

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

DATE: October 9, 1981
TIME: 9:00 A. M.
PLACE: DLNR Board Room
Kalanimoku Building
Honolulu, Oahu

ROLL
CALL

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

MEMBERS

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

(Mr. J. Douglas Ing was absent
and excused.)

STAFF

Mr. James Detor
Mr. Roger Evans
Mr. Takeo Fujii
Mr. Roy Sue
Dr. John Corbin
Mr. Gordon Soh
Mrs. Joan K. Moriyama

OTHERS

Dep. A. G. William Tam
Dep. A. G. Edwin Watson
Mr. Percy Mirikitani (Item F-3)
Mr. Wallace Wenge (Item F-3)
Mr. Norito Kawakami (Item H-1)
Mr. Samuel George (Item F-1-h)
Mr. Peter Garcia

MINUTES

Mr. Hong moved to defer the minutes of September 11, 1981 since the board did not have an opportunity to review them. Mr. Yagi seconded and the motion to defer was unanimously carried.

ADDED
ITEMS

The board, on Mr. Hong's motion, seconded by Mr. Yagi, unanimously voted to add the following items to the board agenda:

Land Management

Item F-1-j -- PAT R. MOELLER & VALERIE M. MOELLER request for consent to mortgage, GL No. S-4113, Lot 6, Shafter Flats Industrial Development, Unit I, Moanalua, Honolulu, Oahu

Item F-27 --- Staff recommendation for acquisition of St. Augustine Church property, Waikiki, Honolulu, Oahu

Item F-28 --- Filling of Secretary II, Position No. 11290, Land Management Division

Administration

Item H-10 --- Request to Clarify Policy on Public Hearing for Conditional Use in the Conservation District

Item H-11 --- Request for Approval for Out-of-State Travel and for per diem expenses during a proposed trip to the National Sea Grant Aquaculture Plan Workshop at College Station, Texas

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

RESUBMITTAL - AUTHORIZATION TO ISSUE NOTICE OF DEFAULT AND CANCELLATION OF GENERAL LEASE NO. S-4514 TO SOUTH PACIFIC CHRISTIAN CAMPS, INC., MAKAPALA, NORTH KOHALA, HAWAII

ITEM F-3

This matter was deferred twice at previous meetings. It is a recommendation for service of notice of default and cancellation of a lease in North Kohala on Hawaii. The notice of default in this case has been served and the time will run out next Saturday, the 17th.

This is a 4-acre lease that was originally sold in 1965 at public auction, at a rental rate of \$900 a year, for "a private residential camp for boys."

Subsequently, at the request of the people who held the lease, the board in 1975 authorized cancellation of that lease and a new one issued under the provisions of Section 171-43 of the Hawaii Revised Statutes, which allows a lease to an eleemosynary organization, for a camp site for youth athletic and educational activities, at a rental rate of \$1.00 a year. So the original lease was cancelled and a new one issued.

The defaults that have occurred were listed on the first page of the submittal as follows:

1. Failure to obtain prior approval of the board for renovation of existing structures.
2. Failure to obtain prior approval of the board for the construction of three new cottages which the lease requires.
3. Failure to obtain prior approval of the board, as required by the lease, for room rental rates advertised in promotional camp literatures.

In addition to that, attached to the board submittal was a memorandum from Deputy Attorney General William Tam which briefly explained the history of the leasehold.

Mr. Detor said very recently new people have come into the picture. The party who formerly headed the organization died.

As the matter now stands, the default exists and the basis on which the staff was coming to the board is that there has been a violation of the lease provisions.

Mr. Percy Mirikitani, the attorney representing the lessee, prefaced his presentation by stating that they had a leader who was one of these enthusiastic, very tremendous Christian leaders. He got everybody involved. Everybody voluntarily went ahead with this type of leadership because he had dreams--all good dreams--Mr. Mirikitani said, for the development of youth and helping the young people. Practically all of the Hawaii churches, foundations, schools, and everybody used the premises, for free. They only paid for electricity.

In spite of what it looks like, Mr. Mirikitani said those buildings were all pre-cut from the mainland so a layman can build it without professional help. But it looks good and it does accommodate 8 to 10 people per cottage. They thought that was the right thing to do. They did not consult an attorney.

Mr. Mirikitani said no one is denying the fact that these three points don't exist. They do exist.

Mr. Mirikitani said he drafted enough information for the board to look at carefully. The South Pacific Christian Church Camp is a charitable eleemosynary institution that has functioned for many years in Hawaii. The tax people can verify that all cash were used for the purposes of the church and primarily for young people.

He said the intent and purpose what he did was a good one, and the record shows that he did a good job. At no time during that whole process did they intend to violate the provisions of the lease. He had no reason to break the law. However, there were several things done which caused some problems. One was the fund raising which they entered into in order to get cash for capital improvement. Some commercial professional people came in and volunteered their services and this is what started the trouble. So the pamphlets which the board received was literally created by some professionals and not by the church members. Mr. Mirikitani said it was only after he discovered this that he stopped it. The church had no intent to have time sharing or anything of that sort. There was no such thing involved.

The whole purpose was that these people who donated would come to Hawaii to be leaders to help and participate in the program. For that they can use the premises.

Mr. Mirikitani said all programs that were previously covered would be carried on by Mr. Wallace Wenge and his group. He said his program is even bigger than which Makapala has because it is internationally trained. They are already settled in Kona for years and have been doing tremendous work in Hawaii.

Mr. Mirikitani said they are willing to correct anything at any time without defeating the whole purpose of the lease and its usage.

He asked that the board's consideration to the total program be given serious thought; the fact that the intent and purposes were proper; that all the facilities were constructed for youth purposes and not commercial purposes; and the fact that all considerations were strictly for purposes of youth program and no profit to anyone.

Mr. Higashi asked whether there is any document for the contributions that were made for the purpose of capital improvement for the premises. Was

there any consideration to someone for the purpose of gift to the church, or some other consideration?

Mr. Mirikitani said the only consideration is tax free. After corrective measures were taken, the whole consideration was that the people who donated and who come here, must participate in the program with the youth or they cannot be scheduled. So it is not at their own time and it is not at their own program.

Mr. Higashi asked whether these people are trained or qualified with kids.

Mr. Mirikitani said yes. He said a person would not generally donate something unless he is interested or going to do something. He said these are Christian church people who donated. To people on the mainland it is an exciting thing for them to say they are going to such a place. It's isolated and beautiful.

Mr. Higashi said the ceasing of the mailing out of the brochures is not an ending of the program. They need to work out means of eliminating that program altogether. He would like to address that to the new group. He said that is a major violation.

Mr. Mirikitani said they discussed that and he told them that as a legal liability, they do have it. They would have to contact these individuals and clear each one under what terms and conditions they would accept. He was almost certain that they would accept it. But he told them that they have to do it on record.

Mr. Wallace Wenge, President of the South Pacific Christian Camp, briefly addressed the board. He said they have been incorporated in Hawaii since 1974. They are involved in training, in evangelism, and they also work with refugees. They will still use the camp for seminars, short-term schools, camps, recreation, etc.

Mr. Hong asked how the maintenance of the camp is to be financed.

Mr. Wenge said as a whole they are financed by contributions, and also there is a charge for the students.

Mr. Higashi asked how they propose to resolve the major violation.

Mr. Wenge said these people needed to be contacted and they needed to be told that this is purely donation, and that there is no time that they can come back and stay at the camp. If they come back, they would need to participate as an active member. They would not have any special consideration or special favors.

Mr. Ono asked whether they have any kind of agreement.

Mr. Wenge said there is an agreement for the amount of time they can come back, depending on the amount, saying that it is a donation, but it does give privileges to come back for a period of time. They have cancelled all that.

Mr. Higashi said if in fact contributions were made in the manner their legal counsel had represented, then it may not be a strong legal problem. He

said probably we can solve that problem. Mr. Higashi said he personally would like to see a continued use for that kind of activities within that area.

Mr. Ono said it was earlier stated that these actions were taken by an enthusiastic staff. To say that they didn't know that the lease provisions called for certain types of action, he said he has some difficulty in accepting that totally because it is an organization that is well founded. It isn't a new type of operation.

Subsequent to that, he said the brochure indicated, "today's cost of one holiday could give you an annual holiday each year for the rest of your life."

Mr. Mirikitani said he realized that. He said all of these things that Mr. Ono mentioned is an aftermath that he caught.

Mr. Ono said the staff's report made reference to luxury-type accommodations. He asked whether it is luxurious.

Mr. Wenge said they are adequate. The construction is good. He wouldn't say they are luxurious, but he wouldn't say that they are cabins either.

Mr. Mirikitani said the misconception is that it is painted well and partitioned well. However, he said if they look at the cost factor, it is cheap.

Deputy Attorney General Tam pointed out to the board that the lease actually provides that the premises should be used solely for camp site, for youth athletic and educational activities, pursuant to Section 171-43. It's not meant for adults, so he said the board may want to address that.

Mr. Wenge said primarily the people that come are in the over high school age. When they discuss adults, he said most of them are in the 20's, but they also have children.

Mr. Tam asked whether they charge the young people to come.

Mr. Wenge said there is a cost charge.

Mr. Tam asked whether those rates are submitted to the board for approval.

Mr. Wenge said they can do that if that is the desire of the board.

He was advised that is one of the conditions of the lease.

ACTION

Mr. Higashi moved to extend the cure period for six months, with a condition that the lessee provide evidence, cure the problems, and outline the program and scope of activities that will be held on the premises; together with a schedule of charges that are to be anticipated for each student, and explanation of ways of reaching their dollar cost.

Mr. Hong said to also include a listing of the age groups that participate.

Mr. Ono said another piece of information that he would like to see is any future construction plan that is projected. If they don't intend to have any, they can just make a definitive statement.

Mr. Higashi so amended his motion as discussed above. Mr. Hong seconded and the amended motion was unanimously approved.

CDUA FOR CONSOLIDATION AND RESUBDIVISION AT MAKOLELAU, KAMALO,
MOLOKAI (NORITO KAWAKAMI ON BEHALF OF TITLE GUARANTY)

This was a request for consolidation and subdivision on Molokai. The board held a public hearing on Molokai. There were some concerns expressed by the board over the possibility of the fish ponds being on historic sites. The Historic Sites staff was asked to check into that. Mr. Evans said they have been informed by the Historic Sites staff that this is not on the Historic Register and recommended that they be placed on the Historic Register.

They also brought up another aspect of it. In terms of the fish ponds, that there also should be some adjacent fast land under the same ownership rather than just circle out the fish pond for one owner so that the owner would actually own a part of the land and the fish pond. They pointed out that we have maintenance problems.

Mr. Evans said they have reviewed these comments by Historic Sites. In considering the objectives of the resource subzone, which these ponds are located, they felt that the subdivision of the fish ponds may not be considered development with proper management to insure the sustained use of subzones, and that such an action may well serve to obstruct the development of a permitted use of the resource subzone. That permitted use being aquaculture.

Staff recommended that the applicant retain each of the two fish ponds as separate undivided parcels.

Mr. Evans said he had an opportunity to inform the counsel for the applicant on the staff's recommendation. It was his understanding that the counsel will be presenting his feelings on the matter.

Staff recommended that the consolidation and resubdivision request be denied for the reason that the subject fish ponds resulting in multiple ownership would not be consistent with the objectives of the resource subzone.

Mr. Hong said he would like to see the fish ponds preserved. However, he didn't see how the multiple ownership conflicts with the preservation use of the fish pond.

Mr. Evans said, as an example, if you have an existing fish pond and you split it under two ownership, and the owner on one side of the fish pond wanted to develop for aquaculture, he would go into that portion of the fish pond and repair his wall. On the other hand, if the owner of the other side had no interest in developing the fish pond for aquaculture, and thus did not share equally in the burden of maintaining the wall, we could have a situation where one half of the fish pond and its walls are maintained, and the other half of the fish pond and its walls not maintained.

He said if a fish pond were to be subdivided and a wall to be placed in the middle to indicate ownership, staff would be wondering in their minds the effect that would have on the original integrity and use of the fish pond. Mr. Evans said comments from our divisions were that there should be no wall going down the middle of the fish pond. It should be held intact as it is.

Mr. Ono asked whether the Historic Sites Branch is planning to nominate and process papers for nomination.

Mr. Evans said it was his understanding that they are prepared to process the papers should the papers come in. However, he also understood that

they are requesting the owners to nominate rather than the Historic Sites nominating themselves.

Mr. Yagi asked what if the owners refuse to nominate.

Mr. Evans said he didn't know what the implications would be.

Mr. Yagi asked whether the fish ponds belong to the estate or to the state.

Mr. Evans said it doesn't belong to the state.

Mr. Ono asked whether staff is positive on that. Mr. Evans said no.

Mr. Yagi said if we grant the subdivision and it is state land, they would be subdividing state land.

Mr. Ono asked whether staff had the shoreline certification map. Mr. Evans said although a survey had been done, he didn't have the shoreline certification map as part of the exhibit. He said he will have his staff check on it right away.

Mr. Norito Kawakami, the attorney for the applicant, said they did have a shoreline survey signed by the chairman, which was submitted as evidence at the public hearing on Molokai.

Mr. Ono recalled seeing that map.

Mr. Kawakami said this application is purely for a paper subdivision. They are not going to move one stone, put in one plant or chop down one branch. He said actually there is no legal problem as such and because they are not doing anything, there is no practical problem. No change of use, so there are no environmental problems. It's not on the list of historic property, nor has it been determined to be even eligible at this time. The County of Maui says they have no problem with it.

Mr. Hong asked Mr. Kawakami how he addresses the concerns expressed earlier by Mr. Evans about the maintenance of the ponds if there is multiple ownership.

Mr. Kawakami said it would be necessary for him to say to the board that he has inspected these ponds, and you cannot even see the walls at low tide.

These ponds have not been in use for fifty years. He said there is an economic reason for this. That is not a problem that can come up. The literature states that production per acre for this type of pond has averaged only 350 pounds or yield 300 plus per pound per year per acre. Whereas, today aquaculture production runs in hundreds of thousands of pounds. So he would admit that in a sense these are historic ponds. However, the fact is the Historic Sites people having surveyed all of these ponds have failed to list or have not listed these ponds even as potential historic sites.

Mr. Ono said staff is trying to get a copy of the certified map so the board will hold this matter in abeyance until we get that map.

(See pages 13 to 15 for further action on this item.)

Item F-1-h SAMUEL GEORGE APPLICATION FOR R. P. AT KAHANA VALLEY, OAHU

Mr. Detor said Mr. Samuel George has held a permit which was cancelled

for nonpayment of rent over the 60-day period policy which the board had adopted. Mr. George has been ill for most of the past year and just recently was discharged from the hospital. At the time he had owed quite a bit of rent, but it had been brought up to date during the interim, so he is presently current.

Staff recommended that the permit be reinstated. A new permit has to be issued.

ACTION Unanimously approved as submitted. (Yagi/Hong)

ITEM D-1 SOIL AND WATER CONSERVATION DISTRICT DIRECTORS

ACTION The board, on Mr. Yamamoto's motion and seconded by Mr. Yagi, unanimously appointed Mr. John Hoxie for the term ending June 30, 1984 to serve as director of the West Kauai Soil and Water Conservation District.

ITEM E-1 FILLING OF VACANT GENERAL LABORER I POSITION, LAVA TREE/MACKENZIE STATE PARKS, HAWAII PARKS SECTION

ITEM E-2 FILLING OF VACANT GENERAL LABORER I POSITION, AKAKA FALLS STATE PARK, HAWAII PARKS SECTION

ITEM E-3 FILLING OF VACANT GENERAL LABORER I POSITION, HAPUNA BEACH STATE PARK, HAWAII STATE PARKS SECTION

ACTION The board, on Mr. Yagi's motion and seconded by Mr. Yamamoto, unanimously approved Items E-1 to E-3 and made the following appointments:

1. Joseph Reyes to Position No. 02948, General Laborer I assigned to Lava Tree/MacKenzie State Parks
2. Wilfred Pacheco to Position No. 13171, General Laborer I, assigned to Akaka Falls State Park
3. Arthur Munro to Position No. 2690, General Laborer I, assigned to the Hapuna Beach State Park

ITEM E-4 REQUEST FOR OUT-OF-STATE TRAVEL FOR STATE PARKS ADMINISTRATOR TO ATTEND THE 1981 NATIONAL RECREATION AND PARKS ASSOCIATION CONFERENCE IN MINNEAPOLIS, MINNESOTA

ACTION Mr. Hong moved for approval.

Mr. Yagi said this is a very important conference for a board member to attend and asked to amend the recommendation to include a board member.

Mr. Hong so amended his motion to include a board member. Mr. Yamamoto seconded and the amended motion was unanimously carried.

ITEM F-1 DOCUMENTS FOR CONSIDERATION

KAUAI

Item F-1-a ASSIGNMENT

KEITH MERRILL SMITH, unmarried, to JANE'E M. CRAWFORD, unmarried Lot 90, Kokee Camp Site Lots, Waimea (Kona) - GL No. S-4078

Mr. Hong noted that in the letter attached to the board submittal, it states that "Ms. Crawford would like to purchase the lease by 'Tenants by the Entirety.'" He said that is a classification that usually goes with married people.

Mr. Detor said she is buying it as a sole owner. He'll check that out.

Mr. Ono asked whether Ms. Crawford is a resident of Hawaii. He said these lots should only go to residents, not to nonresidents. He suggested that we defer this and check that out. He also suggested that on all such requests that we check out first to see whether they are residents before coming to the board.

DEFERRED.

Item F-1-b LAND LICENSE

OLOKELE SUGAR CO., LTD. - Olokele Cinder Pit, being portion of the area covered by General Lease No. S-3814 to Olokele Sugar Co., Ltd., at Hanapepe

Mr. Detor said there was a mistake under location where it says tax map keys. It should read 1-8-07 rather than 1-8-08.

Mr. Ono asked whether the royalty rate is a prevailing rate. Mr. Detor said it was. He didn't, however, have the current appraisal.

Mr. Yamamoto suggested that staff check this out because they are in the business of selling cinders. He asked for deferral.

DEFERRED.

OAHU

Item F-1-c ASSIGNMENT

PATRICK E. OKA, Assignor, to SHARON'S PLANTS, LTD., a Hawaii Corporation, Assignee - Lot 39, Waimanalo Agricultural Subdivision, Waimanalo - GL No. S-3777

Item F-1-d REVOCABLE PERMIT

UNIVERSITY OF HAWAII, OFFICE OF THE STATE DIRECTOR FOR VOCATIONAL EDUCATION - portion of former OR&L Depot and Iwilei Produce Center Site, 920 Iwilei Road, Honolulu - to expand Motor Vehicle Mechanic Certification Center - gratis

MOLOKAI

Item F-1-e LAND PATENT

Land Patent to be issued in confirmation of Land Commission Award No. 139-B to Awardee, Kauku, by application of Paul G. Will - Land called Kupeke Ii of Hookahi, Molokai

HAWAII

Item F-1-f SUBLEASE

ANDREWS TRUCKING SERVICE, INC., a Hawaii corporation, Sublessor, to JACK OSKINS and DOLORES OSKINS, husband and wife, Sublessee - Lot 13, Kanoelehua Industrial Lots, Waiakea, South Hilo - GL No. S-3653

Mr. Detor pointed out that this lease was issued prior to the land laws coming into effect in 1962 which have a provision that the board can up

the rent based on the sublease rental. This lease does not have that particular provision in it. It was issued prior to that. However, Mr. Detor said, we are in the process of renegotiating on the basic lease anyway. The present lease runs \$540 per year. We have had an appraisal made for the reopening which indicates increasing it to \$6,095 a year.

Item F-1-g CONSENT TO MORTGAGE

HILO ASSOCIATION TO HELP RETARDED CITIZENS (HARC), mortgagor, to U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD), mortgagee - roadway known as Amau Road at Kaumana, South Hilo - GL No. S-4696

(See pages 7 and 8 for Item F-1-h.)

HAWAII

Item F-1-i MORTGAGE

YUKIO MURAYAMA and JUDY Y. MURAYAMA, Mortgagor, to FEDERAL LAND BANK OF SACRAMENTO, Mortgagee - Lot 15, Keonepoko Iki Farm Lot Sub-division (Pahoa Agricultural Park), Puna - GL No. S-4429

Added

OAHU

Item F-1-j MORTGAGE

PAT R. MOELLER & VALERIE M. MOELLER request for consent to mortgage - Lot 6, Shafter Industrial Development, Unit I, Moanalua, Honolulu - GL No. S-4113

ACTION

Item F-1 was unanimously approved as submitted, with the exception of Items F-1-a and b which were deferred. (Hong/Yamamoto)

STAFF RECOMMENDATION OF LEASE AT PUBLIC AUCTION, GOVERNMENT LAND OF MAKAULA-OOMA MAUKA TRACT, TAX MAP KEY 7-3-01:2, NORTH KONA, HAWAII

ITEM F-2

This was a recommendation for the sale of a lease at public auction and involves some 1,250 acres in Kona. This is part of the land that was formerly under lease for pasture purposes to Huehue Ranch. It is now on a permit to them. They are applying for general agriculture. They propose to utilize for macadamia nuts, taro, protea, carnations, etc.

Mr. Ono asked whether an environmental assessment is required. Mr. Detor said the applicant will complete the necessary environmental and archaeological work prior to the disposition. The cost of that, under the proposal would be assessed against the successful bidder.

Mr. Higashi asked for deferral. He said he didn't receive enough information prior to this meeting, and he didn't fully understand what he is voting on, nor the area that is affected.

He asked whether the designated proposed use is general agriculture and not restricted to acreages as defined in the submittal.

Mr. Detor said it is not restricted. However, Mr. Ono called Mr. Detor's attention to Recommendation No. 3. He said it is pretty restrictive.

Mr. Detor said he didn't intend it to be restrictive.

Mr. Higashi said he also wants to look into it to see whether it is a potential site for agricultural park.

- ACTION The board had no objection to deferring this matter.
- (See pages 2 to 5 for Item F-3.)
- ITEM F-4 HAWAII ELECTRIC LIGHT CO., INC. REQUEST FOR EASEMENTS AND CONSTRUCTION RIGHT OF ENTRY FOR ELECTRICAL TRANSMISSION LINE IMPROVEMENTS AT KAPIA, SOUTH KOHALA, HAWAII
- ACTION Unanimously approved as submitted. (Higashi/Hong)
- ITEM F-5 ELLEN YOSHIDA APPLICATION FOR LEASE COVERING LAND IN THE KEANAE HOMESTEADS, 1ST SERIES, KOOLAU, HANA, MAUI
- ACTION Unanimously approved as submitted. (Yagi/Higashi)
- ITEM F-6 MAUI ELECTRIC CO., LTD. AND HAWAIIAN TELEPHONE CO. APPLICATION TRANSMISSION LINE EASEMENT, NAPILI 4 & 5, LAHAINA, MAUI
- ITEM F-7 MAUI ELECTRIC CO., LTD. REQUEST FOR AMENDMENT OF PREVIOUS BOARD ACTION COVERING NAPILI WELL PUMPS NOS. 1, 2, AND C, LAHAINA, MAUI
- ACTION Mr. Yagi asked to defer Items F-6 and F-7. There was no objection by the board.
- ITEM F-8 DOT REQUEST FOR E. O. SETTING ASIDE FAST AND SUBMERGED LAND FOR THE WAIANAE BOAT HARBOR, WAIANAE-KAI, WAIANAE, OAHU
- ITEM F-9 C&C OF HONOLULU REQUEST FOR E. O. SETTING ASIDE LAND FOR THE WAIANAE REGIONAL PARK, WAIANAE-KAI, WAIANAE, OAHU
- ITEM F-10 U. S. COAST GUARD REQUEST FOR NAVIGATIONAL RANGE LIGHT EASEMENT AT WAIANAE BOAT HARBOR, WAIANAE-KAI, WAIANAE, OAHU
- ACTION Items F-8, F-9 and F-10 were unanimously approved as submitted. (Hong/Yagi)
- ITEM F-11 STAFF RECOMMENDATION FOR EXERCISE OF REPURCHASE OPTION, LOT 128, KEKAHA GARDENS SUBDIVISION, INCREMENT 4, KEKAHA, KAUAI
- ACTION Unanimously approved as submitted. (Yamamoto/Yagi)
- ITEM F-12 MCBRYDE SUGAR CO., LTD. REQUEST FOR CANCELLATION OF GENERAL LEASE NO. S-3971, KALAHEO, KOLOA, KAUAI
- ACTION Unanimously approved as submitted. (Yamamoto/Yagi)
- ITEM F-13 STAFF RECOMMENDATION FOR SALE OF LEASE COVERING LOT 62 OF THE KAPAA HOMESTEADS, 1ST SERIES, KAPAA, KAUAI
- ACTION Unanimously approved as submitted. (Yamamoto/Yagi)
- ITEM F-14 POIPU BEACH CO. REQUEST FOR AMENDMENT OF PREVIOUS BOARD ACTION AUTHORIZING GRANT OF EASEMENT AT WELIWELI, KOLOA, KAUAI
- Mr. Yamamoto asked whether they are all paid up. Mr. Detor said they are all paid up. They now want to put it in the name of the Poipu Kai Association rather than Poipu Beach Co. They paid the \$78,000 for the easement.

Mr. Ono asked whether they paid the \$25,000 in connection with the other case. Mr. Detor said he wasn't sure. Mr. Evans was going to check on that.

Mr. Hong asked whether they lived up to their original commitment when we initially granted the easement where the access to the beaches were granted.

Mr. Detor said yes. Mr. Ono asked to make sure.

ACTION Mr. Yamamoto asked for deferral. There was no objection by the board.

ITEM F-15 SHIGERU MIYASATO (FOR CITIZENS UTILITIES CO.) APPLICATION FOR ELECTRIC TRANSMISSION LINE EASEMENT, KAUAI

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

ITEM F-16 DSSH REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING ROOMS 501, 502 AND 503 OF THE QUEEN EMMA BUILDING, HONOLULU, OAHU

ACTION Unanimously approved as submitted. (Hong/Yamamoto)

Deputy Attorney General William Tam said there has been a problem with state leasing private spaces where we have been getting hit for the real property tax, when by statutes we are exempt from it. He said recently he rejected a number of leases just to make that point. So he thought the board may want to consider looking into other leases.

Mr. Detor said we had a meeting with DAGS yesterday and this matter was brought up.

Mr. Tam said there were two points that he wanted to bring to the board's attention:

1. One is that lots of times state agencies may not know that it has to file by the end of the year for exemption. He said the exemption is not automatic. So consequently we pay the county when we don't have to.
2. Lots of private lessors are prorating the real property tax even if the exemption has been granted as an operating cost.

He said all he was suggesting is that we clarify all of the leases.

ITEM F-17 DSSH REQUEST FOR APPROVAL OF LEASE COVERING ROOMS 400 THROUGH 408, BETHEL-PAUAHI BUILDING, HONOLULU, OAHU

ITEM F-18 DSSH REQUEST FOR APPROVAL OF LEASE COVERING ROOM 501 AND ROOMS 503 THROUGH 509, BETHEL-PAUAHI BUILDING, HONOLULU, OAHU

ITEM F-19 DSSH REQUEST FOR APPROVAL OF LEASE COVERING ROOMS 512, 514, 516, 518, AND 520, BETHEL-PAUAHI BUILDING, HONOLULU, OAHU

ITEM F-20 DSSH REQUEST FOR APPROVAL OF LEASE COVERING ROOMS 609, 610, 611, 613, 615 AND 617, BETHEL-PAUAHI BUILDING, HONOLULU, OAHU

ITEM F-21 DSSH REQUEST FOR APPROVAL OF LEASE COVERING THE 5TH FLOOR OF THE KAPIOLANI HOSPITAL BUILDING, HONOLULU, OAHU

ITEM F-22 DOH REQUEST FOR APPROVAL OF LEASE COVERING 224 SQUARE FEET FLOOR SPACE AT SUITE 600, 1164 BISHOP STREET, HONOLULU, OAHU

ITEM F-23 DLIR REQUEST FOR APPROVAL TO AMENDMENT OF LEASE COVERING OFFICE SPACE AT SUITE 600, 1164 BISHOP STREET, HONOLULU, OAHU

ITEM F-24 B&F REQUEST FOR APPROVAL TO AMENDMENT OF LEASE COVERING OFFICE SPACE AT 1164 BISHOP STREET, HONOLULU, OAHU

ITEM F-25 PUC REQUEST FOR APPROVAL TO AMENDMENT OF LEASE COVERING OFFICE SPACE ON THE 9TH FLOOR OF 1164 BISHOP STREET BUILDING HON. OAHU

ACTION Items F-17 to 25 were unanimously approved as submitted. (Hong/Yagi)

ITEM F-26 COUNTY OF HAWAII REQUEST FOR CONVEYANCE OF ROADS WITHIN THE PANAewa AGRICULTURAL PARK, PANAewa, WAIAKEA, SOUTH HILO, HAWAII

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM F-27 ADDED STAFF RECOMMENDATION FOR ACQUISITION OF ST. AUGUSTINE CHURCH PROPERTY, WAIKIKI, HONOLULU, OAHU

This was a recommendation for acquisition of the St. Augustine Church site at Waikiki. Governor has negotiated a price with the Bishop of \$5.2 million for the property. We are in the process of having an appraisal made which Mr. Detor thought would come in way above that particular price. Board's formal approval is required to acquire that property. The method of payment that has been agreed to is in three payments:

1. \$2 million payable by October 31, 1981
2. \$2 million payable on or before October 31, 1982
3. Final payment of \$1.2 million on or before October 31, 1983.

Mr. Hong said we should express our appreciation to the Catholic Church for this property.

ACTION Unanimously approved as submitted. (Yagi/Hong)

ITEM F-28 ADDED FILLING OF SECRETARY II, POSITION NO. 11290, LAND MANAGEMENT DIVISION

ACTION The board, on Mr. Yagi's motion and seconded by Mr. Yamamoto, unanimously approved the appointment of Ms. Helen Marie de Castro to Position No. 11290, Secretary II.

(Continuation of Item H-1 from pages 6 and 7.)

Mr. Evans said they have additional recommendations to make to the board.

The shoreline certification map is dated June 15, 1981. They have briefly discussed the matter with the State Surveyor. He said the shoreline itself does not appear to conform with ownership as was represented by the applicant in the original map that came in with the application. Staff specifically asked the State Surveyor that question. His response was that there was a degree of hesitation to state that these fish ponds were state-owned because,

although the survey itself may show them to be makai, there has been a Supreme Court case which indicated that ownership of the fish ponds was by the adjacent land owner. Staff still had a question. Are they or are they not fish ponds, and thus subject to that interpretation because of what effectively happens at high tide when the water comes in.

Mr. Evans said he briefly had an opportunity to discuss the matter with our attorney. They do feel that there are questions that do relate to ownership and these are legal questions.

In addition to the original recommendation, Mr. Evans said they would like to add a second reason. That reason would be a legal question relating to ownership due to the shoreline survey and the effects of high tide on the fish pond.

Mr. Kawakami said this subdivision is part of a total big subdivision of 1,600 acres or more. Assuming there is this question as to real ownership of the fish ponds, they would be willing to stipulate the fact that by allowing this subdivision will not be any admission on the part of the state that they own it. Because once you get into this kind of question, which affects not only this parcel, but may affect other parcels all over the state, it is going to take years and years before it is properly settled in courts.

Mr. Kawakami suggested that the board approve the whole thing as submitted, and if the state comes and says this is not private land, but belongs to the state, the fact that they approved the subdivision does not mean one way or other. It is no admission on the part of the state that they actually own this.

Mr. Yagi said what if you put on the opposite. Assuming that the pond belongs to the state.

Mr. Kawakami said he understands what Mr. Yagi is saying. He said that is one approach and would be applicable, except for the fact that they have a deed from the state initially in the original grant which goes back to 1902 that says that this land is sold to the Fosters. If they didn't have that grant, then it is a 50/50 thing, but because there is this document on the part of the state that they have deeded this land to his client, it is not a 50/50 proposition.

Mr. Evans said should the board deny the application, the applicant can come back and reapply again. These legal questions could be worked out with the attorney general's office for clarification during that time. However, he said, given all the information that they have, their recommendation stands.

Mr. Hong said he is not convinced of the first reason. However, the new information is interesting and he would be reluctant to approve it.

Mr. Evans said in terms of alternatives, if they were to come back and redraw the line so that ownership of the fish ponds remain under single ownership, then that would clarify the legal question.

Mr. Ono asked Mr. Kawakami whether the alternatives just mentioned by Mr. Evans is viable.

Mr. Kawakami said the board has the power on matters of this sort. They are going to have to work with whatever the board says because they have many parties that they have to work with. He said he cannot at this moment speak for all of them.

ACTION Mr. Yagi moved to approve the request for subdivision of the area mauka of the highway, and that the area makai of the highway be excluded from the subdivision and be held in abeyance.

Mr. Hong seconded and the amended recommendation was unanimously carried.

ITEM H-2 CDUA FOR NONCONFORMING RESIDENTIAL USE AT GLOWALU, MAUI
(BILL STAFFORD ON BEHALF OF TIMOTHY H. GOLD)

Staff recommended denial since the proposed use of the property is in conflict with the objectives of the limited subzone.

Mr. Yagi asked why staff was coming up so strong that they knock down the house.

Mr. Evans said in nonconforming use, the law that applies is that there was a building there when Regulation 4 came into existence. That building was legal, as such the building becomes grandfathered. However, the purpose of nonconforming use, as expressed in the law and by legal counsel, is to eventually bring all land uses into conformance with the law. As such when a building, although it is nonconforming, burns down the nonconforming aspect of the law terminates at that point. If the guy wants to put a building, he has to come and qualify under the regular nonconforming use provisions.

Mr. Evans said in this case the applicant said he is going to knock the building down. Once the building is knocked down, the nonconforming use terminates. It does not conform with the objectives of the subzone, and this was the reason for denial.

Mr. Higashi asked when was this parcel created. Was the parcel created before Regulation 4 took effect? Maybe it's grandfathered, he said, under the nonconforming use.

Mr. Evans said this parcel was created before Regulation 4, but it was not vacant. He said you have to have both of these.

Mr. Watson said Mr. Evans is correct. If you have a building that is in essence under nonconforming use, the land owner may modify that building but if he intends to tear it down or is destroyed by fire, he may not now come back and put up a building unless he comes in with an application. However, as Mr. Higashi has stated, what about the other theory? If you have a parcel of land and is a nonconforming parcel intended for residential use, and it was created prior to 1964, can he not make an application under that aspect of it and come in as nonconforming use from that standpoint.

ACTION Mr. Ono suggested that we defer this matter until the next meeting. There was no objection by the board.

ITEM H-3 CDUA FOR SUBDIVISION AT KAPOHO, LAEPAOO, PUNA, HAWAII (GILBERT
K. HARA ON BEHALF OF KAPOHO LAND & DEVELOPMENT CO., LTD.)

Mr. Higashi expressed a conflict of interest on this matter and did not participate in any action taken by the board and excused himself from the room.

ACTION Approved as submitted. (Hong/Yagi)

- ITEM H-4 CDUA FOR EXPANDED DOCKING FACILITY USE AT KALIHI, OAHU (AMFAC MARINE SUPPLY, INC.)
- ACTION Unanimously approved as submitted. (Hong/Yagi)
- ITEM H-5 CDUA FOR SINGLE FAMILY RESIDENTIAL USE AT HAENA HUI, HAENA, KAUAI (THOMAS HAJNY)
- Mr. Evans received a request from the applicant for deferral. This is the Haena Hui Land. Staff was recommending approval. However, approval was in accordance with the board's policy. In this case the lot was subdivided into three separate areas--a beach lot, a waterfront lot and a 1,000 square-foot property which is a good house lot so staff recommended approval for the 1,000 square feet. The applicant, on the other hand, said he should have the whole 25,000 square feet.
- ACTION There was no objection by the board to defer this item.
- ITEM H-6 CDUA FOR SATELLITE RECEIVING ANTENNA AT PALEHUA, OAHU (BENJAMIN A. KUDO ON BEHALF OF THE ROBERT WOLD CO. OF HAWAII, INC.)
- ACTION Unanimously approved as submitted. (Hong/Yamamoto)
- ITEM H-7 REQUEST FOR APPROVAL TO CONTRACT WITH THE UNIVERSITY OF HAWAII TO CARRY OUT A PROJECT TO DEVELOP HEALTH INDICES FOR HAWAII PRAWNS
- ACTION Unanimously approved as submitted. (Yagi/Hong)
- ADDED ITEM H-11 REQUEST FOR APPROVAL FOR OUT-OF-STATE TRAVEL AND FOR PER DIEM EXPENSES DURING A PROPOSED TRIP TO THE NATIONAL SEA GRANT AQUACULTURE PLAN WORKSHOP AT COLLEGE STATION, TEXAS
- ACTION Unanimously approved as submitted. (Hong/Yagi)
- ITEM H-8 ADOPTION OF UPDATED DISASTER RESPONSE AND ASSISTANCE PLAN
- ACTION Unanimously approved as submitted. (Yagi/Yamamoto)
- ITEM H-9 APPROVAL TO FORWARD TO THE STATE POLICY COUNCIL OF FOUR FUNCTIONAL PLANS OF THE DLNR
- Mr. Higashi asked that the board be furnished with revised copies of the plans when they are finalized.
- ACTION Unanimously approved as submitted. (Yagi/Hong)
- ADDED ITEM H-10 REQUEST TO CLARIFY POLICY ON PUBLIC HEARING FOR CONDITIONAL USE IN THE CONSERVATION DISTRICT
- ACTION Unanimously approved as submitted. (Yagi/Yamamoto)
- ITEM J-1 LEASE OF LAND AT HONOLULU INTERNATIONAL AIRPORT, OAHU (PARADISE AIR CORP.)
- ACTION Unanimously approved as submitted. (Hong/Higashi)

ITEM J-2 LEASE OF LAND AT HONOLULU INTERNATIONAL AIRPORT, OAHU (PEYTON CARROL, DBA CARROLL INVESTMENT FUND)

ACTION Unanimously approved as submitted. (Hong/Yamamoto)

ITEM J-3 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS, AIRPORTS DIVISION

ACTION Unanimously approved as submitted. (Higashi/Yagi)

ITEM J-4 RENEWAL OF REVOCABLE PERMITS, CONFORMING USE, AIRPORTS DIVISION

ACTION Unanimously approved as submitted. (Hong/Yagi)

ITEM J-5 ISSUANCE OF A DIRECT LEASE, HARBORS DIVISION, MEZZANINE FLOOR LOBBY "B" PIER 10, HONOLULU, OAHU (U. S. GENERAL SERVICES ADMINISTRATION, BUREAU OF CUSTOMS)

ACTION Unanimously approved as submitted. (Hong/Yamamoto)

ITEM J-6 APPROVAL OF A CONSENT TO SUBLEASE A PORTION OF THE PREMISES OF LEASE NO. 42 BY NATIONAL CO., INC.

ACTION Unanimously approved as submitted. (Yagi/Hong)

ITEM J-7 ISSUANCE OF R. P., HARBORS DIVISION, MAALAEA BOAT HARBOR, MAALAEA, MAUI (MAALAEA BOAT AND FISHING CLUB, INC.)

ACTION Unanimously approved as submitted. (Yagi/Yamamoto)

ITEM J-8 ISSUANCE OF R. P. HARBORS DIVISION, MAALAEA BOAT HARBOR, MAALAEA, MAUI (PINEAPPLE HILL RESORT, LTD.)


ACTION Unanimously approved as submitted. (Yagi/Yamamoto)

ITEM J-9 ISSUANCE OF R. P., HARBORS DIVISION, NEAR PIER 19, HONOLULU, OAHU (NORTHLAND SERVICE, INC.)

ACTION Unanimously approved as submitted. (Hong/Higashi)

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