

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

DATE: July 10, 1981

TIME: 9:00 A. M.

PLACE: State Office Building
Conference Room
Lihue, Kauai

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. Takeo Yamamoto
Mr. Roland Higashi
Mr. Thomas Yagi
Mr. J. Douglas Ing
Mr. Susumu Ono

(Mr. Stanley Hong was absent and
excused.)

STAFF

Mr. Roger Evans
Dr. John Corbin
Mr. Libert Landgraf
Mr. Robert T. Chuck
Mr. James Detor
Mr. Sam Lee
Mr. Wayne Hirata
Mrs. Joan K. Moriyama

OTHERS

Dep. A. G. Edwin P. Watson
Mr. Kurt Bosshard (Item H-2)
Mr. Howard Chang (Item H-1)
Mr. Calvin Murashige (Item H-1)
Mr. Chester Hunt (Item F-20)
Mr. Hartwell Blake (Item F-20)
Mr. Peter Garcia

MINUTES

The minutes of May 29, 1981 were unanimously approved as circulated.
(Higashi/Yamamoto)

The board unanimously voted to defer the minutes of June 12, 1981 until
the next meeting since the members did not have a chance to review them.
(Yagi/Yamamoto)

Added
Item

Mr. Higashi moved, seconded by Mr. Ing, and the board unanimously voted
to add the following item:

Bureau of Conveyances

Item G-1 -- Filing of Land Court Document Receiving Clerk II, Position No. 144

The board deviated from the printed agenda and took up the items in the
following order to accommodate those people in the audience:

ITEM H-2

CDUA FOR AFTER-THE-FACT ACCESSORY ADDITIONS TO EXISTING RESIDENTIAL USE (TOOL SHED ENTRANCE GATE) AT HAENA, KAUAI (KURT BOSSHARD)

Mr. Ono said he received a formal request from Attorney Boyce Brown asking for deferral of this item.

Mr. Kurt Bosshard apologized for his late request for deferral. He explained that Mr. Brown's absence was due to a last-minute meeting with one of the Supreme Court Justices. Further, they received staff's recommendation too late to make any comments today.

Mr. Bosshard said it may not be necessary to defer this matter until September 11, as requested by Mr. Brown in his letter. Mr. Bosshard said he will be taking his bar examination in late July and he is willing to postpone his trip to Alaska. He said we can reschedule this matter for early August meeting.

ACTION

Mr. Yamamoto moved to defer this item until the first meeting in August. Mr. Yagi seconded and the motion to defer was unanimously carried.

ITEM H-1

RESUBMITTAL - REQUEST FOR RECONSIDERATION OF VIOLATION OF LAND USE AT KOLOA, KAUAI

Mr. Calvin Murashige, attorney representing Poipu Sands, Kenneth Shioi & Co. and Smith's Tree Expert, Inc.; and Mr. Howard Chang, attorney representing Louis K. Rego Trucking Company, were present at the meeting.

Mr. Chang asked for continuance of this case for at least two months. He said he met with Mr. Roger Evans and received lots of documents related to prior activities in this case. He said he did not have a chance to review all of them and asked for deferral of two months.

Mr. Murashige also asked for deferral. He also needed more time to review staff's materials.

Mr. Murashige further stated that he contacted Mr. Stanley Kuriyama, attorney for ADM, and expressed to him what his intentions were today. He said Mr. Kuriyama had no objection to the deferment.

Mr. Higashi asked both attorneys whether they were representing all parties who were enjoined in the litigation.

Mr. Murashige said the only party who is involved in the litigation is ADM.

Mr. Ono found it disturbing that Mr. Chang said he didn't have a chance to look at the files and that he was asking for continuance. He asked Mr. Chang when Mr. Rego received the notice.

Mr. Chang said Mr. Rego received the notice of this meeting on June 12.

Mr. Ono questioned whether Mr. Kuriyama got his material. He said he was curious to know what his specific reasons were in asking for continuance of this case. Mr. Murashige said Mr. Kuriyama didn't indicate to him in any detail what his position was. However, he did state that he received staff's submittal sometime last week.

Mr. Ono said as far as the agenda for today's meeting was concerned, he assumed that he was made aware much sooner than that.

ACTION Mr. Yamamoto moved to defer this item until the first meeting in September. Mr. Higashi seconded.

Before voting on the question, just so that there was no misunderstanding, Mr. Ono said the September 11 date is firm. There will be no further postponement or deferral for whatever reason. Mr. Ono further stated that what we plan to do is to issue a set of guidelines within the next few days so all parties will know what needs to be done.

On the call of the question, the motion to defer this matter until the first meeting in September was unanimously carried.

APPROVAL TO ENTER INTO AN AGREEMENT WITH THE UNIVERSITY OF HAWAII SEA GRANT COLLEGE PROGRAM TO IMPLEMENT SUPPORT FOR FRESHWATER PRAWN FARMING EXTENSION SERVICE (JUNE 1, 1981 TO MAY 31, 1982)

ITEM B-1

Dr. John Corbin made the presentation for the Division of Aquatic Resources.

ACTION Unanimously approved as submitted. (Ing/Higashi)

AWARD OF CONTRACT, PROJECT NO. DF-14, FURNISHING AND DELIVERING GALVANIZED FENCING MATERIALS, DIVISION OF FORESTRY AND WILDLIFE, WAILUKU, MAUI

ITEM C-1

ACTION The board, on Mr. Yagi's motion and seconded by Mr. Ing, unanimously voted to award the subject contract to Lacy Steel, Inc., the one valid bidder, at the bid price of \$5,220.77.

ITEM C-2 APPOINTMENT OF DISTRICT FIRE WARDEN, DISTRICT 2, MAUI

ACTION Mr. Donald R. Gerbig was unanimously appointed as District Fire Warden for District No. 2, Island of Maui, on Mr. Yagi's motion and seconded by Mr. Higashi.

ITEM C-3 APPOINTMENT OF DISTRICT FIRE WARDEN, DISTRICT 13, MOLOKAI

ACTION The board, on Mr. Yagi's motion and seconded by Mr. Higashi, unanimously approved the appointment of Mr. Aka Hodgins as District Fire Warden, District No. 13, on the Island of Molokai.

Mr. Ono asked Mr. Landgraf to brief the board on the recent fires and the alala project.

Mr. Landgraf reported that for the 4th of July week end alone in the City and County of Honolulu, there were 172 brush fires. The fire at Makakilo on Oahu was the largest. He said the forestry people got involved because two brush fires were on state lands (forest reserve). One was in Kunia and one at Waiawa. Mr. Landgraf said at considerable expense they had to bring in their forestry staff from Kauai, Hilo and Maui. In total forty-eight people were brought in. This action was necessary because the fire department could not tackle some of these fires themselves.

Mr. Landgraf said, as he discussed with Mr. Ono, we should set some policy as soon as possible when and where we get involved. He explained that we do have cooperative agreements with all respective county fire departments, but it has serious effects on our programs. It is a very serious problem. One difficulty was the Mauna Kea sheep hunting. He said his staff involved with the Mauna Kea sheep hunting were on the fires all day Sunday, Sunday night and all day Monday. Twelve of them caught the plane the following morning at 6 A. M. for Hilo, and they went directly from the airport to Mauna Kea to hunt sheep.

Mr. Landgraf reported that the Mauna Kea sheep hunting is going on very well. They estimate the total number down to less than 100. He assured the board that they will make the August 1 deadline.

On the alala project, Mr. Landgraf said Tim Burr and Peter Luscomb from his staff have done an outstanding job. They have actually set biological history and this is the first time it has ever been done. He said all this time the "big" people were saying that we have to send the alala to San Diego Zoo and let the experts do it. He said we can now safely say that we can do our own thing here, particularly with the alala.

Mr. Landgraf further reported that an individual and the Big Island representative of Sierra Club have gone to the Ombudsman's Office and filed a complaint that we have not filed an EIS as to what we are doing with the eggs and the birds. The OEQC has informed the Ombudsman's Office that they felt this is a matter that the commission should decide. The last word that they got is that because of the success that has taken place with the alala project, they probably don't have to file an EIS.

ITEM D-1

APPOINTMENT TO ENGINEER (CIVIL) III POSITION, DIVISION OF WATER AND LAND DEVELOPMENT (NO. 13172)

ACTION

The board, on Mr. Higashi's motion and seconded by Mr. Ing, unanimously approved the appointment of Mr. Stephen H. Miyamoto to the Engineer (Civil) III position.

ITEM F-1

DOCUMENTS FOR CONSIDERATION

HAWAII

Item F-1-a

ASSIGNMENT OF LEASE

DENNIS J. BIGGERSTAFF, whose wife is Rae Lynette Biggerstaff, Assignor, to PENNIMAN TITLE COMPANY, INC., a California Corporation - Lot 25, Ocean View Lease Lots, Waiakea, South Hilo (G. L. No. 3158)

Mr. Higashi questioned the \$58,000 consideration. Mr. Detor explained that they are paying for the improvements. He called the board's attention to the assignment being made to a company rather than to an individual. He said for the present-day leases you wouldn't be able to do that. However, this is an old lease (there are very few in existence), and it is legally okay for a company to have it.

Mr. Higashi said the lessees should be made aware what they are getting into. This is a nonconforming use. Residential zoning is different from county zoning.

For the board's information, Mr. Detor said the Ocean View Lease Lots in Hilo is zoned industrial, and these leases have been in existence for

a long time. These leases have been extended because of the tidal wave under the natural disaster provision of the law. Under the industrial zoning, these leases are grandfathered, but the lessees cannot add to the existing houses. They cannot knock it down and rebuild. All they can do is to make repairs. Currently, there are two empty lots right now since the houses burned down and they cannot put up new houses, Mr. Detor said.

Item F-1-b TRANSFER

MARTIN FELIPE BARTOLOME to MARTIN FELIPE BARTOLOME and GREGORIA BARTOLOME, husband and wife, as tenants by the entirety - Lot 3, Block 1, Kaniahiku Village Site, Kaniahiku, Puna - SSA No. S-5519

For this item, Mr. Detor said the board would have to waive its option to repurchase the subject lot only for the transfer of title to Martin Felipe Bartolome and Gregoria Bartolome, and approve the transfer.

MAUI

Item F-1-c REVOCABLE PERMIT

JOSEPH NAKOA SAROL - Government land, portion of Kahakuloa Homesteads, Kahakuloa, Wailuku - for access easement - \$5.00 monthly rental

OAHU

Item F-1-d REVOCABLE PERMITS

URBAN M. NISHIKI and MYRNA S. SEN, Co-permittees - portion of land adjoining Nuuanu Stream, Pauoa - for parking purpose - \$31.00 per month

Item F-1-e NED H. KELLEY - Portion of Lot 15, Block 30, Auwaiolimu Lots, North Slope of Punchbowl, Honolulu - for maintenance and for home gardening purposes ; \$25.00 per month

Item F-1-f DANNY H. JENKINS - Portion of land of Waiono, Koolauloa - for home gardening purposes - monthly rental to be established by staff appraisal

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

ITEM F-2 STAFF RECOMMENDATION FOR SALE OF A LEASE COVERING LOT 21, PANAEWA FARM LOTS, 2ND SERIES, WAIAKEA, SOUTH HILO, HAWAII

ACTION Unanimously approved as submitted. (Higashi/Ing)

ITEM F-3 STATE MUTUAL LIFE ASSURANCE CO. APPLICATION FOR ACCESS EASEMENT, OOMA II, NORTH KONA, HAWAII

ACTION Unanimously approved as submitted. (Higashi/Yagi)

ITEM F-4 MAUI ELECTRIC CO., LTD. REQUEST FOR AMENDMENT OF PREVIOUS BOARD ACTIONS AUTHORIZING SALE OF EASEMENT AT LAHAINA, MAUI

This was an amendment to a transaction that has been pending for a number of years on Maui involving electric transmission lines on the Lahainaluna School grounds. Mr. Detor said there has been a change basically in the alignment for the easement.

ACTION Unanimously approved as submitted. (Yagi/Higashi)

ITEM F-5 EAST MAUI IRRIGATION CO., LTD. REQUEST FOR HOLD-OVER OF GENERAL LEASE NO. 3578 (HUELO WATER LICENSE), MAUI

This was a request for hold-over tenancy. Mr. Detor said this is one of four licenses that provide for the taking of water from the East Maui watershed. Mr. Detor said staff is trying to get all four of the licenses to a common expiration date. He said the Hanapepe water case is still pending so they are awaiting decision on that before they get into this one.

Mr. Ing asked whether this is at the old rate.

Mr. Detor said this is the current rate and it is geared to the price of sugar.

ACTION Unanimously approved as submitted. (Yagi/Ing)

ITEM F-6 COUNTY OF MAUI REQUEST FOR EXECUTIVE ORDER SETTING ASIDE SEWER PUMP STATION SITE AT HONOKOWAI, KAAHAPALI, LAHAINA, MAUI

Mr. Detor asked to make one correction to the submittal. He said Parcel 26 of Tax Map Key 4-4-01 should correctly read 2,981 square feet.

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

ITEM F-7 DOE REQUEST FOR ACCEPTANCE OF CONVEYANCE OF LAND AT MANANA-UKA, EWA, OAHU

ACTION Unanimously approved as submitted. (Ing/Higashi)

ITEM F-8 FIRST SAMOAN ASSEMBLY OF GOD REQUEST FOR ADJUSTMENT OF RENTAL, GENERAL LEASE NO. S-4603 COVERING AIR SPACE UNDER THE PALAMA OVERPASS, HONOLULU, OAHU

The subject lease was issued to First Samoan Assembly of God at a rental of \$10,150 per annum for the first fifteen years, with reopening at the end of fifteen years. The lease required construction of a church and related facilities at a minimum cost of \$40,000. They have done this and satisfied the building requirement.

The Department of Transportation has had the appraiser, who did the original appraisal, go over his figures and he has concluded that some of the adjustments were not correct. So he is recommending that the rent be reduced to \$6,372.00. At the reduced rate they will be paying \$531.00 per month. They have been paying by the month at \$845.83.

Mr. Ing asked whether there is a provision in the lease which allows us to reduce the lease rent.

Mr. Detor said there is no specific provision in the lease. However, because this lease was issued directly to the church by agreement between the two parties, the provision can be changed. If the lease was sold at public auction you couldn't do that, Mr. Detor said.

Mr. Ing asked why we are going back to the commencement date, and whether we are going to give them credit. He was concerned about setting a precedent.

Mr. Detor said the amount that has been paid in will be applied to the rent. He added that the use is taken into consideration in establishing the rent. In the section of the law that this lease was let (to an eleemosynary institution), it does call for rent. He said there are other types like youth athletic activities, camp sites, where you can let a lease for a nominal consideration (\$1.00 a year), but not for church use.

Mr. Ono asked Mr. Detor whether they asked for retroactivity. He said he had some reservations about the retroactivity. If they had not required it and we are recommending it, he didn't know whether there is a basis for it.

Mr. Deor said he was not positive on this and said he will check into that.

ACTION Mr. Ono suggested that this matter be deferred for more information until the next meeting. The board had no objection to the deferral.

ITEM F-9 DAGS REQUEST FOR ACQUISITION OF EASEMENT FOR SEWER PIPELINE, HALAWA, OAHU

ACTION Unanimously approved as submitted. (Yagi/Ing)

ITEM F-10 STAFF RECOMMENDATION FOR AMENDMENT OF PREVIOUS BOARD ACTION (3/27/81, AGENDA ITEM F-17) GRANT OF EASEMENT TO OCEANIC PROPERTIES, INC., SAND ISLAND ACCESS ROAD, HONOLULU, OAHU

ACTION Unanimously approved as submitted. (Ing/Yagi)

ITEM F-11 CITY AND COUNTY OF HONOLULU APPLICATION FOR SEWER EASEMENT AT KANEOHE, KOOLAUPOKO, OAHU

ACTION Unanimously approved as submitted. (Yagi/Ing)

ITEM F-12 RESUBMITTAL - STAFF RECOMMENDATION FOR CANCELLATION OF R. P. NO. S-5604, WAILUA BEACH, WAILUA, KAUAI

Mr. Detor asked to withdraw this item. The permittee has posted the insurance policy that was required of him.

Mr. Ing asked whether there is some provision in the policy that the state be notified if the premiums are not paid. Mr. Detor said we do receive a 30-day or 60-day notice from the insurance companies informing us of the cancellation for nonpayment.

Mr. Ono asked whether we check on the insurance portion also when our annual rentals for all of the permits are being reviewed, or do we just assume that it is covered.

Mr. Detor wasn't sure whether they are doing it or not. He said this is a good idea.

Mr. Ing said staff should also check the amount. He said the minimum coverage may not be enough. They may be old rates.

ACTION This matter was withdrawn at the request of the staff.

ITEM F-13 COUNTY OF KAUAI, DEPARTMENT OF WATER SUPPLY, REQUEST FOR RIGHT OF ENTRY AND E. O. COVERING LAND AT WAILUA, KAUAI

This was a request for the County of Kauai, Department of Water Supply, for a right of entry and executive order setting aside a tank site. Mr. Detor brought out one point which he said he discussed at the staff meeting and also with Deputy Attorney General Edwin Watson this morning. Any executive order that is issued goes to the legislature and the executive order can be denied by the legislature. If an area is set aside to the county and the county goes ahead and puts in an improvement which furnishes water to a subdivision, what happens if the legislature at the next session denies or vetoes the executive order? He asked whether there is any liability on the part of the state. Mr. Detor said what they were wondering is whether or not they should put in a specific provision in the executive order spelling it out.

Mr. Higashi said probably it can be worded in the document that they recognize the risk.

Deputy Attorney General Watson said if there is some concern they can discuss it later.

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

ITEM F-14 CITIZENS UTILITIES CO. APPLICATION FOR EASEMENT AT WAILUA, KAUAI

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

ITEM F-15 STAFF RECOMMENDATION FOR SALE OF LEASE COVERING TAX MAP KEY 4-3-04:1, 14 AND 17, KAPAA, KAUAI

What was proposed here is to sell a new lease before January which covers not only that portion of the proposed new lease which is presently under lease, but also a part which is presently under a permit.

Mr. Yamamoto asked why the lease was being made for only ten years.

Mr. Detor said these are improved areas. There isn't a great deal of investment required to be put in so they don't need a longer period of time to amortize their investment. Furthermore, Mr. Detor added that staff made a study and found out that we give out the longest lease of any state. Most of them issue five or ten-year leases.

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

ITEM F-16 AMFAC PROPERTY DEVELOPMENT CORP. REQUEST FOR RIGHT OF ENTRY FOR GRADING AND DISCHARGE OF WATER INTO DITCH AT KEKAHA, KAUAI

Mr. Detor said back in February, the board approved the issuance of a land license to Amfac to quarry some 20,000 cubic yards of top soil from state land at Kekaha which was to be used in grading and landscaping of the Kekaha Beach Homes Subdivision which the company is developing. They now want a right of entry to adjoining state land in order to grade and to run the drainage water into a ditch.

Mr. Higashi suggested that we have a relocation provision in the document in the event that the state intends to develop the area in the future.

Mr. Ing asked what happens in the event heavy rain comes and the area back fills. Once the developer is out of the picture, who is responsible for the maintenance?

ACTION Mr. Yamamoto asked for deferral. The board had no objection to deferring this matter.

ITEM F-17 CITIZENS UTILITIES CO. AND HAWAIIAN TELEPHONE CO. APPLICATION FOR EASEMENT AND COUNTY OF KAUAI REQUEST FOR EXECUTIVE ORDER, HANAIEI, KAUAI

ACTION Unanimously approved as submitted. (Yamamoto/Higashi)

ITEM F-18 DOT REQUEST FOR E. O. SETTING ASIDE TIDAL AND SUBMERGED LAND AT KUKUIULA, KOLOA, KAUAI

ACTION Unanimously approved as submitted. (Yamamoto/Higashi)

ITEM F-19 STAFF RECOMMENDATION FOR SCHEDULING OF PUBLIC HEARING IN CONNECTION WITH DIVISION OF FORESTRY & WILDLIFE REQUEST FOR E. O. SETTING ASIDE ADDITION TO THE LIHUE-KOLOA FOREST RESERVE, WAILUA, LIHUE, KAUAI

This was a recommendation that the board approve of and recommend to the governor that a public hearing be held on Kauai for the purpose of setting aside approximately 411 acres of state land at Wailua for addition to the Lihue-Koloa Forest Reserve. This land was formerly under a lease to Lihue Plantation. The board, in 1971, authorized the sale of a new lease, but staff did not go through with it because the area wasn't really suitable for cane cultivation. The intent was to add it to the forest reserve.

Mr. Higashi asked whether this land is suitable for other kinds of agricultural use.

Mr. Detor said the Division of Forestry and Wildlife has asked for this area. Staff felt that addition to the forest reserve probably is a better use.

Mr. Landgraf briefly described the area and added that the subject area is swampy. He said in one particular place the soil is so bad that nothing would grow.

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

ITEM F-20 RESUBMITTAL - CHESTER HUNT REQUEST FOR CONSENT TO SUBLEASE, GENERAL LEASE NO. S-4649, KEKAHA TOWN LOTS, KEKAHA, KAUAI

This matter was deferred at the last board meeting in order to give the board members more time to review the materials that were submitted to them at that time. Mr. Detor said the lessee does not agree with the figure that our staff appraiser had set. The present rate is \$3,900 a year. Staff recommended that this be increased to \$10,600, an increase of some \$6,700.00.

Mr. Ono asked Mr. Detor to inform the board what happened between the applicant and the staff since the last meeting.

Mr. Detor said the lessee requested information on other leases where the rental had been increased in the past so they can make some kind of comparison. Staff did send this material to them. Other than that they have not had any further contact.

For the benefit of Mr. Yamamoto who was absent at the last board meeting, Mr. Wayne Hirata, staff appraiser, briefly summarized what happened at the last board meeting. He said the basic point of contention is the 12% allowance or recapture of the investment and profit.

Mr. Chester Hunt and his attorney, Mr. Hartwell Blake, were present at the meeting. Mr. Blake said they did not feel that 12% is fair. He said they asked Mr. Hirata on three different occasions to show them how he arrived at this figure. He declined to do so since this information was not provided the board members at that time. So they have not had a chance to go over his figures. Mr. Blake said the investment return on the building, which was listed at 12%, does not include a reasonable figure for amortizing the total investment on the land. They arrived at this by using the guidelines which the state has set.

Mr. Blake asked that they be treated in the same manner that the state has treated lessees intending to sublease in the past, and that the state adhere to the guidelines that provide for depreciation or amortization rate to be set forth and to be utilized in arriving at a final figure. He said what they are asking is that they be allowed a depreciation rate, which is based on straight line depreciation of the improvement over the remaining term of the lease. They felt that if that is done there will be no increase in ground rent at the present time.

Mr. Blake continued that they do not dispute the 12% return on the investment if it is strictly a return on the investment. If it is going to be construed as a lumping together of depreciation and return on the investment, then they dispute it because this investment is worth less and less every year to his client. He said during the last month of the lease, this investment is worth nothing to them. He asked that Mr. Hunt be allowed to write his investment off since the building and the land go back to the state at the end of twenty-five years.

Mr. Blake summarized his presentation and asked the board to approve (1) the subleases to the U. S. Post Office and Hidden Treasure; (2) their request to be able to mortgage the lease; and (3) that the lease not be revised upwards at this time.

Mr. Higashi asked Mr. Hunt who is responsible for the maintenance of the building. He asked who repairs the building when it leaks.

Mr. Hunt said he is responsible for the painting of the building and the servicing of the air conditioners. He didn't know what the lease calls for, but as far as the leak in the building, he thought the Post Office people is responsible for that.

Mr. Higashi said depreciation is in lieu of repairs and maintenance expense. He said if they don't have that, they shouldn't be entitled to depreciation.

Mr. Blake said Mr. Hunt has to invest a total figure of \$225,000. At the end of the lease period, the improvement remains with the state.

Mr. Higashi said he knows that. However, he said if there is no maintenance expense, he is not entitled to depreciation.

Mr. Hunt said this should be classified as a replacement of capital. He said they are talking about an actual loss.

ACTION Mr. Yamamoto moved to approve this request as recommended by staff. Mr. Yagi seconded the motion.

Mr. Higashi asked whether the guidelines and the methodology presented in the submittal are the guidelines of the board.

Mr. Detor said the language in the lease is taken directly out of the statutes and is quoted in the second page of the board submittal. He said the key word is, "revise the rent of the demised premises based upon the rental rate charged to the said sublessee."

Mr. Ing said there is a pending motion on the floor, however, he would like to explore the possibility of having this matter deferred to allow the staff some time to try to negotiate, based upon the differences of positions between the lessee and the staff. He didn't know whether that has been explored. He asked how the staff felt about that.

Mr. Detor said there may be some room for negotiation but what we are charged with is specifically as listed in the law. He said he goes along with the staff's recommendation. He added that the purpose of making state lands available is to satisfy a need, not to provide an investment opportunity.

Mr. Ing said the drift of what he got from the lessee is that he is not going to be able to make the additional \$6,700 on an annual basis. He said that seems so far apart that it seemed to him that there is some middle ground. To present only one option to the board, he said, doesn't give the board much flexibility.

Mr. Yagi asked Deputy Attorney General Watson if the board deviates from the set guidelines, can the board be held liable for discrimination?

Mr. Watson said he asked Mr. Hirata earlier whether or not he followed the guidelines adopted by the board. He said he did. He took the guidelines set by the board and used the method that he has been using in the past and he arrived at this set of figures. As far as any discussion about deviating, he has not deviated. So Mr. Watson said he was satisfied with the method used.

Mr. Detor said this is not a regular reopening. However, on a regular reopening there is an arbitration provision. He said there is nothing to stop the board to go to arbitration.

Mr. Higashi asked Mr. Hunt whether they are firm on the amount that he wants as far as the formula and the proposed rent are concerned.

Mr. Hunt said based on what they have been provided, his offer is firm.

Mr. Hunt asked whether the motion to approve included the subleases and the mortgage.

Mr. Detor said the request for consent to mortgage is not listed here. However, he had no objection to include that in the recommendation.

Mr. Yamamoto amended his original motion to include the consent to mortgage. Mr. Yagi seconded. On the call of the question, the motion was carried with Mr. Higashi casting the only no vote.

ITEM F-21 DLIR REQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE AT
180 KINOOLE STREET, HILO, HAWAII

Mr. Ono thought that with the cutting of the federal funds, Labor Department was cutting down on their staff. He asked the staff to check this out.

ACTION Mr. Higashi moved to approve this request, Mr. Yagi seconded and the motion was unanimously carried. Staff was directed to check with Labor Department first about the reduction in force, with possible relocation in the event it is physically impossible to reduce the area.

ITEM F-22 RESUBMITTAL - DOH REQUEST FOR ACQUISITION OF LEASE COVERING
OFFICE SPACE AT 54-010 KUKUNA ROAD, HAUULA, OAHU

This was a resubmittal. This matter was deferred at the last meeting because the board questioned why we are being charged for the rent, and why this matter was being processed now. The commencement date is November 15, 1979.

Mr. Detor reported that this matter was submitted about a year ago and it was deferred. The state in the meantime has been paying rent all this time. City claims that this is the pro-rata share of the operating expenses.

ACTION Unanimously approved as submitted. (Ing/Yamamoto)

ITEM F-23 WILLIAM K. M. CHEE APPLICATION FOR EASEMENT, WAIMANALO, OAHU
(SUBMITTAL TO BE DISTRIBUTED AT BOARD MEETING)

ACTION The submittal was not distributed at the meeting so no action was taken on Item F-23.

ADDED ITEM G-1 FILLING OF LAND COURT DOCUMENT RECEIVING CLERK II, POSITION
NO. 144

ACTION Mr. Yagi moved, seconded by Mr. Yamamoto, and the board unanimously approved the appointment of Sandra Furukawa to Position No. 144, Land Court Document Receiving Clerk II, effective July 16, 1981.

(See pages 2 and 3 for Item H-1 and page 2 for Item H-2.)

ITEM H-3 RESUBMITTAL - CDUA FOR EXPLORATORY WELL IV DRILLING USE AT
WAIANAE, OAHU (C&C/BOARD OF WATER SUPPLY)

ITEM H-4 RESUBMITTAL - CDUA FOR EXPLORATORY WELL V DRILLING USE AT
WAIANAE, OAHU (C&C/BOARD OF WATER SUPPLY)

Items H-3 and H-4 were deferred at the last meeting. Mr. Evans said the Legal Aid Society had expressed some concern about the transfer of water out of the valley. He said he explained to them that these applications are solely for exploratory wells to see whether or not there is water. If there is no water, we would expect the well to be capped. On the other hand if it does prove successful, then we would expect them to file a CDUA for water development and prepare an EIS.

Staff recommended that Items H-3 and H-4 be approved, with added Condition No. 6, "That this approval is for exploratory drilling only. Should the well prove feasible, a follow-up CDUA and EIS shall be submitted and land board approval obtained prior to its development."

ACTION Mr. Ing moved to approve Items H-3 and H-4 as amended above. Mr. Higashi seconded and the motion was unanimously carried.

ITEM H-8 REQUEST FOR TEMPORARY VARIANCE AT FORT DERUSSY, OAHU (U. S. CORPS OF ENGINEERS)

This was a request for temporary variance by the Corps of Engineers at Fort DeRussy. What they propose to do is to replenish the Fort DeRussy Beach, and they will be going out into the water area cleaning it. The beach along Waikiki is zoned urban. The area, however, is in conservation district.

The Division of Aquatic Resources (the former Division of Fish and Game) has expressed two specific concerns. Mr. Evans said this submittal was written based on their concerns. There are lots of people who would like to use that area for oama fishing. The Division of Aquatic Resources did not want to see the oama run being jeopardized by this action. Also, in 1975 the beach had been replenished. Now it's gone again and they want to replenish again. It appeared that the proposed beach fill could ultimately impact aquatic resources outside the project area, through continued erosion. Mr. Evans said neither comments were addressed in the environmental assessment that the Army Corps of Engineers wrote. Their assessment resulted in a finding of nonimpact. Also, when they wrote the environmental assessment, they had failed to contact any one in our department, particularly the Division of Aquatic Resources staff.

Mr. Evans said the Division of Aquatic Resources subsequently had an opportunity to review staff's recommendation, and by memo dated July 8 to Mr. Evans, they elaborated their remarks. They now feel that with conditions it would be appropriate for the project to go on as scheduled.

Mr. Evans, therefore, suggested that his recommendation be amended, that the temporary variance for beach repair and reconstruction at Fort DeRussy be approved, subject to our standard conditions, and the following two conditions:

1. That no work occur during the oama-halalu run as determined by the Division of Aquatic Resources.
2. That the Army Corps of Engineers pursue the matter of a major engineering study of the entire beach frontage of Waikiki to assess the magnitude of the problem, and to evaluate the possible solution so that the state has the benefit of a study prior to future similar requests.

ACTION Mr. Ing moved to approve the request as amended above. Mr. Yagi seconded and the motion was unanimously carried.

ITEM H-5 FILLING OF POSITION NO. 13086, ACCOUNTANT IV, ADMINISTRATIVE SERVICES OFFICE

ACTION Mr. Higashi moved to approve the appointment of Alvin Tamashiro to Position No. 13086, Accountant IV. Mr. Yagi seconded and the motion was unanimously carried.

ITEM H-6 REQUEST FOR PER DIEM EXPENSES DURING A PROPOSED VISIT TO WASHINGTON, D. C. BY THE MANAGER TO DISCUSS HAWAII AQUACULTURE DEVELOPMENT WITH CONGRESSIONAL STAFF AND FEDERAL OFFICIALS

Mr. Ono asked the board to consider an amendment to the submittal. He

said he would like to include travel and other expenses that Dr. Corbin would incur while he is on official state business in Washington, D. C.

ACTION Unanimously approved as amended. (Higashi/Yagi)

ITEM H-7 PERMISSION TO CONTRACT WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII TO CARRY OUT A PROJECT ON LOW TEMPERATURE STORAGE OF THE FRESHWATER PRAWN, MACROBRACHIUM ROSENBERGII

ACTION Unanimously approved as submitted. (Yagi/Yamamoto)

ITEM J-1 ADDENDUM NO. 1 TO LEASE NO. DOT-A-80-11, LIHUE AIRPORT, KAUAI (FEDERAL AVIATION ADMINISTRATION)

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

ITEM J-2 LEASE - CONCESSION, INSTALLATION, AND OPERATION OF TWO BILL/COIN CHANGERS, WAITING LOBBY BUILDING, HONOLULU INTERNATIONAL AIRPORT, OAHU (CHARLES ECKERT, DBA SECURITY BUSINESS SYSTEMS OF HAWAII)

There was a brief discussion about the machine. The board expressed several concerns, such as, what happens if the change doesn't come out; who is going to be responsible, etc.?

ACTION Mr. Ing moved to approve. There was no second.

Following further discussion, the board unanimously agreed to defer this matter until the next board meeting and requested that the applicant be present to answer some of the board's questions.

ITEM J-3 ADDENDUM NO. 1 TO LEASE NO. DOT-A-80-17, HONOLULU INTERNATIONAL AIRPORT, OAHU (ALFRED ABIVA)

ACTION Unanimously approved as submitted. (Yagi/Yamamoto)

ITEM J-4 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS, AIRPORTS DIVISION

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM J-5 RESUBMITTAL - SALE OF A LEASE BY PUBLIC AUCTION, HARBORS DIVISION, HONOKOHAU BOAT HARBOR, KEALAKEHE, HAWAII

Mr. Higashi said it was his understanding that we have some kind of an agreement on the boundary and maintenance of the road.

Mr. Garcia said under the agreement, the Department of Transportation will assume the maintenance and upkeep of the roadway going into this area as long as DOT is the primary user of that roadway. He said once there is a multiple use of the roadway it probably will be transferred to an agency who will maintain the roadway.

Mr. Garcia said this request was approved by the board at its meeting on June 27, 1980. At that time the board approved it pending receipt of an executive order, but they have not received the executive order. Since the people there are anxious to get the boat repair facility going, DOT is asking that they be given permission to issue the lease.

Mr. Detor said since the agreement has been reached on the boundary and the maintenance of the road, they can now process the executive order.

ACTION Unanimously approved as submitted. (Higashi/Yagi)

ITEM J-6 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 1, NAWILIWILI HARBOR, KAUAI (YOUNG BROTHERS, LTD.)

Mr. Ing informed the board of a possible conflict and disqualified himself. He did not participate in any action taken by the board on this item.

ACTION Mr. Yamamoto moved to approve, Mr. Yagi seconded, and the motion was carried.

ITEM J-7 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KAUNAKAKAI WHARF, MOLOKAI (DEL MONTE CORPORATION)

ACTION Unanimously approved as submitted. (Yagi/Yamamoto)

ITEM J-8 USE OF HARBORS DIVISION FACILITIES, PIERS 9 AND 10 PASSENGER TERMINAL, HONOLULU, HAWAII (PEOPLE FOR KINA'U BOYD KAMALI'I)

ACTION Unanimously approved as submitted. (Yagi/Higashi)

ITEM J-9 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NAWILIWILI HARBOR, NAWILIWILI, KAUAI (REYNOLDS ALUMINUM RECYCLING CO.)

This was deferred at the last board meeting on Maui. The request for deferment was to find out what the impact would be on other recycling activities. Mr. Garcia said he received a letter from one recycling group. They are in favor of Reynolds Aluminum Recycling getting this and they are withdrawing all of their operations from all of the islands.

Mr. Garcia further stated that he received a call from Mrs. Betty Crocker from the Outdoor Circle. They definitely want to get out of the recycling business and they wholeheartedly endorse Reynolds Aluminum's program. Mrs. Crocker is also a member of the Litter Control Board, and she said their board has been working with Reynolds Aluminum and they are happy with the arrangement. Reynolds will be having recycling centers on each island.

Mr. Garcia said Mrs. Crocker asked him to convey her appreciation to the board for their concern on this matter.

ACTION Unanimously approved as submitted. (Yamamoto/Higashi)

ITEM J-10 REQUEST FOR APPROVAL OF ISSUANCE OF REVOCABLE PERMIT NO. HY-81-680, HIGHWAYS DIVISION, PORTION OF RIGHT OF WAY, NIMITZ HIGHWAY PORTION OF PARCEL 1, HONOLULU, PEARL HARBOR ROAD, OAHU (BOB'S EQUIPMENT RENTAL AND SALES)

ACTION Unanimously approved as submitted. (Yagi/Yamamoto)

ITEM J-11 REQUEST FOR APPROVAL OF ISSUANCE OF REVOCABLE PERMIT NO. 81-679, HIGHWAYS DIVISION, ADJACENT TO LUNALILO FREEWAY AND KEEAUMOKU STREET, HONOLULU, OAHU (MACHIYO ONO)

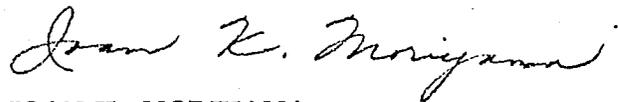
ACTION Unanimously approved as submitted. (Yagi/Yamamoto)

ISSUANCE OF VENDING MACHINE AGREEMENT, HARBORS DIVISION, KEEHI
SMALL BOAT HARBOR, HONOLULU, OAHU (AL WALLACE, DBA MARY-MARY
ITEM J-12 ICE CREAM VENDORS)

ACTION Unanimously approved as submitted. (Yagi/Yamamoto)

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