

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

DATE: September 11, 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. Roland Higashi
Mr. Stanley Hong
Mr. Douglas Ing
Mr. Thomas Yagi
Mr. Takeo Yamamoto
Mr. Susumu Ono

STAFF: Mr. Kenji Ego
Mr. Libert Landgraf
Mr. Robert Chuck
Mr. Manabu Tagamori
Mr. Roy Sue
Mr. James Detor
Mr. Mason Young
Mr. Wayne Hirata
Mr. Roger Evans
Mr. John Corbin
Mr. Noah Pekelo
Mrs. LaVerne Tirrell

OTHERS: Mr. Edwin P. Watson, Deputy A. G.
Ms. Dona L. Hanaike, Deputy A. G.
Mr. Edward Keliikoa (Item F-1-c)
Mr. Lee Sandau (Item F-23)
Mr. Bill Dodge (Item D-5)
Mr. Herbert Minami (Item D-5)
Mr. Calvin Murashige (Item H-9)
Mr. Howard Chang (Item H-9)
Mr. Stanley Kuriyama (Item H-9)

MINUTES

Mr. Hong moved for deferral of the August 14, 1981 minutes in order to give the members of the Board more time to review said minutes. Mr. Ing seconded and motion unanimously carried.

ADDED ITEMS

Upon motion by Mr. Hong and a second by Mr. Ing, the Board unanimously voted to add the following items to the agenda:

Forestry and Wildlife

Item C-1 -- Out-of-State travel for Mr. Libert K. Landgraf

State Parks

Item E-1 -- Filing of Position No. 12975, Park Historian, Oahu

Bureau of Conveyances

Item G-1 -- Filing of Land Court Document Receiving Clerk I, Position No. 4371

Mr. Ono announced that the Board normally allows people in the audience a chance to move their items ahead on the agenda; however, because so many people fell into this category this morning, the Board would consider each item as originally listed on the agenda.

ITEM B-1

REQUEST FOR ADOPTION OF BOARD OF LAND AND NATURAL RESOURCES PROPOSED "POLICY RELATING TO THE DISPOSITION OF JUVENILE PRAWNS AND THE PHASING OUT OF THE PRAWN HATCHERY OPERATION."

The Board at its April 24, 1981 meeting approved the holding of a public hearing on the subject Policy. Accordingly, the Public Hearing was held by the Division of Aquatic Resources on June 18, 1981 at 7:00 p.m. at the Kaneohe Civic Center. Three policy alternatives were discussed which while providing prawn growers with free seed stocks of juvenile prawns to stock up to 20 acres of ponds under three-year Cooperative Agreements and two-year extensions, differed between each other in the degree of state support in options to purchase seed prawns after termination of the extensions to Cooperative Agreements. The Policy clearly stated that no new (two-year) extension to Agreements would be granted after 1985, no new Agreements would be undertaken after 1987, and the State would halt all distributions of juvenile prawns to commercial growers after 1990. For the record, Mr. Ego stated that he had approved of and signed the minutes of the June 18, 1981 hearing.

Mr. Ego stated that the proposed Policy primarily will: 1) provide two-year extensions (from January 1, 1980 to December 31, 1981) to all Cooperative Agreements that expired before December 31, 1979; 2) provide two-year extensions to all Cooperative Agreements that expire after December 1, 1979; 3) terminate all Cooperative Agreements and/or extensions to agreements no later than December 31, 1985; and 4) set a distribution priority for post-larval prawns from the State hatchery such that first priority is given to Hawaiian prawn growout operations and Cooperative Agreements for up to 20 acres; second priority is given to Hawaii prawn growout operations with hatchery that produce post-larval prawns for sale and are under Cooperative Agreement for up to 20 acres; and third priority is given to post-larval exchange with any private hatchery in Hawaii.

Under provision "A", and going back to 1976, asked Mr. Higashi, how many of the people who have received their quota for the amount promised them within the allocated time will be terminated this year? For those farmers who are still active, eight prawn farmers, by the end of this year, would have to purchase their own prawns from private sources said Mr. Ego. We will have fulfilled our commitment and their agreements would not be extended beyond the end of the year.

In answer to Mr. Ing's question, Mr. Ego said that we will have supplied the farmers with the quotas which were established at the end of December 1979. However, there are private hatcheries that also have agreements with us and we have not yet supplied them with prawns. Mr. Ego stated that they would like to terminate all cooperative agreements, including extensions, by December 31, 1985.

Mr. Ono asked if there was a possibility of an extension beyond 1985. Yes, said Mr. Ego. Also, said Mr. Ego, in answer to Mr. Higashi's question, board action would not ratify an extension.

Mr. Higashi was concerned that should outside prices be too high and farmers are not able to survive, then we might have to consider amending their contracts. Hopefully, said Higashi, there will be enough competition to keep the prices down.

Mr. Hong asked whether it would be necessary to purchase prawns from other hatcheries in order for the State to meet its commitments with the farmers. Mr Ego felt that the State had enough prawns to meet their commitments.

ACTION

Mr. Higashi moved for adoption of the proposed Policy relating to the disposition of juvenile prawns and phasing out of prawn hatchery operations subject to the approval by the Governor and approval as to form by the Attorney General's Office. Mr. Ing seconded and motion unanimously carried.

Because there were so many people at the meeting, Mr. Ono decided to defer from the regular order of the agenda in order to accommodate the applicants at the meeting. Accordingly, the items were taken up in the following order:

ITEM F-1-c

RESUBMITTAL - EDWARD N. KELIIKOVA ASSOCIATES, INC. APPLICATION FOR REVOCABLE PERMIT COVERING PORTION OF THE PEARL CITY EDUCATIONAL COMPLEX, PEARL CITY, OAHU.

The applicant is in the process of leasing private land adjacent to the Pearl City Educational Complex. The purpose of this request is to enable him to cross State land to get to the private area he will be leasing for grazing purposes. The question arose at the last meeting as to why the firm was applying instead of the individual himself. Detor explained that Mr. Keliikoa is in the real estate business and raising cattle as well.

Mr. Ing asked whether the area was fenced. Mr Keliikoa said that it was fenced; however, certain areas of the fence did need to be reinforced.

ACTION

The Board unanimously authorized the issuance of a revocable permit to Edward N. Keliikoa Associates, Inc. covering government land of Waimano, Ewa, Oahu, being portion of the Pearl City Educational Complex. (Hong/Yamamoto)

ITEM F-1-d

RESUBMITTAL - MASAJI MIYASHITA APPLICATION FOR REVOCABLE PERMIT COVERING LAND AT MANOA VALLEY, HONOLULU, OAHU.

Mr. Detor said that the applicant has had a permit for some 30+ years covering land in upper Manoa Valley which is presently under executive order to the Board of Water Supply. He presently has under permit approximately 4 acres and he would like to cut down the area in order to lower his rent. Should this request be approved said Detor, then his present permit would be cancelled and a new one issued to cover the new reduced area.

It was asked at the last meeting 1) whether the applicant had been using the area to be withdrawn and 2) whether anyone else could use the area. As far as staff was concerned, said Detor, the area to be withdrawn was not being used. He felt also that it would be impractical for anyone else to come in and use the area since they would have to cross the applicant's land to get to the unused areas.

Mr. Ing asked why it took so long for this request to come before the board inasmuch as staff is requesting that the old permit be cancelled retroactive to December 31, 1980. If the fault is with the applicant, then he would not go along with the retroactive rental. Mr. Detor said that the applicant had come in sometime ago but he couldn't recall the exact date. However, he would inform the board, in writing, of the exact application date.

ACTION

Mr. Ing moved to approve Item F-1-d with the amendment that the effective date be the actual date of application. Such date, however, to be reconsidered by the Board. Mr. Hong seconded and motion carried unanimously.

ITEM F-23.

DISCUSSION OF REQUEST FOR DESIGNATION OF VOLLEYBALL COURT AREA, DUKE KAHANAMOKU BEACH, HONOLULU, OAHU (ORAL).

As explained by Mr. Detor, this is a request for discussion purposes only, for designation of a volleyball court at Duke Kahanamoku Beach, fronting the Hilton Hawaiian Village. He said also that volleyball playing has been going on in this area for a number of years. However, because of recent activities at Waikiki beach, they were asked to stop playing and, accordingly, the volleyball stands were removed because permission was never granted in the first place. The players are now requesting that volleyball be allowed in a specific area designated by the State.

Mr. Hong asked about the substance of the complaints. Detor said that the playing interfered with the use of the beach area by sunbathers. On the other hand, people who play volleyball enjoyed playing and/or watching the games.

In answer to Mr. Ing's question, Detor said that there has been no formal complaint from the hotel itself. There have been a number of verbal complaints; however, very few in writing.

Several alternatives for a playing area have been explored said Detor. However, he felt that the present area is back far enough so as not to interfere with the other users of the beach. Another alternative was maybe confining playing to certain days and hours.

Mr. Ing asked whether there were any existing rules and regulations governing use of the beach. Detor said no formal rules other than the Board's ability to regulate its use.

Mr. Hong felt that this was a rather informal way to bring up the volleyball subject and, because of the constraints of time, asked that a formal proposal be made to the board setting aside an area for volleyball use. Also, he suggested that a public hearing be held in order that the board could hear the pros and cons of the matter. Otherwise, said Mr. Hong, the board could spend all morning discussing the problem.

Lee Sandau, representing the volleyball players, stated that he thought there would be a hearing this morning by the board regarding designation of a site for a volleyball court. For this reason, a lot of people took off from their jobs to attend the meeting. According to Mr. Detor, Sandau was informed both verbally and in writing that the board would discuss the matter; however, he did not contemplate any action by the board. As far as being able to testify, Detor said that he did inform Sandau that this decision would have to be made by the Chairman.

Mr. Ono stated that Sandau was well aware of the fact that this was not a public hearing. Mr. Sandau, therefore, asked if this hearing could be postponed for another time. Mr. Ono informed Sandau that there was nothing to be postponed. The matter in question was listed on the agenda for discussion purposes only and a discussion was being held. However, if the Board decided to go along with Mr. Hong's suggestion, then a public hearing would be held to give all sides an opportunity to be heard. Mr. Sandau asked for a half hour to discuss the matter -- the board allowed him five minutes.

Mr. Sandau used the five minutes to reply to the several questions asked by the board as follows:

1. There is no organized group of players. Whoever comes down first can set up their nets.
2. As far as hogging the courts, anyone can come down and call winners. Groups sign up and go to the bottom of the list. An 11-point game is played at which time the loser goes out or to the bottom of the list and the next team on the list plays the winner. There are no restrictions as to who can play. No one has been told they could not play.
3. Regarding objections from the hotels, a letter written by the Hilton Hotel saying that they had no objections was presented to the board by one of the players.

In this respect, Mr. Detor said that DLNR had written to the hotel asking for their position in the matter. However, we received no response to our letter.

4. In answer to Mr. Yagi's question as to whether a precedent would be set, Sandau said that no precedent would be set inasmuch as the court has been there for more than 25 years and has been grandfathered in under certain sections. (Mr. Higashi stated that he didn't think Sandau could make any such representation.)
5. The players are not in a position to set up a sand court on another piece of property for lack of funds. As far as comparing their problem with the island of Maui, Sandau stated that the area on Maui is in conservation and the area in Waikiki is urban, and much higher standards are set for conservation areas.

In closing, Sandau asked if the board could set a hearing date as soon as possible in order to settle the problem.

ITEM C-1

OUT-OF-STATE TRAVEL FOR MR. LIBERT K. LANDGRAF

ACTION

The Board unanimously approved Mr. Landgraf's out-of-state travel request to attend the National Association of State Foresters meeting in Mobile, Alabama on October 4-8, 1981 and the California-Nevada-Hawaii Fire Council meeting in Tahoe, California on October 28-29, 1981. (Yagi/Yamamoto)

ITEM D-1

REVISED ELECTRICAL SERVICE AGREEMENT FOR JOB NO. 44-HA-2, PAHOA AGRICULTURAL PARK, PHASE II, KEONEPOKO IKI, PUNA, HAWAII.

The proposal agreement dated July 30, 1980 from the Hawaii Electric Light Co., Inc. for the installation of an overhead electrical distribution system for the subject project stated that the cost to install and maintain the overhead distribution system would be \$49,465.00 provided HELCO can begin their installation work within six months from the date of the proposal agreement (July 30, 1980).

HELCO has informed us that because the project has not progressed sufficiently to permit them to commence with their installation work and because the original proposal fee of \$49,465 was valid for six months from July 30, 1980, the original quotation of \$49,465 has been increased to \$55,950. Inasmuch as the \$49,465 has already been made, a balance of \$6,485 remains to be paid.

Mr. Higashi asked if the money which we spend will be reimbursed. Mr. Chuck said yes. Higashi said that he has discussed, on several occasions, the possibility of having these payments waived. Mr. Chuck said that they too have discussed this problem with the electric companies for two decades and it would take a change in the law through the public utilities commission for this to come about. It seems that the companies need to install these poles but are unable to finance such installation with their own monies so are looking for an advance from those who would benefit.

Where State lands are involved, said Higashi, we don't look for an advance. We give them a right of entry thereby saving them a lot of money. Mr. Chuck explained that the State would get its money back over a five-year period through the use of the services. Yes, said Higashi, however this is an agricultural park and not quite the same as an industrial park. Would you suggest that we change the law, asked Yagi? Yes, said Chuck. It would be good if the State could pursue the problem in the interest of all the construction companies where this money would not have to be advanced.

In answer to Mr. Ing's question, Mr. Chuck explained that the \$6,485 added cost would take care of the increased salaries of the employees from last year to this year. Is this based on the entire job or the 40% that remains to be completed, asked Mr. Ing. The entire job, said Chuck. However, he explained that the 60% did not relate to the electrical work but to the roads and the pipelines that are being constructed for the Pahoia Ag Park, so the HELCO work yet to be done is 100%.

Because the pole will be used jointly by the telephone company and HELCO, Higashi felt that the telephone company's portion of the cost could be knocked out since the telephone company doesn't charge anything for their poles. He felt that some kind of a joint pole agreement should be worked out between the two companies. This way, the cost may still remain at \$49,465. Under a pole agreement, wouldn't the electric company still be responsible for installation of the poles, asked Mr. Ing? Yes said Chuck. However, said Higashi, if the developers were to go to the telephone company, they would charge you only HELCO's portion.

ACTION

Mr. Higashi moved to authorize the Chairman to accept and consummate the revised Hawaii Electric Light Company, Inc. proposal agreement dated July 23, 1981 for the installation of an overhead electrical distribution system for the Pahoehoe Agricultural Park, Phase II and asked that staff follow up on a possible pole agreement between the telephone company and HELCO. Mr. Yagi seconded and motion carried unanimously.

ITEM D-2

REVISED ELECTRICAL SERVICE AGREEMENT FOR JOB NO. 10-HL-14, PANAHEWA AGRICULTURAL PARK, WAIKAEA, SO. HILO, HAWAII.

The proposal agreement dated June 19, 1980 from the Hawaii Electric Light Company, Inc. for the installation of an overhead electrical distribution system for the Panaehewa Agricultural Park stated that the cost to install and maintain the overhead distribution system would be \$75,125 provided Hawaii Electric Light Company can begin their installation work within six months from the date of the proposal agreement (June 19, 1980).

The project is presently 80% complete.

HELCO has informed staff that because the project has not progressed sufficiently to permit them to commence with their installation work and because the original proposal fee of \$75,125 was valid for six months from June 19, 1980, the original quotation of \$75,125 has been increased to \$83,087.

ACTION

Mr. Higashi moved to authorize the Chairman to accept and consummate the revised Hawaii Electric Light Company, Inc. proposal agreement dated July 23, 1981 for the installation of an overhead electrical distribution system for the Panaehewa Agricultural Park and asked that staff follow up on a possible pole agreement between the telephone company and HELCO. Mr. Yagi seconded and motion carried unanimously.

ITEM D-3

PERMISSION TO AMEND CONTRACT NO. 9434 AND AMENDMENT NO. 1, CONSULTANT SERVICES CONTRACT FOR PREPARATION OF DEVELOPMENT PLAN, WAIMANALO AGRICULTURAL PARK, WAIMANALO, KOOLAUPOKO, OAHU.

The department has had a contract with the consultant to draw up the plans for the Waimanalo Agricultural park.

Due to conceptual changes during the planning stages of the project (it was to be bananas entirely but that concept has changed to be diversified crops), the consultant was required to temporarily suspend work which resulted in delaying their work schedule. Due to the delay, said Mr. Chuck, the consultant has requested that an adjustment in the fee be made to offset cost increase due to inflation.

In lieu of compensating the consultant for the cost increase, staff has deleted certain items of work from the original contract and Amendment No. 1 to which they have agreed. The items of work to be deleted are the construction stakeout survey and the exterior boundary and property corners stakeout survey.

What would be the effect of the deletion of the stakeout, asked Mr. Ing? When we need it, said Mr. Chuck, we will have it done by other means.

ACTION

Mr. Ing moved to authorize the Chairman to amend the scope of work of Contract No. 9434 and Amendment No. 1 and enter into an agreement with the consultant to reduce the scope of work and make an adjustment in the fee to offset cost increase due to inflation.

In reviewing the method of calculating the change in cost, did we delete the amount from the base first then slapped on a percentage increase, or did we slap on a percentage increase to the base which included work which we eventually knocked out, asked Mr. Ono?

Referring to the deletions, Mr. Chuck said that those figures are the originally contracted figures, and no inflation has been included in the deletions. In the basic contract, the \$2,000 cost for construction stakeout was deleted and \$11,500 was deleted from Amendment No. 1. Also from Amendment No. 1, \$16,000 for property line and boundary stakeout was deleted, or a total decrease of \$29,500.

What is the \$18,473 increase based on, asked Mr. Ing? This is the consultant's costs in the area of work yet to be done in 1979 -- at the fees they were paying their engineers, said Mr. Chuck. However, when the 1981 fees were listed, the difference was \$13,590.00.

Mr. Ing amended his motion to allow for the recomputation of the increase due to inflation, and not the work involved in the construction stakeout area so that the increase due to inflation is based upon the original contract less the work called for in the construction stakeout. Motion carried unanimously with a second by Mr. Higashi.

ITEM D-4

CERTIFICATION OF GROUND WATER WITHDRAWALS AND USES, HONOLULU GROUND WATER CONTROL AREA, OAHU.

In answer to Mr. Ing's question, Mr. Chuck said that the effect of the certification is to perpetuate their use for the protection of those who have been withdrawing water from the basin over the years.

What if a new development comes in and they need to have water, asked Mr. Ing? Then, said Mr. Chuck, we go to the next step where they have to come in and apply and this request is brought back to the board for their approval or disapproval.

ACTION

The Board unanimously voted to certify the existing withdrawals and uses for each well tabulated on the "Certification of Ground Water Withdrawals and Uses, Honolulu Ground Water Area" dated September 11, 1981, and attached to the submittal, subject to any special conditions and applicable laws, rules and regulations.

CERTIFICATION OF GROUND WATER WITHDRAWALS AND USES, WAIALUA GROUND WATER CONTROL AREA, OAHU.

A public information meeting was held in Waialua on August 19, 1981 and, said Mr. Chuck, today we are here to certify existing uses of existing wells. I would also like to point out that Chapter 177 controls the ground water areas. It protects and regulates for its beneficial utilization, conservation and protection in order to prevent threat of exhaustion, etc. Preserving of water at Mokuleia for other areas such as Honolulu and Waianae, is not a function of this law. We would be setting a moratorium of water development at Mokuleia and this is not a function of the law. Setting of the sustainable yield in this area is a function of hydrological, geological information and this is based on hydrological facts and knowledge and to arbitrarily set the sustainable yield to some current usage is not a provision of the law.

In the Mokuleia Homestead area, Well Nos. 3310-01 and 3310-02 were under construction at the time of the hearing and the effective date for designation was November 28-29, 1980, retroactive nineteen days, so the maximum daily and the total annual withdrawals show no data so staff is now assigning 1.05 for agriculture and .20 to domestic from the planned development for Well No. 01. For Well No. 02, staff is recommending 1.05 for agriculture and .2 for domestic.

ACTION

It was moved by Mr. Hong and seconded by Mr. Higashi that the board certify the existing withdrawals and uses for each well tabulated on the "Certification of Ground Water Withdrawals and Uses, Wailua Ground Water Control Area" dated September 11, 1981, subject to any special conditions and applicable laws, rules and regulations.

Before calling for a vote on Item D-5, Mr. Ono, at the request of Mr. Bill Dodge, allowed him two minutes to speak on the matter.

Mr. Dodge thanked the board for designating Mokuleia and Waialua as Ground Water Control Areas. Mr. Dodge's concern was the 16 mgd per day of excess water in the Mokuleia area which establishes a 20 mgd sustainable use per day for use in the area. He felt that this water would be misused and he asked that the board establish a moratorium on water development in Mokuleia by reducing the proposed sustainable yield of 20 mgd to the current usage of 4 mgd.

He asked also that this water be held in reserve until the State Park in the Mokuleia area (Waianae Range) is developed. He feels that the water system will get out of control since the Board of Water Supply has no controls in the area. He asked that the Board defer, as the City Council has done, a final decision on future water development to the State Legislature.

Mr. Ing called to Mr. Dodge's attention that the amount being certified for withdrawals is 7.7 mgd and not 20 mgd and any further use of water over and above that would have to come back to the board.

A vote was taken and motion carried unanimously.

ITEM D-6

SOIL AND WATER CONSERVATION DISTRICT DIRECTORS

ACTION

The Board, upon motion by Mr. Higashi and a second by Mr. Hong unanimously voted to certify the following elected persons for the term shown below to serve as Directors of the Hana Soil and Water Conservation District:

<u>Name</u>	<u>Term to End</u>
Howard F. Cooper Nursery Plant-Owner	6/30/84
Roland Chang Board of Water Supply Employee	6/30/84
Muriel Hanchett, Realtor	6/30/84

ITEM E-1

FILLING OF POSITION NO. 12975, PARK HISTORIAN, OAHU

ACTION

The Board unanimously approved the appointment of Mr. Nathan Napoka to Position No. 12975 effective October 16, 1981. (Hong/Yamamoto)

ITEM F-1

DOCUMENTS FOR CONSIDERATION

REVOCABLE PERMIT

Item F-1-a

MRS. ANNA MARZOEKI - Government land at Keokea, Kula, Maui, being the former Keokea School Lot - for pasture purposes - \$10.00 per month retroactive to February 1, 1981.

Item F-1-b

ASSIGNMENT OF LEASE

CHARLES T. WALLIS and ALICE J. WALLIS, to CRAIG DARIUS WHITESELL and CAROL BEAUMONT WHITESELL, covering Lot 4, Kokee Camp Site Lots, Waimea, Kauai, TMK 1-4-03:14 - G. L. No. S-4705 - \$480.00 annual rental.

Item F-1-c

See Page 3 for Action.

Item F-1-d

See Page 4 for Action.

ITEM F-2

WITHDRAWN. Mr. Detor explained that this is a Hawaii item and the people concerned asked that this item be taken up at the next meeting scheduled for the island of Hawaii.

ITEM F-3

STAFF RECOMMENDATION FOR SETTLEMENT FOR RENTAL REOPENING FIGURE, G. L. NO. S-3624, WAIAKEA, SO. HILO, HAWAII.

G. L. No. S-3624 was originally sold at public auction to Hawaiian Equipment Co., Ltd. and since assigned to Castle & Cooke, Inc. Although this lease has a reopening provision, said Mr. Detor, there is a disagreement as to what the new rental should be. The rental established at the public auction was \$5,800.00 a year for the first fifteen years.

By independent appraisal, the new fair market rental of the leased premises was determined to be \$29,400. The lessee, in disagreement, then hired their own appraiser who, in 1978, placed the fair market rental at \$25,869. Although the staff appraiser found the unit values of appraisals adequately supported and within reasonable and acceptable ranges, the lease rental for the ten-year period between March 6, 1978, and March 5, 1968 remain unreconciled.

Our leases, which have been sold subsequent to this one - 1961 (bearing in mind the law changed in 1962) - have a provision for arbitration in it. When the two people agree, each gets an appraiser. These two appraisers get together and they select a third appraiser whose word is final. That provision is not in this particular lease, said Mr. Detor.

Oceanic Properties, Inc., after considering, then rejecting, the hiring of a third appraiser, expressed their desire to seek resolution of the new lease rental by reason of the closeness in the fair market rental as determined in both appraisals.

Consequently, on August 26, 1981, after a short discussion, a new lease rental of \$27,635 per annum was accepted by Oceanic Properties, Inc., on behalf of Castle & Cooke, Inc., and DLNR. The lease rental as calculated, is the average of the fair market rental values determined by the two appraisers rounded to the nearest dollar.

Mr. Detor called to the Board's attention that before an agreement was reached, the legal officer of the department was informed that the subject lease, effectuated in 1961, included no provision for arbitration as stipulated by Chapter 658, HRS.

ACTION

Upon motion by Mr. Higashi and a second by Mr. Yamamoto, the Board unanimously voted to ratify the new lease rental of \$27,635 per annum for the ten-year period, from March 6, 1976, to March 5, 1986, same to be paid in accordance with provisions of General Lease No. S-3624 and to authorize the Chairman to arrange the method of payment under which the retroactive lease rental differences are to be made in the event the lessee is unable to pay such amount on a one-time basis.

The amount to date is calculated as follows:

$(5 \times 27635) - (5 \times 5880) = \$108,775$ being the balance now due retroactive to March 5, 1976.

ITEM F-4

CITY AND COUNTY OF HONOLULU, BOARD OF WATER SUPPLY, APPLICATION FOR WATER PIPELINE EASEMENT, HALAWA, OAHU.

Detor explained that this request by the Board of Water Supply is in connection with the Aloha Stadium site. What happened is, that when the easement was first issued, a part of it was not included in the submittal when the board approved the disposition. In order to formally document Easement W-1, the Board of Water Supply has requested the State of Hawaii's consent to grant them said Easement W-1.

ACTION

The Board, upon motion by Mr. Yagi and a second by Mr. Yamamoto, unanimously voted to:

1. Authorize the granting of a perpetual non-exclusive easement identified as Easement W-1, to the City and County of Honolulu, Board of Water Supply under the terms and conditions listed in the submittal; and
2. Amend its action of December 15, 1978 under agenda Item F-19 by waiving the relocation clause.

ITEM F-5

STAFF RECOMMENDATION FOR CHANGE OF LOTS ASSIGNMENTS FOR REVOCABLE PERMIT NOS. S-5796 (BERT MITSUNAGA) AND S-5840 (HONOLULU DISPOSAL SERVICE, INC.), SAND ISLAND, HONOLULU, OAHU.

This item deals with the change of configuration of two permits at Sand Island.

Bert Mitsunaga presently occupies two parcels of land at Sand Island under Revocable Permit Nos. S-5796 (Lot 538-F) and S-4366 (Lot 420).

According to Mr. Mitsunaga, operating his construction business from two separate and non contiguous lots has caused operational difficulties. To alleviate this problem, he asks that he be granted the use of a portion of the land (portion of Lot 416) abutting his Lot 420 in exchange for relinquishing Lot 538-F. In this regard, the permittee of the abutting lot has agreed to relinquishing approximately 10,000 st. ft. from his Lot 416 for this purpose.

Honolulu Disposal Service, Inc., occupant of Lot 535 under R. P. No. S-5840 has stated that they have encountered problems in moving and storing their large trucks and equipment on this lot because of the size, location, and the long and narrow configuration of the parcel. Inasmuch as a larger and more suitable parcel (Lot No. 214 formerly assigned to C & E Auto Body) is now in the process of being vacated, they request that Lot No. 214 be assigned to them in exchange for their present Lot 535.

ACTION

The Board, upon motion by Mr. Yagi and a second by Mr. Yamamoto, unanimously voted to:

- A. Authorize and approve of the change in lot assignment of Revocable Permit No. S-5796 issued to Bert Mitsunaga from Lot 538-F to portions of Lot 416 (to be designated Lot 416-C), subject to the terms and conditions listed in the submittal; and
- B. Authorize and approve of the change in lot assignment of Revocable Permit No. S-5840 issued to Honolulu Disposal Service, Inc. from Lot 535 to Lot 214 with a corresponding adjustment in the monthly rent and subject to the terms and conditions listed in the submittal.

ITEM F-6

STAFF RECOMMENDATION FOR ISSUANCE OF SIX REVOCABLE PERMITS COVERING LAND ON SAND ISLAND, HONOLULU, OAHU.

From time to time, various parcels of land at Sand Island are voluntarily returned by the permittees and or repossessed by the State for various reasons.

A number of revocable permits for these Sand Island lots were recently cancelled for non payment of rent thereby freeing them for rent to other applicants on our waiting list, said Mr. Detor.

Mr. Ing felt that the rental of 4-5¢ per sq. ft. was rather low, considering the fact that there was a rather long list of applicants wanting space at Sand Island. Mr. Detor said that he also felt that the rental was low, however, appraisals have been made and the board did take this matter up a number of times. As a matter of fact, a two step increase was just made on August 1st. So the rentals have been going up gradually.

ACTION

The Board unanimously approved issuance of a revocable permit to the applicants listed in the submittal under the terms and conditions also listed in the submittal. (Ing/Hong)

FRED NAKAYAMA REQUEST FOR AMENDMENT OF PREVIOUS BOARD ACTION AUTHORIZING EXTENSION OF LEASE TERM AND CONSENTING TO MORTGAGE OF GENERAL LEASE NO. S-3856 COVERING LOT 9 OF THE WAIMANALO FARM LOTS, WAIMANALO, OAHU.

ITEM F-7

On August 26, 1977 the Board authorized extending the term of General Lease No. S-3856 issued to Fred and Toshiko Nakayama for an additional 18 years up to August 9, 2002. The extension was granted based on representations made by the Farmers Home Administration and the Nakayamas that the extension was necessary to secure a long term loan and to undertake certain capital improvements.

Based on this Board action, the Nakayama's rental was upped to \$1,520 from \$570 per annum. The Board also consented to the mortgage of said lease to FHA for \$22,000.

We have learned, however, that the Nakayamas did not procure the FHA loan. Instead, they obtained an unsecured loan from the First Hawaiian Bank to construct the proposed improvements, thereby negating the reason for granting of the lease extension. There is a technicality in the law, said Mr. Detor, whereby First Hawaiian Bank by itself does not qualify. The loan has to be from a lending institution like Farmers Home or a State agency like the Department of Agriculture. So, technically speaking, the Board's action of August 26, 1977 which extended the lease does not stand.

To correct this problem, the Nakayamas have now applied for and obtained the approval of a \$76,000 loan from the Federal Land Bank Association to construct additional improvements. According to the Land Bank, the approval was granted on the premise that the lease was in fact already extended to the year 2002. Otherwise, they advise that the extension should be a prerequisite to granting of the loan.

The Nakayamas request now that the Board amend their previous action by substituting the \$76,000 loan for the other loan which would then correct the situation.

ACTION

The Board, upon motion by Mr. Ing and a second by Mr. Higashi, unanimously voted to approve of and authorize the following amendments to the Land Board submittal of August 26, 1977, Item F-20:

1. Substitute the Federal Land Bank Association for Farmers Home Administration.
2. Consent to the mortgage of General Lease No. S-3856 to the Federal Land Bank Association (instead of Farmers Home Administration) for a loan of \$76,000.

Mr. Ono asked also, that Mr. Detor look into the possibility of amending the present statute to make financial institutions, like the banks, eligible for such loans like the Federal Land Bank.

ITEM F-8

LEASE OF DILLINGHAM AIRFIELD FROM DEPARTMENT OF THE ARMY, WAIALUA, OAHU.

The ownership of Dillingham Airfield was transferred from the Air Force to the Army in 1975. Prior to the transfer, the Air Force was leasing Dillingham Airfield to the Department of Transportation for Light Aircraft and Airfield support purposes.

At its December 10, 1976 meeting, the Board approved a five year lease agreement and a one year extension respectively, with the Department of the Army for the use of Dillingham Airfield and subsequent assignment of said area to the Department of Transportation.

The DOT still desires use of the Dillingham Airfield, and, therefore, has requested approval of a new twenty-five year lease with the Department of the Army for an area comprising of approximately 272 acres.

ACTION

The Board unanimously approved the mentioned twenty-five (25) year Lease with the Department of Army and subsequent assignment of the leased area to the Airports Division, Department of Transportation subject to the review and approval of the lease agreement by the Office of the Attorney General. (Hong/Yamamoto)

ITEM F-9

CATHELYN ALCON, ET AL APPLICATION FOR REVOCABLE PERMITS COVERING STATE LAND ON KAUAI.

Some time during the month of July 1981, Mr. Cathelyn Alcon, Mr. Samuel Peters and Mr. Ronald Mahelona, all permittees of the State, received certified letters advising them that their respective permits were cancelled effective May 31, 1981 and that they should remove themselves and their property from the State permit sites no later than July 31, 1981.

The individual difficulties which caused the May 31, 1981 cancellations have recently been resolved. Staff has received separate applications to commence retroactively effective June 1, 1981, for new permits from each former permittee.

In answer to Mr. Ing's question, Mr. Detor said that no one else was interested in occupying the subject areas.

ACTION

The Board, upon motion by Mr. Yamamoto and a second by Mr. Hong, unanimously authorized issuance of three new permits to commence effective June 1, 1981 to Cathelyn Alcon, Samuel Lani Peters and Ronald N. Mahelona, subject to rent, use restrictions, location and specifics contained in Exhibit B, attached to the submittal. Any other terms and conditions to apply to each new permit not specifically contained in this submittal shall be the same as in cancelled Revocable Permit No. S-5839 to Cathelyn Alcon, Revocable Permit No. S-5604 for Samuel Peters and Revocable Permit No. S-5536 for Ronald N. Mahelona.

ITEM F-10

MARK DEVELOPMENT, INC. APPLICATION FOR LAND LICENSE AT KEKAHA, KAUAI.

The Board, at its February 27, 1981 meeting, approved the issuance of land license to Mark Development, Inc. to extract 14,000 cubic yards and 5,000 cubic yards of sand and topsoil, respectively, from State lands at Kekaha, Kauai, encumbered under G. L. No. S-4222 to Kekaha Sugar Plantation Company, Ltd. The land licenses were for a term of six months ending September 22, 1981.

The sand and topsoil are being used in landscaping open areas and finishing the grade of the licensee's proposed Low-Rent Public Housing subdivision at Kekaha, Kauai called Kekaha Ha'aeo.

Because Kekaha Ha'aheo is required to be built and completed in phases, Mark Development, Inc. is unable to complete the removal of the allotted amount of sand and topsoil within the six months' period. The developer estimates that he will require an additional six months for the removal of the sand and an additional twelve months to remove the topsoil.

Kekaha Sugar Co., Ltd. has no objections to Mark Development's request.

Wouldn't our rates increase with this extension, asked Mr. Ing? The only thing that makes me hesitate in raising the rates said Mr. Detor is the fact that this is a low-cost housing project and any additional increases might up the cost of the houses.

ACTION

Upon motion by Mr. Yamamoto and a second by Mr. Ing, the Board unanimously voted to:

- A. Approve the issuance of land licenses to Mark Development, Inc. to remove 2,349 cubic yards and 5,000 cubic yards of sand and topsoil, respectively, from State lands at Kekaha, Kauai, encumbered under General Lease No. S-4222 to Kekaha Sugar Co., Ltd., subject to the terms and conditions listed in the submittal.
- B. Finding that the public interest will be best served by the disposition of the Land Licenses by negotiation without recourse to public auction, authorize the publication of a Notice of Disposition of the above disposition as required by law.

ITEM F-11

RESUBMITTAL - FRANK NAPOLEON APPLICATION TO PURCHASE REMNANT PARCEL AT KAPAA, KAUAI.

On September 14, 1979 the Board authorized the direct sale, on a full payment, cash payment basis, of a 3,567-sq.-ft. remnant to abutting owners Frank and Myrtle Napoleon.

After subdivision approval, an independent appraisal and other processing steps were accomplished, a letter of offer was sent to the Napoleons requesting full payment of the purchase price and fees in the total amount of \$5,232.50.

The Napoleons are very interested in making the purchase. However, they are not able to pay cash in full. After several meetings with the Napoleons, staff feels that they can afford to pay the purchase price on a time payment basis.

ACTION

Upon motion by Mr. Yamamoto and a second by Mr. Yagi, the Board unanimously voted to amend its action of September 14, 1979 (Item F-17) to the extent that payment of the purchase price be permitted on a time payment schedule as follows:

- A. The purchase price be paid on the basis of twenty percent (20%) of the purchase price as a down payment, with the balance payable in eight equal quarterly installments, at 11-1/2% interest on the declining balance.

All other terms and conditions of Land Board agenda Item F-17 dated September 14, 1979 to remain in effect.

ITEM F-12

CANCELLATION OF REVOCABLE PERMIT NO. S-4611 AND ISSUANCE OF NEW PERMIT TO VICTORINO MEDEIROS, JR., KAPAA, KAUAI.

Mr. Victorino Medeiros died on January 4, 1978. Attorney for the Estate of Victorino Medeiros, James W. Licke, has requested that this permit be issued to Medeiros' son, Victorino Medeiros, Jr.

ACTION

The Board, upon motion by Mr. Yamamoto and a second by Mr. Yagi, unanimously voted to:

1. Authorize the cancellation of Revocable Permit No. S-4611 effective September 30, 1981.
2. Authorize effective October 1, 1981, issuance of a new permit for pasture purposes, covering the same area previously demised under Revocable Permit No. S-4611 at the existing rental rate and under terms and conditions as Revocable Permit No. S-4611 to Victorino Medeiros, Jr.

Subject, also, to other terms required by the Chairman.

ITEM F-13

BUDGET AND FINANCE REQUEST FOR ACQUISITION OF LEASE FOR THE OFFICE OF PUBLIC DEFENDER, KEALAKEKUA, SO. KONA, HAWAII.

This request is for use of 280 sq. ft. of floor space in the Ashihara Building Complex, Kealakekua, So. Kona, Hawaii commencing July 1, 1981 and running through June 30, 1982. Rental for the period July 1, 1981 through August 31, 1981, \$192.50 per month (approximate per sq. ft. cost \$0.69) and September 1, 1981 through June 30, 1982, \$209.00 per month (approximate per sq. ft. cost \$0.75).

ACTION

Unanimously approved as submitted, subject to the review and approval of the Office of the Attorney General. (Higashi/Yamamoto)

ITEM F-14

DEPARTMENT OF SOCIAL SERVICES AND HOUSING REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING LOFT SPACE NO. 5, KEALAKEKUA, SO. KONA, HAWAII.

This request is for 1,200 sq. ft. office space being Loft Space No. 5, Ashikawa Building, So. Kona, Hawaii for use by the West Hawaii (Kona) Services Section for the period July 1, 1981 through June 30, 1984. Rental is \$1,020 per month (approximate per sq. ft. cost \$0.85).

ACTION

Unanimously approved as submitted, subject to the review and approval of the lease agreement by the Office of the Attorney General.

ITEM F-15

DEPARTMENT OF SOCIAL SERVICES AND HOUSING REQUEST FOR ACQUISITION OF SUBLEASE COVERING OFFICE SPACE AT 1750 SO. KING STREET, HONOLULU, OAHU.

This request is for 6,352 sq. ft. office space for use by Food Stamp Application and Food Stamp Unit I commencing July 1, 1981 and running through June 30, 1984. Rental is \$5,399.88 per month (approximate per sq. ft. cost \$0.85).

ACTION

Unanimously approved as submitted, subject to the review and approval of the Office of the Attorney General. ((Ing/Higashi)

ITEM F-16 DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS REQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE AT 550 HALEKAUWILA STREET, HONOLULU, OAHU.

This request is for the use of 4258 sq. ft. of office space for the Public Employment Relations Board commencing on August 1, 1981 and running through July 31, 1982. Rental is \$2,765.75 per month (approximate per sq. ft. cost is \$0.65).

ACTION Unanimously approved as submitted, subject to the review and approval of the lease agreement by the Office of the Attorney General. (Ing/Higashi)

ITEM F-17 DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS REQUEST FOR ACQUISITION OF LEASE COVERING THE 4th FLOOR OF THE WATUMULL BUILDING, HONOLULU, OAHU.

This request is for the use of 6648 sq. ft. of office space for the Employment Service Administration Office commencing on July 1, 1981 and running through June 30, 1984. Rental is \$5,983.00 per month (approximately per sq. ft. cost \$0.90).

ACTION Unanimously approved as submitted, subject to the review and approval of the lease agreement by the Office of the Attorney General. (Ing/Higashi)

ITEM F-18 DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS REQUEST FOR APPROVAL OF AMENDMENT OF LEASE COVERING OFFICE SPACE AT 1164 BISHOP STREET, HONOLULU, OAHU.

Mr. Higashi questioned DLIR's Request No. 5 to amend the base operating expense of the building to \$4.83 per square foot per year from \$2.75 per square foot per year.

Mr. Detor could not explain what the base operating expense consisted of and was not sure as to how this would affect the monthly rental; however, he said that he would look into the matter.

ACTION This item was deferred for further study.

ITEM F-19 DEPARTMENT OF SOCIAL SERVICES AND HOUSING REQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE IN THE NANAKULI MALL, NANAKULI, OAHU.

This request is for the use of 1360 sq. ft. of office space for the Leeward Unit II commencing on June 30, 1980 and running through May 31, 1983. Rental is \$748.00 per month (approximate per sq. ft. cost \$0.55).

ACTION Unanimously approved as submitted, subject to the review and approval of the lease agreement by the Office of the Attorney General. (Yagi/Hong)

ITEM F-20 PUBLIC UTILITIES COMMISSION REQUEST FOR APPROVAL OF AMENDMENT OF LEASE COVERING OFFICE SPACE AT 1164 BISHOP STREET, HONOLULU, OAHU.

ACTION Deferred for further study.

ITEM F-21 DEPARTMENT OF HEALTH REQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE IN THE KAILUA PROFESSIONAL CENTER BUILDING, KAILUA, OAHU.

This request is for the use of 2095 sq. ft. of office space for the Windward Oahu Community Health Center commencing on October 10, 1981 and running through October 9, 1986. Rental is \$3,561.50 per month (approximate per sq. ft. cost \$1.70).

ACTION Unanimously approved as submitted, subject to the review and approval of the lease agreement by the Office of the Attorney General. (Yagi/Higashi)

ITEM F-22

STAFF RECOMMENDATION FOR ADOPTION OF POLICY OR TERMINATION OF LEASES AND REVOCABLE PERMITS.

Mr. Detor explained that all of our State leases and permits do have a clause which obligates the lessee or permittee, as the case may be, to fully observe any Federal, State and County laws, ordinances and regulations. However, staff would like the Board to adopt this as a policy as well.

Mr. Ono stated that he had asked Mr. Detor to come up with something that could be in the form of a policy so as to address problems such as marijuana growing on State lands -- making it clear that this is a policy of the Board and all of our permittees and lessees should be aware of our concern as to the seriousness of this problem. Instead of just listing this as a condition of the document, Mr. Ono felt that if this also became a Board policy it would make it easier for our Land Agents and Enforcement Officers to handle any violations.

Mr. Ing expressed concern over the use of the word "willfully" being used. He was afraid that when the time came for enforcement the word "willfully" might just make it more difficult so he suggested that this be referred to the Attorney General's Office to come up with some more appropriate language.

ACTION

It was moved by Mr. Ing that the Board formally adopt a policy of terminating any lease or revocable permit whose holder violates any applicable Federal, State or County law, ordinance or regulation and authorize the Chairman to take whatever actions are necessary to implement such policy, subject to review of the language to be used in setting this policy, by the Office of the Attorney General. Motion carried unanimously with a second by Mr. Yagi.

ITEM F-23

DISCUSSION OF REQUEST FOR DESIGNATION OF VOLLEYBALL COURT AREA, DUKE KAHANAMOKU BEACH, HONOLULU, OAHU.

(See Pages 4 and 5 for comments)

ITEM G-1

FILLING OF LAND COURT DOCUMENT RECEIVING CLERK I, POSITION NO. 4371.

ACTION

The board unanimously approved the appointment of Yoshiko Takeuchi to Position No. 4371 effective September 16, 1981. (Higashi/Ing)

ITEM H-1

CONSERVATION DISTRICT USE APPLICATION FOR AIRCRAFT OPERATION AT MANA DRAG STRIP, KAUAI (MURRAYAIR LTD).

The applicant proposes to use the Mana drag strip in the Kekaha area as an airstrip for aerial survey flights carrying Kekaha sugar plantation employees to evaluate the sugar crop and to identify fields requiring special attention. The aircraft will be a light engine cessna, carrying four people. Frequency of operation will be five takeoffs and landings per day of operation, and an average of two to three operations per month.

ACTION

Upon motion by Mr. Yamamoto and a second by Mr. Ing, the Board approved staff's recommendation that this application, CDUA File No. KA-1298 for conditional use of Conservation land, identified as TMK 1-2-02:21 and known as Mana Drag Strip, be denied for the following reasons:

1. The proposed use is not a permitted use of the Limited Subzone;
2. The proposed use is inconsistent with the establishment of the Governor Burns' Recreation Area, a publically funded recreation development and limits the available recreational opportunities at that area; and
3. Three alternative locations are available to the applicant. One or several of these alternatives should be utilized before land set aside for recreational use is given over to airport use.

Mr. Evans explained that Items H-2, H-3, H-4 and H-5 concern the same general area and are requests for single family use. These items were deferred earlier pending an opinion from the Attorney General's Office regarding the use aspect. Staff is now in receipt of an opinion from the Attorney General's Office stating that, based on the information submitted to their office, the subject parcels do qualify as nonconforming use and, as such, staff would like to amend their recommendation for denial to approval. With the exception of this amendment to Items H-2, H-3, H-4 and H-5 being approved, Mr. Evans asked that each of the items be considered separately inasmuch as there are changes in two of the requests as opposed to all of them.

RESUBMITTAL - CONSERVATION DISTRICT USE APPLICATION FOR NONCONFORMING SINGLE FAMILY RESIDENTIAL USE AT LANIKAI, KAILUA, OAHU (ROGER HARRIS PLANNING ON BEHALF OF RANDALL M. LONGFIELD).

ITEM H-2

Mr. Evans recommended approval subject to the approximately twenty conditions listed in the submittal. These are standard conditions which are normally submitted to the board, said Mr. Evans. We have emphasized, however, that the construction work has to start within one year.

Are there any problems with the proposed structures, asked Mr. Ing? That, said Mr. Evans, would be the second aspect of the matter. Plans would have to be submitted and these plans would then have to be approved by the board.

Of the twenty or so conditions listed, asked Mr. Ono, are there any out of the ordinary applicable to this particular parcel? No, answered Mr. Evans.

What happens if they don't commence building within the one year period, asked Mr. Ing? Is our approval automatically withdrawn? Yes, said Mr. Evans. One of the provisions of Regulation No. 4 is that whenever anybody proposes a construction, that construction must commence within the year. If it does not commence, then it's a whole new ball game.

ACTION

Unanimously approved, as amended. (Yagi/Yamamoto)

RESUBMITTAL - CONSERVATION DISTRICT USE APPLICATION FOR NONCONFORMING SINGLE FAMILY RESIDENTIAL USE AT LANIKAI, KAILUA, OAHU (ROGER HARRIS PLANNING ON BEHALF OF PEGGY BOST).

ITEM H-3

Besides the amendment of staff's recommendation to approve instead of deny, because two parcels were listed with this request, Mr. Evans asked that a new condition be added to the submittal, as follows:

21. That these two parcels be consolidated into one parcel prior to approval of any construction plans and that such consolidation be recorded at the Bureau of Conveyances.

Mr. Ono asked if, under the provisions of Regulation No. 4, it was possible to add another condition. According to Mr. Evans, the Board may add whatever conditions it deems necessary. He said that it was not uncommon to modify the use of an application and felt that what he was doing in this particular case was proper.

ACTION

Unanimously approved, subject to the conditions listed in the submittal and as amended. (Hong/Yagi)

RESUBMITTAL - CONSERVATION DISTRICT USE APPLICATION FOR NONCONFORMING SINGLE FAMILY RESIDENTIAL USE AT LANIKAI, KAILUA, OAHU (ROGER HARRIS PLANNING ON BEHALF OF CLAUDE STEPHENS).

ITEM H-4

Mr. Evans asked that staff's recommendation for denial be changed to approval and, like Item H-3 above, requested the addition of the following condition to the submittal:

21. That these two parcels be consolidated into one parcel prior to approval of any construction plans and that such consolidation be recorded at the Bureau of Conveyances.

ACTION

Unanimously approved, as amended. (Yagi/Yamamoto)

RESUBMITTAL - CONSERVATION DISTRICT USE APPLICATION FOR NONCONFORMING SINGLE FAMILY RESIDENTIAL USE AT LANIKAI, KAILUA, OAHU (ROGER HARRIS PLANNING ON BEHALF OF DAVID HOWARD).

ITEM H-5

ACTION

Unanimously approved, subject to the conditions listed in the submittal and as amended. (Hong/Yamamoto)

CONSERVATION DISTRICT USE APPLICATION FOR SINGLE FAMILY RESIDENTIAL USE AT HAENA HUI, HAENA, KAUAI (ROBERT HEDIN).

ITEM H-6

ACTION

Unanimously approved, subject to the conditions listed in the submittal. (Yamamoto/Yagi)

CONSERVATION DISTRICT USE APPLICATION FOR NONCONFORMING SINGLE FAMILY RESIDENTIAL USE AT SOUTH KONA, HAWAI (PETER SMITH).

ITEM H-7

Mr. Evans asked that the submittal be amended by adding the following condition:

10. That the applicant consolidate the three parcels into one lot and build one house.

Because of Mr. Higashi's concern regarding a legal access to the subject property, Mr. Evans asked also that this approval be subject to the availability of a legally recognized access.

ACTION

Unanimously approved, subject to the conditions listed in the submittal and as amended. (Higashi/Hong)

ITEM H-8

CONSERVATION DISTRICT USE APPLICATION FOR TEST BORING AT HALE POHAKU,
HAMAKUA, HAWAII (DEPT. OF ACCOUNTING AND GENERAL SERVICES).

ACTION

WITHDRAWN.

ITEM H-9

K-81-6/K-81-9 POIPU CONSERVATION DISTRICT VIOLATION.

Mr. Ed Watson, Deputy Attorney General, asked that Ms. Dona Hanaike replace him as attorney for the Board while he acts as counsel for Mr. Evans.

The Board on May 29, 1981 agreed to reconsider the matter of violation of land use within the State Conservation District at Koloa, Kauai.

This reconsideration is based upon correspondence received from the attorneys for both Grove Farm, Inc. and ADM International, Inc.

Mr. Evans said that basically what he would like to approach is:

1. Have, reiterated, procedures which staff had expressed;
2. Bring to the board's attention four typographical errors within the submittal;
3. Format used in terms of this reconsideration; and
4. Place into the records all evidence which staff is prepared to argue before the board this morning.

As you will recall, said Mr. Evans, this matter was taken up at an earlier meeting and a set of procedures was to be established by which the issue would be conducted when heard by the board. In order to provide an equal opportunity in which to conduct this contested case before the board, we informed the other individuals and other parties concerned of the procedures that would be in effect at the time the board heard the case. These procedures are:

1. All existing exhibits and arguments presently entered into the record will remain on record.
2. Any additional arguments or exhibits not previously entered into the record will be allowed into the records. We note that supplementary evidence has been received from the attorneys representing ADM, Inc., Poipu Sands and Rego Trucking and will be entered into the record.
3. Each side will have a total time frame of 45 minutes in which to present his case. However, reasonable allowance for arguing will be allowed each side.
4. It is understood that only the Board will ask questions of the staff and other parties.
5. Upon completion of the arguments, the board will request that the proposed findings of facts, conclusions and decision and order be presented to the board within two weeks, or fourteen days from today, such that the board may draw its own findings and facts and decision and order at the following board meeting.

Mr. Evans then proceeded to place the various documents, letters, etc. into the records as evidence. (This evidence is filed with the Planning Division of the Department of Land and Natural Resources.)

Before Mr. Evans proceeds on the various documents, said Mr. Watson, I would like to say that after the last action by the board, the matter was referred to the Attorney General's Office for review. While reviewing the matter and working on the submittal with Mr. Evans, staff of the Attorney General's Office were also asked to meet with the attorneys of the various parties concerned. In light of the overall facts of the case, and the position of the case, the attorneys of the various offices had proposed a settlement. However, none of these offers were satisfactory to the attorney general's office. These attorneys have now made another offer to pay a \$25,000 fine, payable within thirty days from today and complete settlement. It is not an admission or denial of guilt, said Mr. Watson, but merely to resolve the problems between the Land Department and the parties involved -- to avoid any prolonged litigation. This offer is made with no strings attached. However, this would also include that the restoration provision be dropped. In other words, the \$25,000 will be paid within thirty days from today and the matter will be resolved.

Being familiar with the facts of the case, said Mr. Watson, I note that the proposal submitted for reconsideration does contain various grayline areas and, looking over the lengthy litigation that may be involved, the attorney general's office is requesting that the board entertain the proposed settlement made by the parties concerned and, that is, that they will pay the \$25,000, not as an admission or denial of guilt but merely to resolve the case with the land board. This matter would also drop the requirement of restoration.

In answer to Mr. Higashi's question, Mr. Watson said that this would be a settlement of all the parties concerned and they would have to decide among themselves how payment of the \$25,000 will be prorated.

In your review of all the pros and cons of this matter, do you feel comfortable with this proposal, asked Mr. Hong? Our office feels comfortable with the proposed offer and settlement, said Mr. Watson. Although we were willing to go to court to defend staff's position in this matter, that position did contain several grayline areas plus the fact that this case would be prolonged litigation since this would be a supreme court type of case and, for that reason, the attorney general's office is asking that the board accept the settlement made by the parties involved.

Even though this may be a prolonged matter, I feel that we should defend the State's position. Do you feel that it's not worth going to the supreme court, asked Mr. Ono? There is no doubt that we would be willing to go to the Supreme court to defend the State's position, however what we are saying is that the \$25,000 represents an out-of-court settlement of the points that we were certain of. This was really a give-and-take settlement. However, if the board decides not to entertain this proposal, said Mr. Watson, then we will take the matter to the supreme court and defend the staff's position all the way.

As far as you know, said Mr. Ono, there is no possibility for further negotiations? In light of the fact that this was sort of a critique kind of a settlement, the parties involved have made it clear that this is to be a clear-cut settlement with no strings attached.

Mr. Ono asked if it would be proper for the board to recess so they could consider the offer made. Deputy Attorney General Hanaike said that it would be alright for them to recess and go into an executive session for the purpose of clearing up any legal question they may have.

Mr. Hong requested an executive session inasmuch as he did have a few questions to ask the deputy attorney general.

RECESS

The board recessed for ten minutes -- 11:45 to 11:55 a.m.

Mr. Ono called the meeting back to order at 11:55 a.m. Before proceeding, he asked representatives of the parties concerned if they were in agreement with the proposed settlement presented by Mr. Watson on their behalf.

Attorney Calvin Murashige said that the proposal presented by Mr. Watson was correct.

Are you agreeable to having a certified check payable within thirty days from today, asked Mr. Ing?

I have discussed this with Mr. Watson and payment will be made within thirty days upon signing of the agreement, said Mr. Murashige.

Why can't this be tendered with the agreement, asked Mr. Ing?

I think the agreement has to be approved by the land board before it becomes final. I don't think signing of the agreement will prolong the payment -- payment can be made within the time specified, said Mr. Murashige.

Mr. Hong asked that some kind of timetable be given to assure that payment will not be prolonged.

Mr. Murashige stated that an agreement could probably be submitted to the board by next Friday. The attorney general's review would probably take another week -- so we could do it within that period of time.

ACTION

After due consideration, Mr. Hong moved for acceptance of the proposal for settlement under the terms and conditions as discussed and agreed upon. Final details and documents to be worked out by staff and the attorneys involved with delegation of authority given to the chairman and a member of the board. Also, that payment be made within thirty days. Mr. Yamamoto seconded.

Mr. Ono voted no and stated his reasons for this action.

As far as the dollar amount is concerned, whether it's \$42,000 or \$25,000 is not my primary concern at this time. I would have wanted to see some kind of effort made to have the restoration portion considered in the settlement. Even if the present area is not restored some kind of conservation, preservation, or beautification effort on the part of the parties involved should be made. I would also have preferred to see \$42,000 assessed as penalty with \$25,000 as payment now and the balance suspended. In the event there are no violations within a certain number of years, say three or four years, then it would wipe itself off. That would have been my preference. But, realizing that this proposal is a final offer, I will accept that, but I would like the other board members to know my position.

Motion carried.

ITEM H-10

FILLING OF THE STATE PARKS ADMINISTRATOR'S POSITION.

ACTION

The Board unanimously approved the appointment of Mr. Roy Sue to the State Parks Administrator's position. (Yagi/Yamamoto)

Mr. Sue thanked the board for their consideration.

ITEM I-1

APPOINTMENT OF VOLUNTEER CONSERVATION AND RESOURCES ENFORCEMENT OFFICERS FOR OAHU.

ACTION

The Board, upon motion by Mr. Ing and a second by Mr. Yamamoto, unanimously approved the appointment of the following individuals as Volunteer Conservation and Resources Enforcement Officers effective September 11, 1981:

AKANA, Sheldon	MONIZ, Gary D.
BANAS, Alberto J.	PERREIRA, Henry D., Jr.
COELHO, Michael	SKOLNICK, S. Michel
IMOTO, Ronald J.	STOBINSKI, John Richard
KANE, Errol K.	TSUBATA, Keith
KAUHANE, Rodney L.	

ITEM J-1

RESUBMITTAL OF LEASE, HONOLULU INTERNATIONAL AIRPORT, OAHU (PACIFIC AIR CARGO SERVICE, INC., DBA NAVINC).

This was originally submitted and approved by the Board at its meeting on March 13, 1981, under Item J-1. The corporation (Universal Enterprises, Inc. dba NAV, Inc.) has since been sold to a new corporation (Pacific Air Cargo Service, Inc. dba, NAVINC).

The Department of Transportation agrees to the change, so this lease is being resubmitted to reflect the lessee's correct name.

ACTION

Unanimously approved as submitted. Yagi/Yamamoto)

ITEM J-2

MODIFICATION NO. 10 TO LEASE NO. DOT-A-73-35, HONOLULU INTERNATIONAL AIRPORT, OAHU

The Lessee (Western Airlines, Inc.) was granted on May 22, 1974, certain premises at Honolulu International Airport for the purpose of air transportation activities. The new Central Concourse has been completed and the Lessee is requesting replacement space for those spaces which they had in the old Central Concourse. They are also vacating space in the Diamond Head and Ewa Concourses so they may consolidate all of their operations in the new Central Concourse.

In the public interest, the Department of Transportation agrees to these replacement of spaces and submits for approval, Modification No. 10 as outlined in the submittal.

ACTION

Upon motion by Mr. Yagi and a second by Mr. Yamamoto, the Board approved Modification No. 10 to Lease No. DOT-A-73-35 as outlined in the submittal. Mr. Ing abstained from voting. Motion carried.

ITEM J-3

RESUBMITTAL - MODIFICATION NO. 3 TO LEASE NO. DOT-A-73-29, HONOLULU INTERNATIONAL AIRPORT, OAHU (AMERICAN AIRLINES, INC.).

This was originally submitted and approved by the Board at its meeting on July 24, 1981, under Item J-4. The Lessee (American Airlines, Inc.) has requested a change in spaces and the Department of Transportation agrees to the change.

ACTION

The Board unanimously approved Modification No. 3 to Lease No. DOT-A-73-29 as resubmitted. (Yagi/Yamamoto)

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

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

ITEM J-5 USE OF HARBORS DIVISION FACILITIES, PIER 10 PASSENGER TERMINAL, HONOLULU, OAHU (WAIMAPUNA).

The applicant is a nonprofit organization. The use of the facilities will be subject to the applicant's acceptance of the rules, terms and conditions established by the Harbors Division.

ACTION Unanimously approved as submitted. (Yagi/Yamamoto)

ITEM J-6 REQUEST FOR APPROVAL OF ISSUANCE OF REVOCABLE PERMIT NO. HY-81-681, HIGHWAYS DIVISION (WALLACE HIRAOKA).

The abutting owner will utilize this state-owned property for parking during construction of his new dwelling.

ACTION Unanimously approved as submitted. (Ing/Higashi)

ITEM J-7 LEASE - CONCESSION, INSTALLATION, AND OPERATION OF COIN-OPERATED STORAGE LOCKERS, BLDG. 103, SPACE 103, LIHUE AIRPORT, KAUAI (BRYAN MIYAKE, DBA GARDEN ISLAND PORTER ASSOCIATION).

The present agreement with Mr. Miyake has expired and the concessionaire is requesting a renewal of the lease.

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

ITEM J-8 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEEHI LAGOON, HONOLULU OAHU, TMK 1-2-23-33P (LOT 27-B), (ALOHA MASONRY, INC.).

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

ITEM J-9 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEEHI LAGOON, HONOLULU OAHU, TMK 1-2-23-33P (LOT 27-A), (MELVIN K. NAKAMURA DBA MAC'S ELECTRICAL SERVICE).

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

ITEM J-10 ISSUANCE OF REVOCABLE PERMIT NO. HY-81-682, HIGHWAYS DIVISION, OAHU (AIR LA CARTE, INC.).

ACTION Unanimously approved as submitted (Ing/Yamamoto)

ITEM J-11 LICENSE AND AGREEMENT FOR AIRPORT SHUTTLE BUS SERVICES, HONOLULU INTERNATIONAL AIRPORT, OAHU (GRAY LINE HAWAII, LTD.).

Mr. Garcia said that this is a resubmittal of an item that appeared before the board at its August 28, 1981 meeting.

The applicant is Gray Line Hawaii, Ltd. and the purpose is to provide shuttle bus services originating at Honolulu International Airport to the Waikiki hotels.

The term is for a five year period. In this respect, Mr. Garcia asked that the sentence under TERM be corrected to read commencing "after approval by the land board" instead of "September 1, 1981".

The present airport shuttle license and agreement to Gray Line Hawaii, Ltd. expired on August 31, 1981. The DOT, due to the public benefits gained by the airport shuttle services, proposes to enter into a new license and agreement with Gray Line to continue the services at Honolulu International Airport as outlined in the submittal.

The minimum annual guarantee is the same as it appears in the present contract except for the fifth year. The reason for that is because there has been a decline in arriving passengers and greater competition from prearranged ground transportation services.

However, anticipating a bottoming out of the decline in revenues, Gray Line is optimistic about future passenger traffic and is willing to enter into the contract as has been negotiated.

Because of the problem we just had with the Duty Free people giving up their lease after only eight months of operation because of financial problems, is there anything in your lease agreement to assure us that we won't have the same problem with Gray Line Hawaii, asked Mr. Yagi?

Mr. Garcia said that Gray Lines does have about \$2 million worth of improvements at the airport in the event we need to grasp on to anything. However, Gray Lines feel that they can afford the minimum payment called for in the contract. They have never given us a reason to think that they might default on their contract.

In answer to Mr. Ono's question, Mr. Garcia said that there is a bonding requirement which he believes is for three months rental.

ACTION

Unanimously approved as submitted and as amended. (Yagi/Yamamoto)

ITEM J-12

ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEWALO BASIN, HONOLULU, OAHU, (AIKANE CORP.).

The tenant has requested additional space so this permit will supersede Revocable Permit No. H-77-613.

ACTION

Unanimously approved as submitted. (Yagi/Yamamoto)

ITEM J-13

USE OF HARBORS DIVISION FACILITIES, PIER 10 PASSENGER TERMINAL, HONOLULU, OAHU (HAWAII HARLEQUINS RUGBY FOOTBALL CLUB).

The applicant is a nonprofit organization who will use the area for fund-raising purposes.

ACTION

Unanimously approved as submitted. (Higashi/Yagi)

ORAL

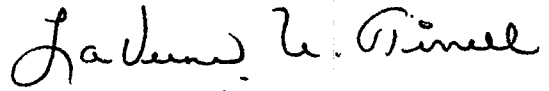
USE OF SUGAR AT HONOLULU INTERNATIONAL AIRPORT.

In response to a question asked by Mr. Yagi at an earlier meeting, Mr. Garcia said that he was informed by the Marriott restaurant at the Honolulu International Airport that they are now using Hawaii grown sugar.

ADJOURNMENT

The meeting adjourned at 12:15 p.m.

Respectfully submitted,



LaVerne U. Tirrell
Secretary

APPROVED



SUSUMU ONO
Chairman

lut