

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

DATE: November 20, 1981
TIME: 9:00 A. M.
PLACE: Kona Surf Hotel, Kohala Room
Keauhou, Kona, Hawaii

ROLL
CALL

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

MEMBERS: Mr. Roland Higashi
Mr. Stanley Hong
Mr. J. Douglas Ing
Mr. Thomas Yagi
Mr. Takeo Yamamoto
Mr. Susumu Ono

STAFF: Mr. James Detor
Mr. Roger Evans
Mr. Dean Uchida
Mr. Glenn Taguchi
Mr. Roy Sue
Mr. Maurice Matsuzaki
Mr. Charles Supe
Mr. James Paul
Mr. Roy Sue
Mrs. LaVerne Tirrell

OTHERS: Mr. Johnson Wong, Deputy Atty. General
Mr. Peter Garcia, DOT
Mr. David Basque] Item H-1
Mr. Calvin Choy]
Ms. Gayle Taoka] Item F-32
Mr. Isaac Hall]
Ms. Apoliona Day]
Mr. Harry Pahukoa]
Mr. Phil Scott] Item F-13
Mr. Vierra]
Mr. Tom Tanaka]

MINUTES

Mr. Hong moved for approval of the October 23, 1981 minutes as submitted.
Mr. Yamamoto seconded and motion carried unanimously.

ADDED ITEMS:

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

Administration

Item H-4 -- Delegation of Authority to Vice Chairman for final acceptance/non-acceptance regarding Windfarms Ltd. Environmental Impact Statement.

Item H-5 -- (Verbal) - Request to Fill Clerk-Typist Position.

CDUA FOR AFTER-THE-FACT NONCONFORMING SINGLE FAMILY RESIDENTIAL USE AT HOOKENA BEACH, SOUTH KONA, HAWAII (GARY M. PEKELE FOR DAVID BASQUE).

Initially, said Mr. Evans, the applicant came in with a request for conforming use. However, staff found that the subject area was located in the Limited Subzone and, using the standard criteria, staff had no choice at that time but to recommend denial. Subsequently, a second CDUA was submitted as a nonconforming use of the Limited Subzone.

There are four necessary conditions to be satisfied when the eligibility of a nonconforming use application is considered. Staff has found that this new application satisfies fully the four necessary conditions and, accordingly is recommending approval under the nonconforming use, subject to the conditions listed in the submittal.

Referring to the last paragraph before RECOMMENDATION on page 5 where it reads: "In order to discourage future incidence of this kind, staff suggests a total fine of \$1,500...", Mr. Ono asked if this was really the reason for the fine or was it because of the violation itself. The primary reason for the fine, said Mr. Evans, is that the violations were discovered at the time of inspection. However, we also use this means of discouraging people from doing this type of thing. I can understand your reasons, said Mr. Ono, however, it seems as though that is the real reason for the fine and not the violation itself so I think this should be clarified.

Mr. Basque called to the Board's attention a paragraph on page 5 which says that water is brought to his property through an unburied 1/2-inch plastic tubing and that this water line traverses both County and private properties without permission. He asked that the "1/2"-inch be changed to "1-1/2" inch. Also, he said that he now has permission from the County, as well as the private landowners, to cross one section from the highway to his property.

Referring to Condition No. 2, which requests \$1500.00 fine for unauthorized construction, Mr. Basque stated that one of the structures is a base for a water tank which is not really needed since he has a water line and asked if it might be possible to remove the fine for this structure thus lowering his total fine to \$1000.00.

Also, Basque did not know how to comply with Condition No. 8, which requires a fire contingency plan, acceptable to the Division of Forestry and Wildlife to be implemented during and after the construction of the dwelling. However, he will be more than willing to comply if staff could tell him what he is expected to do.

Mr. Basque felt that Condition No. 9 was rather severe. When the house was first started it was with the intention that only his family and close friends and relatives would use it. To date, said Basque, I have no intention of using the area for rental or for commercial purposes. However, if in the future someone may want to rent for maybe a week or for a weekend I will not be able to do so because of this condition. Constitutionally, I feel that I should have some rights to rent for a nominal fee to pay for expenses for keeping the house.

For various reasons, Mr. Higashi said that he could not see how the board could possibly eliminate Condition No. 9 without causing a precedence for rental of other homes within the conservation district. The board would also be subject to much criticism for inconsistency.

Mr. Basque stated that the house next to his was being rented on a permanent basis so, possibly the Board could somehow allow him to periodically rent his home on weekends or maybe for a week -- but not on a permanent basis.

In answer to Mr. Higashi's question, Mr. Basque said that this home was not his permanent residence -- but just used on weekends.

Feeling that the \$1500 fine was rather enormous, Mr. Yagi moved for approval of Item H-1 with an amendment to Condition No. 2 wherein the fine would be \$1050.00 instead of \$1500.00. Mr Yamamoto seconded and Messrs. Hong and Higashi voted no. Motion died for lack of a majority vote.

ACTION

Mr. Higashi moved for approval of Item H-1 as submitted, subject to the terms and conditions listed in the submittal and any other terms and conditions as may be prescribed by the Chairman. Motion carried with a second by Mr. Hong. Mr. Yamamoto voted no.

ITEM F-32

RESUBMITTAL - HAWAIIAN TELEPHONE COMPANY REQUEST TO ESTABLISH NEW MICROWAVE SYSTEM AT PAPAANUI, MAKAWAO (HONUALA), MAUI, HAWAII.

This request was submitted to the Board at its August 14, 1981 meeting with a recommendation that there be no change in rental rate because of the fact that "the approval in question represents only a replacement of existing facilities and not an "addition" to the present system. Because of Board concerns that a rental increase might nevertheless be in order, this request was deferred at said meeting.

Hawaiian Telephone Company subsequently addressed itself to the Board's concern in a letter dated September 24, 1981 in which a suggestion was made by the Lessee that a lump sum consideration based on the fair market value of the subject site for the remaining lease term of 50 years be considered. However, Mr. Detor did not think that we could legally entertain this request since the law says that rental cannot be paid for more than one year in advance.

Even though they feel the Board's suggestion is valid, Hawaiian Telephone finds it extremely difficult to comply with as they feel that any increase or decrease in revenues resulting from greater circuit capacity cannot be accurately determined because the Haleakala to Wailuku system is only one link in the interisland network which encompasses four islands.

In answer to Mr. Ono's question, Mr. Detor said that staff has recommended no change in rental rate since the approval in question represents only a replacement of existing facilities and not an "addition" to the present system and also because it would be hard to accurately gauge what the rental increase should be.

Mr. Ono was bothered that both Hawaiian Telephone and our staff felt that, because a rental increase would be hard to gauge, than rental should be left as is. He could maybe accept some other reason, but not this one.

Detor said that although it would allow Hawaiian Telephone to have more channels, this approval is just for "replacement" and not "addition" to the present system.

Calvin Choy, manager of the transmission system for Hawaiian Telephone Company asked for clarification as to whether land board approval would be required if equipment is replaced within an existing building even though this new equipment would allow them to have more channels. Mr. Choy explained that the existing antenna as is is capable of having more channels; however, the FCC laws require that the antenna be changed within a certain period of time so what the phone company does, for manpower reasons, is try to replace these equipment when major work is done within the building. What we are doing, said Mr. Choy, is replace the present antenna to one acceptable to FCC standards.

Regarding the lump sum consideration by the Telephone Company, Mr. Ono asked what affect this would have on the paying public. Mr. Choy was not sure.

In answer to Mr. Ing's earlier question, Ms. Gayle Taoka, Real Property Coordinator with the Hawaiian Telephone Company, said that they have a 65-year lease with an annual rental of \$300.00 which was set in 1966. First re-opening will be in 1987 with subsequent reopening every ten years.

ACTION

Mr. Yagi moved for approval of Hawaiian Telephone Company's request to replace existing facilities to their present system with an understanding that the rental rates will be reviewed by the staff of the Hawaiian Telephone Company, the Office of the Attorney General and the DLNR. Mr. Yamamoto seconded and motion carried unanimously.

ITEM E-1

PERMISSION TO ADVERTISE FOR BIDS, JOB NO. 49-MP-8, COMFORT STATION, IAO VALLEY STATE PARK, WAILUKU, MAUI.

The project consists of constructing a new and larger comfort station. Construction costs for the new comfort station with sitework and demolition of the existing structure is estimated at \$120,000.

ACTION

Unanimously approved as submitted, subject to approval by the Governor. (Yagi/Yamamoto)

ITEM E-2

PERMISSION TO EXECUTE MEMORANDUM OF AGREEMENT (MOA) WITH THE STATE DEPARTMENT OF TRANSPORTATION RELATING TO THE KAENA POINT STATE PARK AND DILLINGHAM AIRFIELD, HONOLULU, OAHU.

The MOA will require the Division of State Parks to maintain vegetation and prevent construction that would penetrate or otherwise obstruct the imaginary approach surface to Runway 8 of the Dillingham Airfield.

ACTION

Mr. Ing moved for approval as submitted with a further provision that a map be attached to the Memorandum of Agreement showing the line of the imaginary approach. Mr. Hong seconded and motion carried unanimously.

ITEM E-3

APPROVAL TO REMOVE KUKUI TREES AT QUEEN EMMA SUMMER PALACE, HONOLULU, HAWAII

Mr. Hong asked that staff look into the possibility of amending the condition in the lease in order that decisions on requests of this nature can be made by the staff and/or the Chairman instead of requiring board action.

Mr. Detor said that this condition is not normally included in our leases. However, the previous board asked that this condition be included in both the Queen Emma Museum lease and the Hulihee Palace lease in order to be kept apprised of any improvements on the grounds, especially those improvements at Hulihee Palace.

Mr. Ing felt that this was more of a maintenance problem rather than one of improvement.

ACTION

Mr. Ing moved for approval of this request as submitted and asked that staff check with the Office of Attorney General as to whether or not it would be possible to amend leases issued to both Queen Emma Museum and Hulihee Palace wherein the maintenance decisions could be made either by the Chairman and/or staff instead of the board. Mr. Hong seconded and motion carried unanimously.

ITEM E-4

AWARD OF CONTRACT, JOB NO. 30-KP-37, GROUND TERMITE TREATMENT OF MARINA RESTAURANT BUILDING B; REPAINT INTERIOR AND EXTERIOR OF BUILDINGS A & B AND ALUMINUM PATIO ROOF, WAILUA RIVER STATE PARK, KAUAI, HAWAII.

ACTION

The Board unanimously voted to award the construction contract for the subject project to the apparent low bidder, Fuse Painting, Inc., for their total low bid of \$42,671.00 which was \$4,849.00 lower than the total of Hawaiian Painting & Wallcovering, Inc.

ITEM F-1

DOCUMENTS FOR CONSIDERATION

Item F-1-a

CLARENCE KAHELE Request for Consent to Sublease to JOSEPH CHO, JR. and BEATRICE P. CHO, husband and wife, Covering Portion of G.L. No. S-3662, Piipihonua, So. Hilo, Hawaii.

Item F-1-b

WILLIAM WARREN Request for Consent to Assignment of G.L. No. S-4728 to JOAN AANAIVI, Covering Lots 8 and 37, Kokee Camp Site Lots, Waimea, Kauai.

Mr. Detor asked that this item be withdrawn inasmuch as Ms. Aanavi is no longer interested in purchasing the property.

Item F-1-c

ANNA MARZOEKI Application for Revocable Permit Covering Old Cottage on Former Keokea School, Keokea, Makawao, Maui - \$68.50 per month rental.

Item F-1-d

JOHNNY CASTILLO, et al, Request for Consent to Assign G.L. No. S-3783 to JOHNNY CASTILLO and PAULINE B. CASTILLO, husband & wife as T/E, Covering Lot 1, Waimanalo Agricultural Subdivision, Waimanalo, Oahu.

Item F-1-e

DEPARTMENT OF HEALTH Request for Issuance of Revocable Permit to EDWARD N. KELIIKOA, Covering Portion of E.O. No. 1020, Waimano, Ewa, Oahu - \$10.00 per month rental plus maintenance of the animal menagerie.

Mr. Ing felt that the rental of \$10.00 per month was rather low. Detor explained that under normal conditions the rental would be considered low. However, special consideration was given inasmuch as the DOH will be using Mr. Keliihoa's cattle and horses as a part of their therapeutic program.

Mr. Detor said that he had talked to the DOH people but was not completely satisfied with the arrangement.

The Board agreed to defer this item until the next Oahu board meeting at which time the DOH people could attend the meeting in order to clarify concerns of the board.

Item F-1-f

RESUBMITTAL - ROYAL RAINBOW RENT-A-Car Application for Revocable Permit Covering Tract D-2, Palaau & Hoolehua, Molokai - \$235.50 rental per month.

This matter was deferred at the last meeting because there was a question regarding the improvements on the property.

According to Mr. Detor, an office was built on the premises by Inter-Island Resorts who terminated their permit effective October 31, 1981 and have sold the improvements to Royal Rainbow Rent-a-Car. The permit, however, has a provision which states that the improvements remain the property of the permittee and that they can remove them at the termination of the permit or, if they lease the improvements, the permit reads that within a reasonable length of time the board can serve notice and the improvements will have to be removed or the State can take it over. However, what they want to do in this case is sell the improvements to the new permittee.

Mr. Ono stated again his concern that if this kind of transactions are allowed to continue on a month-to-month permit then the permittees can build all kinds of improvements with the understanding that they can pass it on to the second permittee. Because this is a month-to-month tenancy, once the permit is cancelled, the permittee should have no right to pass on the improvements to the new permittee. If anything, the State should be passing the improvements on to the second permittee and realizing the benefits of the improvements.

ACTION

Mr. Yagi moved for approval of Item F-1-f as submitted. Motion carried with a second by Mr. Yamamoto. Mr. Ono voted no -- not because he had any opposition to Royal Rainbow Rent-a-Car's request but because of the manner in which the transaction was handled.

As far as the improvements are concerned, said Mr. Detor, there are two ways in which the problem could probably be handled. One is to clearly specify that improvements become the property of the State once it is put in and another way is that they can put in the improvements with the understanding that it will have to be removed upon termination of the permit.

Mr. Ono asked that staff work on some alternatives for the board's consideration insofar as the improvements are concerned.

ACTION

Mr. Hong moved for approval of all items on the consent calendar, except F-1-b, d & f. Mr. Yagi seconded and motion carried unanimously.

STAFF RECOMMENDATION FOR SALE OF LOT 4 OF THE WAIAKEA HOUSE LOTS, 8TH SERIES, WAIAKEA, SO. HILO, HAWAII.

F-2

The parcel in question, originally awarded to Allan C. and Angeline F. Andrade at a drawing held on October 12, 1970, was repurchased by the State in June of 1975.

ACTION

Finding that there is sufficient demand for residence lots in the area to warrant sale of this lot and also that the subject lot is a unit of minimum size relative to the intended use and that said lot can be classified as an economic unit, the Board unanimously approved the public auction sale of the lot in question subject to the terms and conditions listed in the submittal. (Higashi/Ing)

STAFF RECOMMENDATION FOR SALE OF LOTS 4 & 6 OF THE KURTISTOWN HOUSE LOTS SUBDIVISION, WAIAKEA, SO. HILO, HAWAII.

Subject parcels are the remainder of an eight-lot subdivision constructed in 1975. Five of the lots were sold at a public drawing on April 1, 1977, and one lot was subsequently sold over-the-counter. Lots 4 and 6, both "flag" lots, were never sold.

ACTION

Finding that there is sufficient demand for residence lots in the area to warrant sale of these lots and that the lots are units of minimum size relative to the intended use and that each of the lots can be classified as an economic unit, the Board unanimously approved the public auction sale of the above-listed two lots, subject to the terms and conditions listed in the submittal. (Higashi/Ing)

ITEM F-4 STAFF RECOMMENDATION FOR SALE OF LOTS 40 & 59 OF THE UNIVERSITY HEIGHTS RESIDENTIAL SUBDIVISION, 3RD INCREMENT, WAIAKEA, SO. HILO, HAWAII.

ITEM F-8 STAFF RECOMMENDATION FOR EXERCISE OF REPURCHASE OPTION, LOT 53, UNIVERSITY HEIGHTS RESIDENTIAL SUBDIVISION, 3RD INCREMENT, WAIAKEA, SO. HILO, HAWAII.

Both Lots 40 & 59 are now in the process of being repurchased by the State.

Staff is also requesting approval from the Board for repurchase of Lot 53. Accordingly, Mr. Detor asked that Item F-4 be amended to include the sale of Lot 53, which is listed under Item F-8, so that all three lots can be sold together.

Being that Lot 59 has a vacant house on the property, Mr. Higashi voiced concern on the method of payment mentioned in Condition No. 1 of the submittal which requires a 25% down payment and the balance in 20 equal installments at the interest rate of 11-1/2% per annum on the unpaid balance. This, said Higashi, seems like a rather short time for payment to be amortized. Since there is a house on the property, the actual cost is higher than normal so maybe other provisions could be made wherein they could pay in 5 years with a 25-year amortization.

Mr. Higashi asked that the submittal be amended by adding a condition delegating authority to the Chairman to set the payment schedule for Lot 59.

ACTION Finding that there is sufficient demand for residence lots in the area to warrant sale of the above lots and finding also that the subject lots are a unit of minimum size relative to the intended use and that said lots can be classified as an economic unit, the Board, upon motion by Mr. Higashi and a second by Mr. Ing, unanimously approved Item F-4 subject to the conditions listed in the submittal and as amended above.

The Board also unanimously approved Item F-8 as submitted.

ITEM F-5 ALA KAI REALTY, INC. APPLICATION FOR ACCESS AND UTILITY EASEMENT, WAIAKEA, SO. HILO, HAWAII.

The applicant is contemplating development of private property identified by TMK 2-4-57:4. The easement in question, although already in use by nearby property owners, will provide formal access to the applicant's property by extending the present County-maintained Olona Street right of way another 30 feet.

ACTION The Board, upon motion by Mr. Yagi and a second by Mr. Yamamoto, voted to authorize 1) the direct sale of the above-described easement to the applicant; and 2) a construction right of entry to the applicant, subject to the terms and conditions listed in the submittal.

Mr. Higashi was excused from voting on this matter.

ITEM F-6 STAFF RECOMMENDATION FOR CANCELLATION OF G.L. NO. S-4419 COVERING LOT 5 OF THE PAHOA AGRICULTURAL PARK, KEONEPOKO IKI, PUNA, HAWAII.

The Lessee has failed to make the semi-annual rental payments, thus accumulating a delinquency of \$420.00. In this connection, a Notice of Default was sent to the Lessee. The Lessee was also requested to remedy the default by forwarding payment in full by no later than October 15, 1981.

ACTION

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

1. Authorize the cancellation of G.L. No. S-4419 as of November 30, 1981, in the manner prescribed by law.
2. Authorize the retention of all sums heretofore paid under G.L. NO. S-4419 as liquified damages.
3. Terminate all rights and obligations of the lessee effective November 30, 1981.
4. Authorize the Office of the Attorney General and/or Coulter's Collection Agency to collect all monies due to the State of Hawaii under G.L. No. S-4419.

Mr. Ono asked that this lot be packaged with Phase II of the Pahoia Agricultural Park Subdivision.

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES REQUEST FOR CANCELLATION OF E.O. NO. 13 AND ISSUANCE OF NEW E.O. SETTING LAND ASIDE TO DAGS, HILO, HAWAII.

ITEM F-7

Mr. Hong asked that the termination date shown under REMARKS be corrected from December 31, 1931 to December 31, 1981.

E.O. 13 originally set aside the area in question for the use and purpose of the Hilo Library and Reading Room Association. During the course of time, however, library operations were relocated to a larger site.

With the relocation of library operations, the premises have housed operations of various State and County agencies that are inconsistent with the use and purpose of E.O. 13.

The facility currently houses the Hilo Community Players, a performing arts organization associated with the Culture and Arts Division, Department of Parks and Recreation, County of Hawaii. The sublease covering the use of the facility runs out at the end of the year. Although correspondence by groups and organizations indicate strong support for continued use of the facility by the County of Hawaii, Mayor Matayoshi was advised by letter dated September 14, 1981, that such an arrangement will not be renewed due to the shortage of space experienced by several State agencies, particularly the Department of Social Services and Housing.

ACTION

The Board, upon motion by Mr. Higashi and a second by Mr. Hong, unanimously voted to:

1. Approve and recommend to the Governor issuance of an executive order to cancel Governor's Executive Order No. 13; and
2. Authorize the set aside by executive order of the land identified as TMK 2-3-05:4, and improvements thereon, to the Department of Accounting and General Services for use by governmental agencies, effective January 1, 1982.

Mr. Ono stated that there were requests from various groups, including Mayor Matayoshi, asking to remain in the building. However, in checking the records I found that as far back as 1974-75 it was made known to the County that there would be need for the building to be returned in 1981 because of a deficit of available office space for State agencies.

Mr. Ono said that he had met with the Mayor and a representative of the Theatre group and one alternative that he threw up for discussion and for consideration was that if the County would be willing to pay for the office space required for the State agencies earmarked to go into the Old Tax Office Building, then he would report this information back to the Board for consideration. So, said Mr. Ono, if the County agrees to pick up the rental to house the DSSH, than I may come back to the board with a request to keep the Performing Arts people in the building.

ITEM F-8 STAFF RECOMMENDATION FOR EXERCISE OF REPURCHASE OPTION, LOT 53, UNIVERSITY HEIGHTS RESIDENTIAL SUBDIVISION, 3RD INCREMENT, WAIAKEA, SO. HILO, HAWAII.

This item was considered together with F-4. See Page 7 for action.

ITEM F-9 RESUBMITTAL--HAWAII ELECTRIC LIGHT COMPANY, INC. APPLICATION FOR ELECTRIC TRANSMISSION LINE EASEMENT, HONOKAA, HAMAKUA, HAWAII.

ACTION Mr. Detor said that he received a call from Mr. Bush of Theo. H. Davies asking that this item be deferred to the December 4, 1981 meeting.

ITEM F-10 GABRIEL AH YO APPLICATION TO PURCHASE ABANDONED FLUME RIGHT OF WAY TRAVERSING LOTS 7 & 8 OF THE HAKALAU HOMESTEADS, SO. HILO, HAWAII.

ACTION Finding the subject area to be physically unsuitable for development as a separate unit because of its size and shape and by definition is a remnant, the Board unanimously approved the direct sale of the remnant to the applicants subject to the terms and conditions listed in the submittal. (Higashi/Hong)

ITEM F-11 HAWAII HOUSING AUTHORITY REQUEST FOR RIGHT OF ENTRY TO CONDUCT FEASIBILITY STUDIES, HONOKOWAI, MAUI.

The HHA is in the process of considering sites for future housing developments and has requested a right of entry to portions of State land at Honokowai, Lahaina, Maui.

ACTION Unanimously approved as submitted, subject to the terms and conditions listed in the submittal. (Yagi/Yamamoto)

ITEM F-12 CHARLES J. PANKOW, JR. REQUEST FOR CONSENT TO ASSIGN EASEMENT TO CENTRAL KEOKEA ASSOCIATES, KIHEI, MAUI.

The Board at its August 22, 1980 meeting approved the direct sale of an eighteen-ft.-wide easement over and across portions of State land at Kihei, Maui to Charles J. Pankow for construction, use, maintenance and repair of roadway for access and utility purposes.

All terms and conditions relating to the foregoing have been complied with by the applicant who is now requesting that the easement document be issued to Central Keokea Associates which recently acquired the property to be serviced by the subject easement from Charles J. Pankow, Jr.

ACTION Unanimously approved as submitted, subject to the terms and conditions listed in the submittal. (Yagi/Yamamoto)

ITEM F-13 KEANAE & NAHIKU WATER REVOCABLE PERMITS, MAUI. (DISCUSSION ONLY)

The board, at its November 6, 1981 meeting on Maui, approved the issuance of two water permits covering the Nahiku and Keanae license areas on Maui. A letter from Mr. Isaac Hall of the Legal Aid Society was distributed at that meeting asking that action on these two permits be deferred because of certain questions that were raised. The board, however, decided to go ahead with the permits but stipulated that they would afford Mr. Hall the opportunity to appear before the board to voice his concerns, which is the reason that this item is on the agenda today.

Mr. Hall thanked the board for the opportunity to be heard and also introduced Mrs. Apoliona Day, President of Keanae Community Association and Mr. Harry Pahukoa, a former EMI employee and now a taro grower in the community.

In reading the October 23, 1981 minutes, said Mr. Hall, I noticed that there was concern about the possibility of a water problem in that area. I can't speak about those facts but Mrs. Day and Mr. Pahukoa can. They can substantiate the fact that there is a need for water within their community.

Are these concerns related to the EMI request, asked Mr. Ono?

Yes, said Mr. Hall. EMI and/or A&B were given the right to divert government-owned surface waters and ground waters but with a proviso in the agreement that they could not divert water needed in the makai area for domestic purposes. The old licenses also said that the downstream holders of certain riparian rights were to be recognized before any water could be diverted.

I was told initially, said Mr. Hall, that these provisions would be included in the revocable permits. However, in reviewing the permits that were approved, I could find no provision that assures the downstream users of the same rights and, primarily, is why we are here today. No one is saying that EMI should not have water but we feel that there should be a method to determine how much water is necessary downstream and that any permit that is granted should state that a certain amount of water is allowed, continuous throughout the year, to flow downstream to those communities of taro growers.

My clients feel, also, that this board is acting as a water resource agency by allocating water. Since this is the case, we would like the board to follow the criteria set by the constitutional convention which is primarily to protect existing riparian rights and this is why we feel that water should not be allocated until the requirements of downstream water users are met.

Some of the concerns of the Hana Community Association is that the permits for use of that water has only been issued to EMI and A&B and they feel that maybe they would like some of that water too. There should be provision made for notifying others, besides A&B & EMI about the water since they might want to come before the board requesting this water for an aquaculture farm, etc.

Instead of deferring action, the board approved these permits thereby denying the request for a contested case proceeding. In so doing this, said Hall, an adverse agency action has taken place. We are ready to work something out at the board level but unless something can be worked out today, the appeal time runs out in 30 days in the event I wish to file a complaint because an adverse action has taken place against my clients.

My proposal for working this out, said Mr. Hall, is that there be some formal, or informal study made to determine what the needs of the downstream users are. EMI & A&B can continue to use this water until such time as the study is completed. However, once the study is completed if any of the parties disagree on the amounts allocated then a contested case can be scheduled.

Insofar as the permits are concerned, said Mr. Detor, although it was not reflected in the submittal, the intent was that in granting these month-to-month permits, the exact same conditions govern as are in the now expired licenses and as are also in the two licenses that still exist.

In answer to Mr. Yagi's question, Mr. Detor said that the permits are issued on a 30-day basis so they can be cancelled should EMI or A&B violate the kuleana water rights.

Mr. Yagi said that he wanted it made very clear to the people of the Keanae and Nahiku communities that they have not lost their rights by the issuance of these permits to EMI & A&B since they can come in at anytime should they have a complaint and, if need be, the permits can be cancelled within 30 days. He did not feel that this was the impression Mr. Hall left with his clients.

Mr. Hall did not seem to be satisfied with staff's alternative to remedy the problem since the community would have to come in and say "look, there's a violation so please revoke said permits." What we would like, instead, is to have a condition in the permit determining the amount of water to be used downstream.

Mr. Ing told Mr. Hall that what he was looking for is a set of rules that governs a very specific type of permit and there simply isn't any. We have to go to more general procedures so I think your remedy is that you make an appeal under the permit itself. As long as the permit is in existence than you have a right to complain under that permit.

I would still rather see the board determine how much water is needed downstream and than make it a condition of the permit, said Mr. Hall.

Mr. Yagi felt that it was the community's responsibility to work out their water requirements with EMI and/or A&B and, should they have any difficulty, than come back to the board. Mr. Yagi did not feel that it was the board's position to go to EMI and tell them that a certain amount of water should be given to the downstream users.

This, said Mr. Hall, I feel is a function of the board and also if there are rules or regulations saying that a permit can be challenged than I would like to see it.

A common sense procedure, said Mr. Yagi, is for the community people to work out their water requirements with EMI since they are the ones who know just how much water they need and, if they are not able to come to terms they can redress the board at which time an investigation will be made to help solve the problem.

Deputy Attorney General Johnson Wong felt that Mr. Halls' concern was the 30-day lapsing for time of appeal because the board's previous approval was in the granting of a permit without any expressed condition that it be subject to any riparian or public water rights. Mr. Detor did mention that it was the intent of the department to include these conditions so if this board could reconsider its action and have it put on record that the permit which was approved will be subject to those conditions then there will be no need for a complaint to be filed. If you feel that you are not satisfied after the amount of water to be used is determined, at that time you can make an appeal. It seems, said Mr. Wong, that your biggest concern now is that the permit which was approved did not contain any conditions.

In answer to Mr. Halls' statement that this was a very important matter that he wanted settled, Mr. Ono asked why he did not attend the Maui meeting when this matter was brought up -- more especially since he did file the complaint. Mr. Ono asked that Mr. Hall's absence at the Maui meeting be noted in the records.

Mrs. Day said that she was very embarrassed about the whole situation. She stated that she was first made aware of this situation from an article in the Maui News. I do not feel that we have a water problem because we will get what we need and the rest of the water will go to the other people. This is embarrassing and I do not feel that I should be here today.

In answer to Mr. Hong's question, Mrs. Day said that the first she knew of Mr. Hall representing them was from the Maui News article. However, the Legal Aid Society does represent the Keanae community when other problems arise since they are eligible for this assistance. I did call Mr. Hall when I first read about this situation but I did not get all the facts on the problem until this morning.

Are you satisfied with the water situation as it is, asked Mr. Hong?

Not really satisfied, said Mrs. Day; however, we are in the process of getting this problem solved.

Mr. Harry Pahukoa said that the water is needed and the community is trying all ways, without help from any government agency, to get this water. He said that water used to flow on both sides of the river when he was growing up in the area but when he returned from duty in the service the water was not flowing that way any more. I worked for EMI for 14 years and during that time I remember being told to close up the stream so the water didn't flow below so I knew that in the future there would be a water problem. It didn't seem to matter too much at that time, however, today a lot of the young people are returning to work the land and grow taro so the water is needed. All I can say is that we need the water and that is why the community has sent us here today to meet with the board.

Mr. Yagi asked Mr. Scott of EMI if he could find time to sit down and work the water problem out with the Keanae people. Mr. Scott said that they would certainly meet with them and see what their requirement is. It is EMI's contention that this water source are springs below their system. Their conveyor system is in need of repair so we may be able to help them out in that respect also. I am not saying that we can take care of all the problems but we will certainly try.

Mr. Yagi asked Mr. Scott if he would contact Bill Haines of the Maui Department of Water Supply to set up a meeting with the Hana community regarding their problems and he would see that the DLNR people, probably Messrs. Haake and Ansai, are also at that same meeting.

Having made the above suggestion, said Mr. Ono, I think we have a responsibility to follow up so we will keep in touch with all of the individuals on Maui.

ITEM F-14

Mr. Ing was absent when this item came up so it was taken up later. See page 13 for action.

ITEM F-15

VTN PACIFIC, INC. REQUEST FOR CONVEYANCE OF PORTION OF HALAWA HEIGHTS ROAD TO CITY & COUNTY OF HONOLULU, AIEA, EWA, OAHU.

VTN Pacific, Inc. are the engineers for the proposed Northridge Subdivision to be built on private property.

In conjunction with the above, the construction and the extension of Halawa Heights Road is the only means of ingress and egress into the proposed subdivision.

ACTION

The Board unanimously approved and authorized the conveyance in fee, of the subject roadway and, pending the conveyance, also authorized a construction right of entry to VTN Pacific, Inc. for construction of roadway, subject to the terms and conditions listed in the submittal. (Hong/Yamamoto)

ITEM F-16

PALAMA SETTLEMENT APPLICATION TO PURCHASE HIGHWAY REMNANT PARCELS H-160-A AND H-165-A, FAP No. I-H1-1(93), HONOLULU, HAWAII.

ACTION

Finding the subject parcel as unsuitable for development as a separate unit because of location, size and shape and is a remnant by definition, the Board, upon motion by Mr. Hong and a second by Mr. Higashi, unanimously approved the direct sale of the subject remnant subject to the terms and conditions listed in the submittal.

ITEM F-14

CITY & COUNTY OF HONOLULU, BOARD OF WATER SUPPLY, REQUEST FOR AMENDMENT OF PREVIOUS BOARD ACTION (12/15/78, AGENDA ITEM F-19) GRANTING PIPELINE EASEMENTS AT ALOHA STADIUM, HONOLULU, OAHU.

Mr. Detor said that the Board of Water Supply has requested approval to 1) change the width of the easements affecting Lot 51-B-1-B-1 from twenty and thirty feet wide to two and two and one half feet wide; and 2) waive the standard relocation clause provision.

In answer to Mr. Hong's question, Mr. Detor said that this is not in an area where subsequent improvements are expected to take place.

If the possibility of relocation is practically nil, said Mr. Ono, then why are they requesting waiver of the relocation clause? I think we should leave it in. Mr. Detor did not know why.

ACTION

Mr. Hong moved for approval as submitted and Mr. Yamamoto seconded. Mr. Ono voted no since he did not agree that the relocation clause should be waived.

Since there were a few unanswered questions regarding jurisdiction, Mr. Detor asked if this matter could be deferred so he could check it out.

Accordingly, Mr. Hong moved to rescind the board's earlier action and asked that this item be deferred for further review. Mr. Yagi seconded and motion carried unanimously.

ITEM F-17

STAFF RECOMMENDATION FOR SALE OF NEW LEASE COVERING LOTS 12-A-2 and 13-A OF THE HANAPEPE RICE & KULA LOTS, HANAPEPE, WAIMEA, KAUAI.

About a year ago the Board approved the assignment of G.L. No. S-3693 from McBryde Sugar Co., Ltd. to the present lessee, Shoichi Nagamine. Prior to the time of the assignment, McBryde cultivated sugar cane on the land. Since the assignment, Mr. Nagamine, who is a full-time farmer, has converted the property to taro cultivation.

ACTION

Finding the area to be an economic unit in terms of the intended use and also that the area is not suitable for hunting nor will become so during the term of this lease, the Board unanimously authorized the Chairman, if he deems such necessary, effective January 27, 1982, to issue a revocable permit to Shoichi Nagamine for intensive agricultural purposes at a monthly rental to be determined by staff appraisal and also authorized the sale at public auction of a lease for intensive agricultural (taro) purposes subject to the terms and conditions listed in the submittal. (Yamamoto/Yagi)

- ITEM F-18 STAFF RECOMMENDATION FOR TERMINATION OF G.L. NO. S-4743, WAILUA RICE AND KULA LOTS, WAILUA, KAUAI.
- ACTION For failure on the part of the Lessee, Mr. Bruce M. Horka, to execute and return General Lease No. S-4743, the Board, upon motion by Mr. Yamamoto and a second by Mr. Yagi, unanimously voted to:
1. Cancel G.L. No. S-4743, effective October 25, 1981, in the manner prescribed by law.
 2. Authorize retention of all sums heretofore paid under G.L. No. S-4743 as liquidated damages.
 3. Terminate all rights and obligations of the lessee effective October 25, 1981.
 4. Authorize the Office of the Attorney General and/or Coulter's Collection Agency to collect all monies due the State under G.L. No. S-4743.
 5. Authorize the Chairman to prescribe any other terms and conditions necessary to carry out the intent of the Board.
- ITEM F-19 STAFF RECOMMENDATION FOR SALE OF A LEASE COVERING LOTS 2-B, 3 and PORTION OF 5 & 6, WAILUA RICE & KULA LOTS, WAILUA, KAUAI.
- ACTION Finding the area to be an economic unit in terms of the intended use and finding also that the area is not now suitable for hunting nor will become so during the term of the lease, the Board unanimously authorized the sale at public auction of a lease covering the subject areas for pasture purposes subject to the terms and conditions listed in the submittal. (Hong/Yamamoto)
- ITEM F-20 VICTORINO MEDEIROS, JR. REQUEST FOR TERMINATION OF R.P. NO. S-4611 AND ISSUANCE OF NEW R.P., KAPAA, KAUAI.
- ACTION The Board unanimously authorized termination of R.P. No. S-4611 effective November 30, 1981 and also authorized issuance of a new permit for pasture purposes covering the same area and under the same terms and conditions and rental rate previously demised under R.P. No. S-4611 to Victorino Medeiros, Jr. and Jacob Figaroa, Sr., co-permittees, effective December 1, 1981. (Yamamoto/Yagi)
- ITEM F-21 DSS&H REQUEST FOR APPROVAL OF CANCELLATION OF LEASE COVERING ROOMS 602, 604, 606 & 608 OF THE BETHEL-PAUHI BUILDING, HONOLULU, OAHU.
- ITEM F-22 DSS&H REQUEST FOR APPROVAL OF CANCELLATION OF LEASE COVERING ROOMS 611, 613, 615 & 617 OF THE BETHEL-PAUHI BUILDING, HONOLULU, OAHU.
- ITEM F-23 DSS&H REQUEST FOR APPROVAL OF CANCELLATION OF LEASE COVERING ROOM 616 OF THE BETHEL-PAUHI BUILDING, HONOLULU, OAHU.
- ITEM F-24 DSS&H REQUEST FOR APPROVAL OF CANCELLATION OF LEASE COVERING ROOM 504 OF THE BETHEL-PAUHI BUILDING, HONOLULU, OAHU.
- ITEM F-25 DSS&H REQUEST FOR APPROVAL OF CANCELLATION OF LEASE COVERING ROOMS 501, 503, 506, 507, 508 & 509 OF THE BETHEL-PAUHI BUILDING, HONOLULU, OAHU.
- ITEM F-28 DSS&H REQUEST FOR CONSENT TO MODIFICATION OF LEASE COVERING OFFICE SPACE ON THE 6TH FLOOR OF THE BETHEL-PAUHI BUILDING, HONOLULU, OAHU.

All of the above are requests by DSS&H for cancellation of leases covering rooms in the Bethel-Pauahi Building. However, said Mr. Detor, I understand that they are giving up these rooms because the unit that was using it no longer needs it yet the same department is planning to put new staff people in there and will be requesting new leases at a higher rental rate. I have tried to get in touch with DSSH but I have not been able to get a straight answer so would like to have these items deferred to the next meeting at which time staff from DSS&H may be able to answer some of our questions.

- ACTION Items F-21, F-22, F-23, F-24, F-25 and F-28 were deferred to the next meeting.
- ITEM F-27 DEPARTMENT OF TRANSPORTATION REQUEST FOR ACQUISITION OF PERMIT COVERING OFFICE SPACE IN LANAI CITY, LANAI (50,000 SQ. FT.).
- ACTION Unanimously approved as submitted, subject to the review and approval of the lease agreement by the Office of the Attorney General. (Yagi/Yamamoto)
- ITEM F-28 DSS&H REQUEST FOR CONSENT TO MODIFICATION OF LEASE COVERING OFFICE SPACE ON THE 6TH FLOOR OF THE BETHEL-PAUAAHI BUILDING, HONOLULU, OAHU.
- Deferred. This item was considered together with Items F-21 to F-25.
- ITEM F-29 DEPARTMENT OF HEALTH REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING SUITE 210, 2131 KALAKAUA AVENUE, HONOLULU, OAHU.
- ACTION Mr. Ing asked that this item be deferred inasmuch as there was no rental listed in the submittal.
- ITEM F-30 DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS REQUEST FOR RENEWAL OF LEASE COVERING OFFICE SPACE IN THE ASHIKAWA BUILDING, KEALAKEKUA, HAWAII.
- ACTION Unanimously approved as submitted subject to the review and approval of the lease agreement by the Office of the Attorney General. (Higashi/Ing)
- ITEM F-31 DEPARTMENT OF SOCIAL SERVICES AND HOUSING REQUEST FOR ACQUISITION OF LEASE COVERING SUITE 106, WAILUKU BUSINESS PARTNERS, WAILUKU, MAUI.
- ACTION Unanimously approved as submitted subject to the review and approval of the lease agreement by the Office of the Attorney General. (Yagi/Yamamoto)
- ITEM F-32 RESUBMITTAL-HAWAIIAN TELEPHONE CO. REQUEST TO ESTABLISH NEW MICROWAVE SYSTEM AT PAPANUI, MAKAWAO (HONUOLA), MAUI, HAWAII.
- (See Page 4 for Action)
- ORAL PANAWEA AGRICULTURAL PARK DRAWING
- Mr. Detor reported that all twenty-eight leases were awarded at yesterday's drawing of the above lots in Hilo.
- ITEM H-1 CDUA FOR AFTER-THE-FACT NONCONFORMING SINGLE FAMILY RESIDENTIAL USE AT HOOKENA BEACH, SOUTH KONA, HAWAII (GARY M. PEKELE).
- (See Page 3 for Action)
- ITEM H-2 CDUA FOR CONDITIONAL SINGLE FAMILY RESIDENTIAL USE AT PUNA, HAWAII (STEVEN WOLF).
- ACTION Unanimously approved as submitted subject to the terms and conditions listed in the submittal. (Higashi/Yamamoto)

- ITEM I-1 FILLING OF POSITION NO. 2907, FISH & WILDLIFE ENFORCEMENT OFFICER I, BY RANDOLPH MANABA, EFFECTIVE DECEMBER 1, 1981, MOLOKAI.
- ITEM I-2 FILLING OF POSITION NO. 24530, FISH & WILDLIFE ENFORCEMENT OFFICER I, BY GEORGIANA AWO, EFFECTIVE DECEMBER 1, 1981, MAUI.
- ACTION Mr. Yagi moved for approval of Items I-1 and I-2 as submitted. Mr. Yamamoto seconded and motion carried unanimously.
- Besides being the daughter of a retired DLNR Fish and Game Warden, Mr. Ono noted also that Ms. Awo, the Maui appointee, is the first paid full time woman officer that has been added to the DOCARE staff.
- ITEM J-1 LEASE, HONOLULU INTERNATIONAL AIRPORT, OAHU (AIR NEW ZEALAND, LTD.)
- ACTION Unanimously approved as submitted. (Hong/Yamamoto)
- ITEM J-2 CONSENT TO SUBLEASE, GENERAL LYMAN FIELD, HAWAII (NORTHWEST AIRLINES, INC. TO HOST INTERNATIONAL, INC.)
- ACTION Unanimously approved as submitted. (Higashi/Yamamoto)
- ITEM J-3 AMENDMENT NO. 2 TO LEASE NO. DOT-A-80-12, LIHUE AIRPORT, KAUAI (U.S. FAA).
- Because of the new boundaries established at Lihue Airport, due to the acquisition of additional land from Lihue Plantation, the DOT now requires the metes and bounds description of the VORTAC site to include a road and utility easement.
- ACTION Unanimously approved as submitted. (Yamamoto/Yagi)
- ITEM J-4 MODIFICATION NO. 15 TO LEASE NO. A-62-19, HONOLULU INTERNATIONAL AIRPORT, OAHU (UNITED AIRLINES, INC.).
- ITEM J-5 MODIFICATION NO. 16 TO LEASE NO. A-62-19, HONOLULU INTERNATIONAL AIRPORT, OAHU (UNITED AIRLINES, INC.).
- United Airlines has requested that portions of spaces be deleted from their lease since they no longer require use of said spaces.
- ACTION Unanimously approved as submitted. (Hong/Yagi)
- ITEM J-6 APPLICATION FOR ISSUANCE OF A REVOCABLE PERMIT, AIRPORT DIVISION, LANAI AIRPORT, LANAI (ROYAL HAWAIIAN AIRWAYS, INC., DBA ROYAL HAWAIIAN AIR SERVICE
- ACTION Unanimously approved as submitted. (Yagi/Yamamoto)
- ITEM J-7 APPLICATION FOR ISSUANCE OF A REVOCABLE PERMIT, AIRPORTS DIVISION, HONOLULU INTERNATIONAL AIRPORT, OAHU (DUTY FREE SHOPPERS, LTD.).
- ACTION Unanimously approved as submitted. (Ing/Higashi)
- ITEM J-8 ISSUANCE OF REVOCABLE PERMIT, KEEHI SMALL BOAT HARBOR, HONOLULU, OAHU (SHARON K. ADAMS).
- ACTION Unanimously approved as submitted. (Hong/Yagi)

ITEM J-9

ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEEHI SMALL BOAT HARBOR,
HONOLULU, OAHU (CHARLES D. CAMPI).

ACTION

Mr. Garcia asked to withdraw this item inasmuch as he has been informed by the Division of Land Management that Mr. Campi owes money to DLNR.

ADJOURNMENT: The meeting adjourned at 12:15 P.M.

Respectfully submitted,



Mrs. LaVerne Tirrell
Secretary

APPROVED:



SUSUMU ONO
Chairman

It :