fresh flower leis and cut flowers.

Mr. Garcia said the florist concession at the airport originally called for the sale of cut flowers only. But it has recently been changed to include the sale of fresh flower leis also. It was part of a negotiation with the lei vendors, and the agreement was that DOT would permit the lei vendors to also sell fresh flowers.

Mr. Kealoha questioned the terms of the lease. Mr. Garcia said the reason for the amended term is to allow all leases for flower leis and cut flowers to terminate at the same time as the florist concession located at the airport.

Mr. Kealoha said this still doesn't resolve the question of monopoly. He said one big man can own all of the small shops.

Mr. Garcia said no. These small shops did not go out by public bid. The original ones were grandfathered in, and they have a waiting list of individuals.

Mr. Kealoha said he wasn't talking about the flower vendors and lei sellers. He was talking about the concessions.

Mr. Garcia said the concession itself was recently awarded under a public bid to Rusty's Florist.

Mr. Kealoha said this board expresses concern everytime you have those five concessions going out, two for the minority as a group. He said the board is concerned about the big guys outbidding everybody else. He said the Duty Free Shops could own and operate duty-free shops and other concessions, which ultimately happened.

Mr. Kealoha said DOT did not come back to this board to see if we can formulate some way without having the big guys controlling all of the airports main concessions. DOT ended going to public auction and Duty Free Shop now monopolizes those duty-free and small shops.

Mr. Garcia said there are two shops and Duty Free Shop has one of the duty-free shops. He said they were advised by counsel that we could not limit the number of shops that Duty Free Shop could be awarded.

Mr. Kealoha said probably so, but still DOT did not come back to let the board know that they were advised by counsel so they were going to proceed to go on auction. He said the board found out about it in the newspapers and was baffled when they heard about the award. He said this is not the first time. The board makes requests to DOT and they ignore the board. He said the board gets embarrassed because they receive letters, too.

Mr. Garcia said he will take this message back to DOT.

ACTION Unanimously approved as amended, with the deletion of No. 10. (Kealoha/Higashi)

Mr. Ono asked Mr. Garcia to take Mr. Kealoha's concern back to his director and to report back to the board, verbally or in writing, what DOT intends to do in the future to prevent such happening.

ITEM J-3 ISSUANCE OF A DIRECT LEASE, HARBORS DIVISION, PORT ALLEN, KAUAI (U. S. NAVY)

ACTION Unanimously approved as submitted. (Kealoha/Yagi)

ITEM J-4 CONSENT TO ASSIGNMENT, HARBORS DIVISION, HEEIA-KEA SMALL BOAT HARBOR, HEEIA, KOOLAUPOKO, OAHU (HENRY H. GEORGE, JR., TO THE DELI CORPORATION)

Mr. Kealoha asked who operates from this pier, and who is this oil for. Mr. Garcia said small boats operate from this pier, and the oil is for the people in the harbor.

Mr. Kealoha inquired about the ice. Mr. Garcia said the lessee is permitted to sell ice.

Mr. Kealoha asked about the prices for oil, ice, gas, etc., whether they are going to have somebody monitoring the operations.

As far as gas, Mr. Garcia said that is federally controlled. However, they do have harbor attendants there so he will go back and tell them to have the harbor attendants monitor during the weekends so there won't be overpricing.

Mr. Kealoha also asked about the standard of operating hours. Mr. Garcia wasn't sure, but they can request that the hours of operation be posted so the public is made aware of the hours of operation.

ACTION Unanimously approved as submitted. (Kealoha/Yagi)

ITEM J-5 USE OF HARBORS DIVISION FACILITIES, PIER 10 PASSENGER TERMINAL, HONOLULU, OAHU (HOOLAULIMA ANA NO EILEEN R. ANDERSON)

ACTION Unanimously approved as submitted. (Yagi/Higashi)

ITEM J-6 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEWALO BASIN, HONOLULU, OAHU (HAWAIIAN CRUISES, LTD.)

ACTION Unanimously approved as submitted. (Kealoha/Higashi)

ITEM J-7 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NAWILIWILI HARBOR, NAWILIWILI, KAUAI (GASCO, INC.)

ACTION Unanimously approved as submitted. (Higashi/Kealoha)

ITEM J-8 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, MAALAEA BOAT HARBOR, MAALAEA, MAUI (ROBERT KEIBACK)

ACTION Unanimously approved as submitted. (Yagi/Higashi)

ITEM J-9 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NEAR PIER 24 SHED, HONOLULU HARBOR, OAHU (JACLYN Y. GREELEY, DBA HORSE EXPRESS)

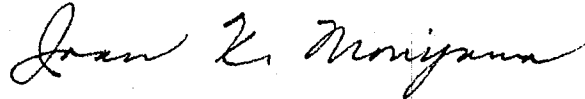
ACTION Unanimously approved as submitted. (Kealoha/Higashi)

ITEM J-10 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NAWILIWILI HARBOR, KAUAI (GENERAL CONSTRUCTION CO.)

ACTION Unanimously approved as submitted. (Kealoha/Yagi)

ADJOURNMENT: There was no further business and the meeting was adjourned at 11:30 A. M.

Respectfully submitted,



JOAN K. MORIYAMA
Secretary

APPROVED



SUSUMU ONO
Chairman

jkm