

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

DATE: April 10, 1981  
TIME: 9:00 A. M.  
PLACE: DLNR Board Room  
Kalanimoku Building  
1151 Punchbowl Street  
Honolulu, Hawaii

ROLL  
CALL

The meeting of the Board of Land and Natural Resources was called to order by Chairman Susumu Ono at 9:05 A. M. The following were in attendance:

MEMBERS

Mr. Moses Kealoha  
Mr. Takeo Yamamoto  
Mr. Stanley Hong  
Mr. Thomas Yagi  
Mr. Roland Higashi  
Mr. Susumu Ono

STAFF

Mr. James Yamashiro  
Mr. Roger Evans  
Mr. James Detor  
Mr. Libert Landgraf  
Mr. Robert Lee  
Mr. Maurice Matsuzaki  
Mrs. Joan K. Moriyama

OTHERS

Ms. Dona L. Hanaike  
Mr. Boyce Brown (Item H-3)  
Mr. Paul A. Tom (Items F-7 and F-8)  
Kalihi-Palama Multi-Service  
Community Center Rep. (Items F-7 and F-8)  
Mr. Charles Honma (Item H-8)  
Mr. Peter Garcia

MINUTES

The minutes of February 27, 1981 were unanimously approved as circulated, on Mr. Hong's motion and seconded by Mr. Kealoha.

The minutes of March 13, 1981 were deferred since the members did not have a chance to review them. (Kealoha/Hong)

Added  
Item

Mr. Kealoha moved, seconded by Mr. Hong, and the board unanimously voted to add the following to the board agenda:

State Parks

Item E-3 -- Request for Extension of Temporary Intergovernmental  
Assignment for Jane Silverman

ITEM E-1

ESTABLISHMENT OF A KEALAKEKUA BAY STATE HISTORICAL PARK  
ADVISORY COMMITTEE

ACTION

Unanimously approved as submitted. (Higashi/Yagi)

AWARD OF CONSTRUCTION CONTRACT FOR BOAT PIERS (JOB NO. 30-KP-35),  
WAILUA RIVER STATE PARK, WAILUA, KAUAI (SUBMITTAL WAS DISTRIBUTED  
AT BOARD MEETING)

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ITEM E-2

ACTION The board, on Mr. Yamamoto's motion and seconded by Mr. Yagi, unanimously voted to award the construction contract for the subject contract to the apparent low bidder, Lahaina Pier and Pile Co., for their low bid of \$134,915.00.

ADDED REQUEST FOR EXTENSION OF TEMPORARY INTERGOVERNMENTAL  
ITEM E-3 ASSIGNMENT OF JANE SILVERMAN

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ACTION The board, on Mr. Kealoha's motion and seconded by Mr. Hong, unanimously approved Miss Silverman's request for an extension to her temporary inter-governmental assignment to the Judiciary, on leave without pay status through June 30, 1981, subject to the concurrence of the Director of Personnel Services.

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To accommodate the people in the audience, the chairman announced that the board will deviate from the printed agenda and take up the items in the following order:

ITEM H-3 VIOLATION OF LAND USE WITHIN THE STATE CONSERVATION DISTRICT  
AT HAENA, KAUAI

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The board, on November 21, 1980, approved staff's recommendation on a violation of land use at Haena, with one amendment that the monetary fine of \$100 be increased to \$500.

The applicant, who resides in California, has requested that he be given an opportunity to be represented by a counsel. The counsel was present at the meeting.

Staff recommended that the board ratify its previous action.

Mr. Hong said if the board chooses not to amend or change the action, the action should stand and no ratification is required.

Mr. Boyce Brown, the attorney for the applicant, said this property involved a situation where a mainland purchaser saw and purchased a piece of property with two buildings on it, one of which is apparently illegal. Insofar as he could determine, Mr. Brown said the Enos have expended money to make one of those buildings habitable or more habitable, without the benefit of a CDUA, which may not have been granted in any event because it is a second dwelling.

Mr. Brown further stated that he asked the board to move this agenda from the last board meeting to this meeting in order to give him more time to review this matter. Unfortunately, he said he has not had an opportunity to go through the files because he is moving from one office to another. He asked the board to defer this matter until the next meeting so he can review the files and advise his client what rights, if any, he might have in this matter.

ACTION The board had no objection to deferring this matter until the next board meeting, as requested by Mr. Brown.

ITEM F-7

DSSH REQUEST FOR ACQUISITION OF SUB-SUBLEASE COVERING OFFICE SPACE (3,736 SQ. FT.) ON THE 2ND FLOOR OF THE KALIHI-PALAMA MULTI-SERVICE COMMUNITY CENTER, HONOLULU, OAHU

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ITEM F-8

DSSH REQUEST FOR ACQUISITION OF SUB-SUBLEASE COVERING OFFICE SPACE (2,323 SQ. FT.) ON THE 2ND FLOOR OF THE KALIHI-PALAMA MULTI-SERVICE COMMUNITY CENTER, HONOLULU, OAHU

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Items F-7 and F-8 were requests from the DSSH for approval of sub-leases from the Kalihi-Palama Model Cities Association to DSSH for office spaces in the old OR&L building. These two items were twice presented to the board previously--it was deferred once and denied the other time.

The old OR&L building is owned by the state and is leased by this department to the Hawaii Housing Authority. The Hawaii Housing in turn has subleased it to the Kalihi-Palama Model Cities Association who actually takes care the building.

Mr. Detor said what brought on the denial and the deferment actions by the board was the fact that DSSH would be paying rent to the Kalihi-Palama Model Cities Association, whereas the lease from the state to HHA and Hawaii Housing's sublease to Kalihi-Palama Model Cities Association do not involve any payment of rent. Mr. Detor said he was told that the rent that would be paid by DSSH would go to take care their portion of the prorata share of the building maintenance costs, etc., and this does not involve any profit to the association.

In the case of Item F-7, which covers 3,736 square feet of office space on the second floor for use by the Public Welfare Division, Applications Unit No. 1, the rent is \$1,942.72. Item F-8 involves 2,323 square feet of office space, for use by the Food Stamps Unit #3, and the rent is \$2,107.96. So roughly the rent is about \$3,000 between the two units, and this runs to about 52¢ per square foot per month.

Mr. Detor said it was his understanding that if DSSH were paying rent it would probably run higher. The problem here is the fact that the state owns it, and then finds itself in the situation of paying rent to a nonprofit organization.

Mr. Detor further stated that federal money did come into this in terms of rehabilitating the building.

Mr. Kealoha asked why is it necessary to go into two subleases. He suggested deleting the 2nd floor from the sublease to Kalihi-Palama group and give it directly to DSSH.

Mr. Detor said the association apparently doesn't have the funds to pay for the maintenance costs.

Mr. Paul A. Tom, Executive Director of Hawaii Housing Authority, said he has not totally reviewed the files. However, he was made aware about two days ago that there was a request before the board to consider the waiver of the rent. He said in speaking to Mr. Franklin Sunn, Director of the DSSH, one of the reasons the department made the request was because they were losing some of the federal funds. Mr. Tom said after discussion with Mr. Sunn, they mutually agreed that it would be inequitable to ask the nonprofit

organization to bear the cost of the free space when everybody else in the building was paying their pro-rata share. He said HHA rents a good portion of the building and they pay rent to the nonprofit organization.

The President of the Kalihi-Palama Model Cities Association (KPMCA) said the history started with the Progressive Neighborhood Boards. He said they were supposed to operate it, collect the rent and pay the bills. KPMCA took possession of the building in September 1975 after restoration and renovation of the building was completed. The amount of free space (1,008 square feet) they had is an agreement between the several of them--HHA, KPMCA and the Progressive Neighborhood Boards.

He said DSSH has been paying rent since 1975. That question was already resolved a long time ago, before they even entered into a contract, when someone brought out the question on state agency paying rent to a private agency.

He further stated that because of nonpayment of rent by Hawaii Housing Authority, they are in trouble. They are over \$14,000 in the red. They owe bills and the most critical is the electric bill.

Mr. Detor recalled when the Federal Grant first came up, they had to find a carrier, and only two organizations were qualified to hold a lease of this kind--the Hawaii Housing Authority and the University of Hawaii. The Hawaii Housing Authority unwillingly agreed to take over. They got the lease and in turn subleased it to KPMCA.

Mr. Kealoha didn't think this problem can be resolved today, and suggested that between now and the next board meeting, the representatives of HHA, DSSH and KPMCA meet and have this matter clarified to get a better direction.

Mr. Detor said this matter came before the board on July 14, 1978, again on August 25, 1979 and it was deferred, so this matter has been pending for a long time.

Mr. Ono informed Mr. Paul Tom that the board is going to defer action on this. Mr. Tom said he was going to suggest that the board do that, and they will work with staff and KPMCA and come back with a full report to the board.

ACTION Mr. Kealoha moved for deferral of Items F-7 and F-8 until the next meeting. Mr. Hong seconded and the motion was unanimously carried.

ITEM H-8 CDUA FOR LANDFILLING AND RESTORATION USE AT WAIMALU, EWA, OAHU  
(HERBERT K. HORITA REALTY, INC.)

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This was an after-the-fact application. The purpose of this application is to restore the private lands within our general subzone.

Staff reviewed the proposal and recommended approval of the project. The board's attention was called to Condition No. 6 which related to a fine of \$500.00.

ACTION Unanimously approved staff's recommendation as submitted. (Kealoha/Hong)

Mr. Charles Honma, the Project Manager for Horita Realty, was present. He said he had no objection to the recommendation made by the staff. His only concern was how the amount of \$500 was determined.

He was informed that the \$500 fine is a maximum set by statutes and that it could have gone up to \$500 per day. Each day could be a separate violation.

HAWAII HOUSING AUTHORITY APPLICATION FOR FIVE LEASES COVERING STATE PROPERTIES ON OAHU AND HAWAII (SUBMITTAL WAS DISTRIBUTED AT BOARD MEETING)

ITEM F-11

Mr. Detor suggested that No. 5 on page 2 of the board submittal on the surplus lands at Halawa Heights Road and Hulumanu Street be amended so it could either be a lease or a conveyance in fee to Hawaii Housing Authority.

Mr. Tom said that amendment is acceptable to them.

ACTION Unanimously approved as amended above. (Kealoha/Hong)

ITEM F-1 DOCUMENTS FOR CONSIDERATION

HAWAII

Item F-1-a LAND PATENT GRANT

To be issued to ELIZABETH ANDREWS, now deceased, pursuant to Special Homestead Agreement No. 1895, by application of Roy K. Nakamoto, attorney for heirs of the deceased - Lot 1, Section C, Waiakea Homesteads, Third Series, Waiakea, South Hilo

Item F-1-b ASSIGNMENT OF LEASE

ALAN KUWAHARA, unmarried, assignor, to PACIFIC NURSERIES, INC., a Hawaii Corporation, assignee - Portion of land of Keonepoko Nui, Puna, (G. L. NO. S-4671)

Mr. Detor explained that what they are doing is to form a family corporation and transfer the lease from Alan Kuwahara to the family corporation.

Mr. Higashi asked whether they are required to let us know if they are authorized to sell stocks in their corporation. Mr. Detor said they are not. As a matter of fact, he said, we have no control if they want to subsequently sell the stock in the corporation.

Mr. Detor further stated that this lot was sold at public auction. The reason they didn't bid it in the corporation's name is because the corporation had not been formed. If they had bid it in the corporation's name, they can go ahead and sell the stock without coming to the board.

Mr. Higashi further asked whether under the assignment of lease we have any way of reappraising or reassessing it, similar to subleases. Mr. Detor said there is a bill being considered this session that will allow us to up the rent on a transfer. However, if it passes it won't apply to this lease.

Mr. Kealoha asked whether we can assign a lease within one year and give credit for the improvements. Mr. Detor couldn't recall the improvement requirement on this lease.

Mr. Higashi said he has no objection. However, he felt that the concerns expressed by Mr. Kealoha should be referred to the attorney general's office.

Mr. Ono said on this particular lease we have a formal request for an opinion from the attorney general's office on the deferment of rent. So it depends on how that opinion comes out. It may have an effect on the corporation.

Item F-1-c MORTGAGE

ROY O. SATO, as mortgagor, to FEDERAL LAND BANK ASSOCIATION OF HAWAII, mortgagee - Lot 4, Keonepoko Iki Farm Lot Subdivision (Pahoa Agricultural Park) - GL No. S-4418

ACTION The board, on Mr. Higashi's motion and seconded by Mr. Yagi, unanimously approved Item F-1 as submitted.

ITEM F-2 JOSEPH PICKERING APPLICATION FOR EASEMENT AT PUAKO, LALAMILO, SOUTH KOHALA, HAWAII

This matter was deferred at a previous meeting. This was an application for an easement in order to furnish access to a lot at Puako.

Mr. Higashi said the one-payment consideration may be very expensive because the lot has an enhancement value.

Mr. Detor said staff would prefer that they go to the bank and pay us cash.

Mr. Detor said there is no plan as far as the adjoining state land is concerned. However, the church property is being considered to be nominated to the Historic Register.

ACTION Unanimously approved as submitted. (Higashi/Kealoha)

ITEM F-3 COUNTY OF MAUI REQUEST FOR E. O. SETTING ASIDE TANK SITE AND STAFF RECOMMENDATION FOR SALE OF A LEASE COVERING LAND AT PUKOO, MOLOKAI

ACTION Unanimously approved as submitted. (Yagi/Kealoha)

ITEM F-4 DIVISION OF STATE PARKS REQUEST FOR E. O. SETTING ASIDE LAND FOR ADDITION TO RAINBOW BAY STATE PARK, HONOLULU, OAHU

Mr. Detor said after this submittal was prepared, he was asked to add five parcels to the list.

Mr. Ono said since the title on the agenda is so restricted, he didn't think we can add these parcels to the submittal.

Deputy Attorney General Dona Hanaike also had some reservations on that, too.

Mr. Detor said he can come back to the board to include these additional parcels.

ACTION Unanimously approved as submitted. (Kealoha/Hong)

ITEM F-5 C&C OF HONOLULU REQUEST FOR APPROVAL OF SALE OF GOLF DRIVING RANGE CONCESSION, KAPIOLANI PARK, HONOLULU, OAHU

Mr. Hong asked how many acres are involved in this area. Mr. Detor didn't know exactly how many acres were involved.

Mr. Hong said he noticed that some buildings were removed from the corner of Monsarrat Avenue.

Mr. Detor said the whole area, including the golf driving range and the buildings where they had their baseyard, is part of the executive order covering the Kapiolani Park.

Mr. Hong suggested that this golf range site be returned for park use. He said the golf range is a commercial use.

Mr. Detor said it is a commercial use as far as the concessionaire is concerned, but for the people who are using it, they are using it for recreational purposes.

ACTION Mr. Kealoha moved to approve and Mr. Yagi seconded. The motion was carried with Mr. Hong casting the only no vote.

ITEM F-6 RESUBMITTAL - CITIZENS UTILITIES CO. AND HAWAIIAN TELEPHONE CO. APPLICATIONS FOR UTILITY EASEMENT AT ANAHOLA, KAUAI

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

(See pages 3 and 4 for Items F-7 and F-8.)

ITEM F-9 STAFF RECOMMENDATION FOR APPROVAL OF GEOTHERMAL RESOURCES LEASE PERFORMANCE

This was a request for approval of a Geothermal Resources Lease Performance Bond form. Departmental Regulation 8, Rule 3.16, requires that every lessee post a bond in the amount of \$10,000 in the form approved by the board.

Attached to the board submittal was a form that was drafted and approved by the attorney general's office. Staff recommended approval.

ACTION Unanimously approved as submitted. (Higashi/Kealoha)

ITEM F-10 MOLOKAI ELECTRIC COMPANY, LIMITED AND HAWAIIAN TELEPHONE APPLICATION FOR UTILITY EASEMENTS, HOOLEHUA, MOLOKAI

This was a request from Molokai Electric and Hawaiian Telephone for easements for state lands to service lots within the farm subdivision at Hoolehua. This is state land leased to the County of Maui. The County of Maui in turn developed this agricultural park and they are subleasing portions of it out, revenues of which come to the state.

ACTION Unanimously approved as submitted. (Yagi/Yamamoto)

(See page 5 for Item F-11.)

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Mr. Detor reported on a matter which was taken up at the March 13, 1981 board meeting. This dealt with the Destination Development lease at Wai-lua, on Kauai. The board at that time took up the question of back rent.

The board's action was that the lessee had until March 27, 1981, the date of the last board meeting, to pay \$40,000, and a total of thirty days to come up with the complete total sum of \$76,000, including interest.

On March 27, Mr. Saderup did come in with the \$40,000 check. Unfortunately, the check did not clear the bank. Mr. Saderup, who was present at that meeting, was again present today.

Mr. Detor said there seems to be some question as to when the balance of the money was due. He said he has a copy of a letter which was sent to Destination Development advising them of the board's action. Our minutes also reflect that they had thirty days from the time of the board meeting to pay up the whole thing.

Mr. Detor further stated that the board's action was that if the full amount was not paid within thirty days (and that thirty days is up tomorrow), then the lease is automatically cancelled.

Mr. Yamamoto asked Mr. Detor whether he has any plans if we should cancel this lease.

Mr. Detor said if the lease is cancelled what we would have to do is to temporarily shut down the operation, hire some security people to watch it, and have a permit arrangement to continue the operation.

Mr. Yamamoto also wanted to know whether anybody showed interest in taking over the operation.

Mr. Detor said they didn't really approach anybody. He said once that lease is cancelled, then we are free to come to the board in terms of a permit which could be issued immediately, then follow up with a lease.

Mr. Detor further stated that at the last meeting a representative of the bank was present and he indicated that they have no intention of foreclosing.

Mr. Ono asked what was the latest communication from them. Mr. Detor said the only communication is from Mr. Saderup who called him this morning, and he was present to speak to the board.

Mr. Kealoha asked to defer this matter to the last and take up rest of the items first.

(See pages 13 to 15 for further action.)

RESUBMITTAL - REQUEST FOR TEMPORARY VARIANCE TO SURVEY TO  
CONSTRUCT ELECTRIC TRANSMISSION LINE ON CONSERVATION DISTRICT  
LANDS, WAHLAWA, OAHU (WINDFARMS, LTD.) (SUBMITTAL WAS DISTRI-  
BUTED AT BOARD MEETING)

ITEM H-9

This matter was deferred at the last board meeting in Kona for further study.

Staff recommended approval as originally presented at the last board meeting, with two additional conditions as follows:

8. That the applicant be granted a right of entry on state land for this purpose;



9. That the applicant provide the Division of Forestry the opportunity for spot checks to insure the conditions of the variance are met.

ACTION Unanimously approved as amended above. (Kealoha/Yagi)

ITEM H-1 REQUEST FOR LEAVE OF ABSENCE WITHOUT PAY, POSITION NO. 13120,  
PERSONNEL CLERK IV

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ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM H-2 SPECIAL-USE PERMIT RELATING TO BOATING IN THE AHIHI-KINAU NATURAL  
AREA RESERVE

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This was a request for the board to issue a permit to allow boat launching and landing to take place in the restricted area within the Ahihi-Kinau Natural Area Reserve, as well as traveling through the waters of the reserve from Kanahina Bay.

One of the conditions of the permit, according to Mr. Robert Lee, is after launching or entering back into the reserve that the route of the traverse be through the shortest route, which would be parallel to shore, away from Cape Kinau.

Mr. Lee said prior to the establishment of the reserve, this area, which is in the conservation district, was used for boating as well as for fishing, and back in the fifties Kanahina Bay was actually an informal boat launching site for the residents in the area. Remnants of the ramp are still at the Kanahina Bay, Mr. Lee said.

With the establishment of the reserve, the regulation prohibited any kind of boating and fishing. Mr. Lee said under the same regulation governing the use of the reserve, they are now asking that the board issue a permit to provide the residents with access out and to return to waters beyond the reserve.

Mr. Kealoha asked whether the surface waters or the submerged land is in the natural areas.

Mr. Lee said both the submerged land and surface waters are in the natural area reserve.

Mr. Kealoha asked how they reserve the surface waters and whether the conditions are the same as the natural reserve areas in the mountains or any other fast land. He also wanted to know why this is in the natural reserve area.

Mr. Lee said the reason they are placed in the reserve is to protect the marine components.

Mr. Kealoha said but they also reserve the surface of the water. He said no one can go there, including boats.

Mr. Lee said boats without motors can go in. This is to allow motorized boating. Mr. Kealoha said if it is in the natural reserve area, why was he asking to permit motorized boating on the surface of the water. Mr. Lee said because the present regulation prohibits motorized boating.

Mr. Kealoha said in that case it should be taken out from the natural reserve area.

Mr. Yagi asked whether they inquired of the enforcement officers from Maui. Mr. Lee said they sent them the permit for comments and they have indicated no objection.

Mr. Yagi asked whether the ramp is the responsibility of DOT. Mr. Lee said boating is the responsibility of DOT and they have a section within their own regulation governing the use of boating in the reserve, whereby under emergency conditions, motorized boats can enter. Any other use contrary to boating regulation can be conducted under issuance of a permit from this board.

Mr. Kealoha said since a portion of this is within the conservation district, this request should go through a CDUA process.

Mr. Lee said they are going on the basis that boating was always there; and the permit does not allow the development of a ramp.

ACTION Mr. Yagi moved to deny this request, Mr. Kealoha seconded, and the motion was unanimously carried.

(See page 2 for Item H-3.)

ITEM H-4 CDUA FOR NONCONFORMING SINGLE FAMILY RESIDENTIAL USE AT KALIHIWAI, HANAIEI, KAUAI (M/M CHAUNCEY W. PA)

This request was for a single family house at Kalihiwai on Kauai. Currently the land is vacant. Proposed use is nonconforming. Although it is within the limited subzone, staff has reviewed it under the criteria of nonconforming use. Their review indicated that this proposal does meet all the criteria for nonconforming use and recommended approval, subject to our standard conditions.

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

ITEM H-5 CDUA FOR COMMERCIAL RESTAURANT USE AT LAHAINA, MAUI (WILLIAM T. KINAKA ON BEHALF OF THE HAVEN RESTAURANT)

This was a resubmittal. It went through a public hearing. When it was originally presented, staff had recommended denial because the applicant was required to get an SMA permit. Subsequently he has obtained the permit. Staff recommended approval subject to the standard conditions.

Mr. Yagi asked whether they would have to go through the Land Management for a permit. Mr. Evans said that is correct and referred to Condition No. 4 of the submittal.

ACTION Unanimously approved as submitted. (Yagi/Hong)

ITEM H-6 CDUA FOR KUKUIOLONO RADIO STATION EXPANSION USE AT KOLOA, KAUAI (HAWAIIAN TELEPHONE COMPANY)

ACTION Unanimously approved submitted. (Yamamoto/Hong)

CDUA FOR EXTENSION AND LANDSCAPING TO EXISTING SINGLE FAMILY  
RESIDENTIAL USE AT TANTALUS, HONOLULU, OAHU (HENRY A.  
ALEXANDER)

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ITEM H-7

Staff recommended approval to this request. The board's attention was called to Condition No. 7. This is a standard condition, which states that the single family dwelling not be used for rental or any other commercial purposes. Mr. Evans said the applicant has expressed a certain degree of concern with the use of the term "rental". The applicant is elderly and he expects in the future to be moving into such place as the Arcadia.

Mr. Ono asked whether rental is for a single family dwelling purposes. Mr. Evans said yes.

Mr. Higashi said he saw no objection to a single family rental.

Mr. Evans suggested, and the board agreed, to amend Condition No. 7 to the extent restricting it to a single family dwelling purposes.

Mr. Ono questioned why the applicant is building the swimming pool when he is planning to move out. Mr. Evans didn't know why.

Mr. Higashi said the groundskeeper's house has to be attached. Mr. Evans said that is what this will do.

ACTION Mr. Kealoha moved to approve the application as submitted, with Condition No. 7 amended by adding "and restricted to single family purposes"; further that no addition be allowed. Mr. Higashi seconded and the motion was carried. Mr. Ono voted no only because he had some reservation about the swimming pool.

(See pages 4 and 5 for Item H-8 and pages 8 and 9 for Item H-9.)

RESUBMITTAL - REQUEST FOR TEMPORARY VARIANCE WITHIN STATE  
CONSERVATION DISTRICT FOR TRAIL CLEARING AND SURVEYING USES,  
AINAKOA VALLEY, HONOLULU, OAHU (THOMAS A. HITCH) (SUBMITTAL  
WAS DISTRIBUTED AT BOARD MEETING)

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ITEM H-10

This item was deferred at the last board meeting to allow the staff an opportunity to study the matter further. Staff recommended approval of the original submittal with two added conditions, as follows:

6. Clearing shall remain minimal to accomplish the survey and restricted to hand tools only.
7. No motorized vehicles (tractors) shall be utilized.

Mr. Ono said he would like to see the same condition on the spot checking which was added to Item H-9.

ACTION Mr. Kealoha moved, seconded by Mr. Yagi, and the board unanimously approved Item H-10 with the amendment as recommended by staff above, including Condition No. 8: "That the applicant provide the Division of Forestry the opportunity for spot checks to insure the conditions of the variance are met."

- ITEM I-1      APPOINTMENT OF VOLUNTEER CONSERVATION AND RESOURCES ENFORCEMENT OFFICERS, MAUI
- ACTION      Unanimously approved as submitted. (Kealoha/Yagi)
- ITEM J-1      TELEPHONE AGREEMENT, INSTALLATION, MAINTENANCE, AND OPERATION OF PUBLIC COIN TELEPHONES, HONOLULU INTERNATIONAL AIRPORT, LIHUE AIRPORT, KAHULUI AIRPORT, HANA AIRPORT, GENERAL LYMAN FIELD, KEAHOLE AIRPORT AND KAMUELA AIRPORT - OAHU, KAUAI, MAUI, HAWAII (HAWAIIAN TELEPHONE COMPANY)
- Mr. Kealoha said the public is still complaining about the no change return when they use the phones at the airport. They have no way of getting their change. He said the board asked, through the DOT, whether the telephone company can station somebody, at least within a reasonable distance, to take care this situation.
- Mr. Garcia said it could be very costly to the telephone company to station someone to take care this problem.
- Mr. Ono suggested that DOT look at it and get some kind of assessment from the telephone company as to what kind of problems they have.
- ACTION      Mr. Kealoha moved for deferral. Mr. Higashi seconded, and the motion was unanimously carried.
- ITEM J-2      MODIFICATION NO. 9 TO LEASE NO. DOT-A-73-35, HONOLULU INTERNATIONAL AIRPORT, OAHU (WESTERN AIRLINES, INC.)
- ACTION      Unanimously approved as submitted. (Kealoha/Higashi)
- ITEM J-3      APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS, AIRPORTS DIVISION
- ACTION      Unanimously approved as submitted. (Hong/Yamamoto)
- ITEM J-4      APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT, KAHULUI AIRPORT, MAUI (PACIFIC CONSTRUCTION CO., LTD.)
- ACTION      Unanimously approved as submitted. (Yagi/Kealoha)
- ITEM J-5      ISSUANCE OF A DIRECT LEASE, PIER 11, HONOLULU, OAHU (DAVIES MARINE AGENCIES, INC.)
- Mr. Hong said he has a conflict of interest in this matter and did not participate in any action taken by the board.
- ACTION      Mr. Garcia asked to withdraw this item. The applicant is no longer interested in the space.
- ITEM J-6      ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 11 GALLERY, HONOLULU, OAHU (HAWAII-PACIFIC MARITIME, INC.)
- ACTION      Unanimously approved as submitted. (Kealoha/Higashi)
- ITEM J-7      ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 42, HONOLULU, OAHU (P & R WATER TAXI)
- ACTION      Unanimously approved as submitted. (Hong/Yamamoto)

Destination Development (General Lease No. S-4140), Kauai

This was a continuation from pages 7 and 8. Mr. Detor said where we stand right now on the Destination Development lease is that the \$76,000, plus interest, will be due as of tomorrow, \$40,000 of which was to have been paid on the 27th of March, two weeks ago today. The \$40,000 check was submitted but it did not clear the bank, Mr. Detor said. Based on the board's previous action, Mr. Detor said the lease will be automatically cancelled tomorrow.

Mr. Ono said technically it was supposed to have been cancelled on the 26th if payment did not clear. He questioned whether any action can be taken today if further action is required.

Mr. Detor believed we could because we are not disposing of the land. He said we would be either cancelling or discontinuing what is already in existence.

Mr. Ono said the previous action by the board called for the cancellation of the lease, and the cancellation is already in effect, so you are actually re-issuing, and this would be a form of disposition.

Mr. Detor said staff can come in at the next board meeting with a submittal and make it retroactive.

Mr. Ono asked Mr. Saderup how he could have misinterpreted the board's motion. He said on such a major decision like this, he would think that Mr. Saderup, who is a businessman and a consultant, would check and recheck how many days he has and what his commitments are before he left the meeting.

Mr. Ono said if it is the board's desire to take action today, this matter must be added to the agenda first. He asked the legal counsel whether this matter can be added to the board agenda.

(The board recessed for ten minutes and resumed its meeting again at 11:35 A. M.)

Mr. Ono said because the \$40,000 check did not clear the bank, the lease will be cancelled because the condition was not met. The lease at this point, he said, is not valid.

Mr. Ono further stated that there is a question of whether this is considered disposition without giving the required 72-hour notice, and that the board cannot add this matter to the board agenda today. He said the earliest any legal action can be taken on this matter would be the next board meeting (April 24) if this item is placed on the agenda.

Mr. Boyd Saderup said it was his understanding that he had until the 27th of March to pay the \$40,000, and thirty days from that point to pay the remainder, plus interest. He said he personally brought in the \$40,000 check on the 27th and told Mr. Detor that they will have the remainder on the 27th.

Mr. Saderup said subsequently when he returned to Salt Lake City, he received a letter from the department saying that the money was due on the 11th of April and not on the 27th. So he called Mr. Detor and told him that

his financial people was nervous because they had arranged to have the money on the 27th and not on the 11th. They were afraid of losing the \$40,000 because they weren't prepared to make the final payment.

Mr. Saderup said Mr. Detor then contacted him and told him that the board minutes read that payment was due on the 11th.

Mr. Saderup said he conveyed that message to their financial people who informed him that on that basis they will not transfer the funds. He also informed Mr. Detor that he would be here today and try to cover the \$40,000 certified check before the close of business today, plus aiming for the 27th for the completion of the rest of the financing. He said there are currently forty people working there are the garden. If the place was closed down, there are general maintenance, the sound equipment and the musical equipment to consider. He hoped that the board will give them until the 27th to clear the total \$76,000, provided certified funds are raised.

Mr. Ono said all kinds of promises were made by Mr. Saderup in the past. He said he would like to see some tangible evidence that they are going to come through with this.

Mr. Ono asked Mr. Saderup whether the \$40,000 check can be delivered to our Kauai office before the close of the day today because our Kauai Office can officially accept the check.

Mr. Saderup said he will try to do that.

Mr. Kealoha said he personally would entertain the thought for reconsideration at the next board meeting if the \$40,000 certified check is paid before the close of business today. He further stated that if the check does not come in, he will not consider their request. He said he realizes that Mr. Saderup is trying to put things together.

Mr. Saderup thought that was fair.

Mr. Detor reminded Mr. Saderup that the next meeting of the board is on the 24th and not the 27th.

Mr. Saderup said he understands that. He said he would like to make a further commitment to the board that the \$40,000 is paid today, then on or before the 24th, the balance of the funds will be paid to Land Management.

Mr. Ono said if Mr. Saderup can deliver the remainder of the money on or before the meeting of the 24th, it will give him credibility with this board.

Mr. Ono asked Mr. Saderup what the arrangement was with his attorney. He asked whether we can deal through his attorney.

Mr. Saderup said his attorney, Mr. Norito Kawakami, came to him about a week and a half ago and said that he had a conflict. His client that his office was servicing was on the otherside of them. So it wasn't clear to them whether they should change attorney because of this conflict of interest. He has not resolved this yet.

Mr. Ono said Mr. Saderup is asking the board for reconsideration. It was Mr. Ono's understanding that if the check clears and when we get an application or a request for reconsideration from the applicant, that we put this

matter on the board agenda. The board was in unanimous agreement with Mr. Ono's understanding.

There was no further discussion on this matter.

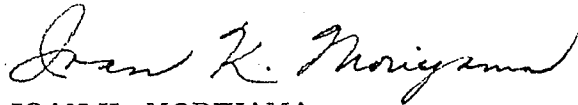
HB 546

Mr. Hong asked to note for the record the receipt of House Resolution 546 (1981 Session of the Legislature) congratulating the Department of Land and Natural Resources, the consultants, the contractors, and the citizens groups involved for the development of Sand Island State Park.

Mr. Ono said this was a nice gesture and recognition by the House of Representatives.

ADJOURNMENT There was no further business and the meeting was adjourned at 11:45 A. M.

Respectfully submitted,



JOAN K. MORIYAMA  
Secretary

APPROVED



SUSUMU ONO  
Chairman

jkm