

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

DATE: March 12, 1982

TIME: 9:00 A. M.

PLACE: DLNR Board Room
Room 132, 1151 Punchbowl Street
Honolulu, Hawaii

ROLL
CALL

Chairman Susumu Ono called the meeting of the Board of Land and Natural Resources to order at 9:10 A. M. The following were in attendance:

MEMBERS

Mr. Stanley W. Hong
Mr. Takeo Yamamoto
Mr. Roland Higashi
Mr. Thomas S. Yagi
Mr. J. Douglas Ing
Mr. Susumu Ono

STAFF

Mr. Roger Evans
Mr. James Detor
Mr. Charles Neumann
Mr. John Corbin
Mr. Libert Landgraf
Mr. Roy Sue
Mrs. Joan K. Moriyama

OTHERS

Deputy Attorney General Edwin P. Watson
Mr. Peter Garcia
Mr. Dean Ho, Mr. Tai Sutton and Mr.
Frank Gibson (Item J-7)
Mr. Robert Miller (Item H-5)
Attorney for Blair (Item H-5)
Navy Representatives (Item H-6)
Mr. Walter Arakaki and Mr. Stanley
Unten (Item F-10)
Mr. Ernest Taketa (Item F-14)
Mr. Jim Brock (Item F-5)
Mr. Edwin P. Naki (Item F-1-d)
Mr. Don Griffin (Item H-2)

MINUTES

The minutes of January 22, 1982 were unanimously approved as circulated.
(Hong/Higashi)

The minutes of February 12, 1982 were deferred since the members did not
have a chance to review them. (Hong/Higashi)

Added
Items

Mr. Hong moved, which was seconded by Mr. Higashi, and the board
unanimously approved adding the following items to the board agenda:

Division of Land Management

Item F-1-e -- Living Designs, Inc. request for consent to assign and
mortgage, G. L. No. S-4407, covering Lots 23 and
24, Waimanalo Agricultural Subdivision, Waimanalo,
Oahu

Administration

Item H-8 -- Request for public hearing for commercial use of land within conservation district for commercial purposes

The board deviated from the printed agenda and took up the items in the following order:

ITEM J-7

ISSUANCE OF R. P., HARBORS DIVISION, ALA WAI BOAT HARBOR, HONOLULU, OAHU

This matter was deferred at the last board meeting. Mr. Garcia said since that meeting, they have discovered that part of the area, which they had originally asked for to be included in the Ala Wai Boat Harbor area, is within the Department of Land and Natural Resources' jurisdiction. The area will be somewhat less than 76,000 square feet. However, it will be completely within the Harbors Division area. A revised sketch, showing the exact area, was distributed to the board members.

Mr. Ing said the subject area is within the conservation district so a CDUA would be required.

Mr. Garcia said this question was brought up about a month ago, and he asked the board at that time this question as to which should come first, the permit or the CDUA. The answer that he received was the permit could be approved, subject to the approval of the CDUA. So he said he was approaching in the way that he was advised by the board.

Mr. Ono said it is risky for the applicant to put in big capital improvement on a month-to-month tenancy.

Mr. Garcia said it is. Since they cannot directly negotiate with them, the Department of Transportation decided to issue a revocable permit. He said they had some discussion on this as to just what approach to take.

Mr. Ono expressed some concern that the Department of Transportation was making its own judgment as to which ones go to public auction and which ones go on permit.

Mr. Garcia said there is a time element involved, in that the applicant wants to get the slips available for the races that are coming up this summer.

Mr. Ono reminded Mr. Garcia that the CDUA process is going to take time.

Mr. Hong said since this is a private club using state land, a question came up when this matter was brought before the board the last time, whether membership at the Waikiki Yacht Club is an open membership.

Mr. Dean Ho, past commander of the Waikiki Yacht Club and chairman of the current long-range planning committee; Mr. Tai Sutton, director, and member of the long-range planning committee; and Mr. Frank Gibson, voluntary counsel and long-time member of the Waikiki Yacht Club, were present at the meeting.

For the record, Mr. Hong said Mr. Ho is his brother-in-law. Mr. Hong also stated for the record that he has no financial interest in the Waikiki Yacht Club. Mr. Ono ruled that there is no conflict.

Mr. Ho said with respect to the openness of membership, they do not discriminate against any race, religion, sex, national origin, etc. They are interested in promoting recreational sailing, and they ask only that the candidates who apply for membership have interest in recreational sailing. He said they have very limited moorings. They have about 130 moorings now. They have a wait list that percentage-wise probably compares with the wait list that the Department of Transportation has at the Ala Wai Yacht Harbor.

Mr. Ho said they charge the same fees that the state charges. They are reimbursed to some extent for the expenditures that they put up for the construction of their own slips.

Mr. Ing asked how a person becomes a member.

Mr. Sutton said you can express an interest simply by an application. You don't have to have a boat or a slip to become a member. They ask for signatures of two members who sponsor an applicant.

Mr. Ono asked Mr. Garcia what is the rental arrangement--a flat annual fee or percentage of the gross? What about the food and beverage?

Mr. Garcia said after they construct the improvements, they are charged mooring fees in accordance with the Small Boat Harbor regulations, and they remit to the state 30% of the fees that they receive. They do not have any percentage on the food and beverage on the basic lease, which has a little over ten years to run.

Mr. Ho said the capital improvement projected cost is in excess of about \$300,000.00.

Mr. Ono asked whether they don't consider that a risk putting in \$300,000.00 on a month-to-month arrangement.

Mr. Ho said they looked to the Department of Transportation for some guidance. It was the timing. He said in order for their board to expend any funds, they must have some kind of assurance so they can enter into design funds. They have already placed that risk on some survey money to find out exactly where the boundaries are. He said he is reluctant to recommend to their board that further funds be spent until they can have some kind of understanding from the state that a form of tenancy is available. He understands that a CDUA has to be applied for and that does take time.

Mr. Ho said they need to consider the interest market. He said rather than address them now, they would recommend to their board they spend that once they secure a month-to-month tenancy (a form of understanding with the state that they are proceeding). He said the interest market is something that they will consider in their feasibility study at the time the CDUA is being applied for.

Mr. Ho said another concern is the term of the amortization. Can they get a bank loan to amortize over the balance of the lease? What will the fees be? Concurrently with this, they would probably have to go for some sort of extension of the lease.

Mr. Hong asked whether there is any thought of having DOT build it. Mr. Garcia said DOT doesn't have the funds to construct it.

Mr. Ono said recently we received a letter from the Waikiki Yacht Club and others about the debris problem at the Ala Wai. He asked whether there is any possibility for all of the users around that area to clean up the place once in a while as a community service. He said DOT has been concerned about this for a number of years and we are trying to look for a solution.

Mr. Ho said the Waikiki Yacht Club has been cleaning up the area as the debris comes through. They would be most willing to enter into a cooperative arrangement, subject to funds or costs. They are anxious to do whatever they can to help out as citizens of the mooring basin.

Mr. Ing said he had another concern on the permit route. If they are going to be putting in \$300,000.00 and the master lease runs out, he said in effect they will be given a 10-year revocable permit. He said he would be reluctant to enter into that kind of an arrangement.

Mr. Garcia said they cannot extend the lease on a negotiated basis. However, in the meantime, DOT is checking into this further.

Mr. Ono asked whether it isn't better to do that review first.

Mr. Garcia said it would be better, but he understands that there is some urgency on the part of the Waikiki Yacht Club to construct the additional slips.

Deputy Attorney General Edwin Watson said if the board goes through the permit route first, the board would be adopting a new policy. Normally the board entertains a CDUA first, and if any subsequent approval is required, then they can process issuing a permit, a lease or whatever. If a controversy type of a case comes along, he said this may present a problem later on.

ACTION

Mr. Ing moved to deny the recommendation. It was his personal feeling that a CDUA process should come first and have input from the public and other governmental agencies, which is going to involve a specific use of submerged lands, before acting on a revocable permit. Mr. Hong seconded and the motion was unanimously carried.

(See page 20 for further comment on Item J-7.)

ITEM H-5

AMENDMENT TO CDUA H-175 FOR THREE ROADWAY EASEMENT USES AT LAUPAHOEHOE FOREST RESERVE AT NORTH HILO, HAWAII

This was an amendment to a previously approved CDUA.

Mr. Evans pointed out on the map where the three roadway easements are located. There is an existing road going up through the Laupahoehoe Forest Reserve. There is access, which is called the middle access, into Waipunalei. It is zoned agriculture and is owned by Parker Ranch. The upper access also presently exists and a four-wheel drive can go through. The lower access presently does not exist, in terms of access for a four-wheel drive. Mr. Evans said a modification has to be made to the area before a four-wheel can go into this area. This entire area where the accesses are proposed are within our state conservation district resource subzone. On one side of the road, it is protective subzone. On the other side of the road, there is a proposed Natural Area Reserve. Mr. Evans said there is no Natural Area Reserve at this time in the area approved by the board.

Mr. Evans said the area in the resource subzone, where accesses are proposed, is being considered for a future Natural Area Reserve. The Natural Area Reserves Commission considered incorporating the area at the request of the Division of Forestry & Wildlife. Also in considering the request, they specifically spelled out that the area for the lower access road was acceptable.

Mr. Higashi asked whether a road such as this is a permitted use or conditional use under the Natural Area Reserves System's rules and regulations.

Mr. Evans could not answer that with certainty, except that he has an exhibit as a part of the documentation in which the road was specifically to be permitted.

Mr. Hong asked whether the Natural Area Reserve Commission intends to incorporate that area into the Natural Area Reserve.

Mr. Evans said that was their intent as of May 19, 1981. There has been a CDUA submitted within the last six months. As part of the review process of that application, Mr. Evans said they have received comments from the Division of Forestry who has indicated that they would like to have that entire matter reviewed.

Mr. Evans pointed out in the minutes of the NARS Commission (Exhibit D attached to the board submittal on page 4) that "the Division of Forestry and Wildlife is recommending including the area between the logging road ('Blair Road') and Waipunalei in the proposed NAR. However, this addition is based on an access logging road being allowed to be built between Blair Road and Waipunalei."

Further, on page 5, "Herbst moved to accept the Division of Forestry & Wildlife's recommendation, to add the area between the Blair Road and Waipunalei and to allow the construction of the access logging road."

So if a CDUA were to come in to incorporate this area for NARS, Mr. Evans said one of the conditions of the CDUA would be that the access road would be provided for.

One of the concerns that has been expressed by the NARS Commission is that the area is pristine and the commission members did state that they would go along with the area as a buffer, but the area was not a natural area any more.

Mr. Higashi said it is true that the area is zoned resource and not protective so logging activities is a reasonable use.

Mr. Evans said based on all the available data, they did issue a negative declaration on the project rather than requiring an environmental impact statement because staff felt that there was no significant effect. He said there were a number of specific kinds of questions that came up that related to endangered plants; effects on environmental insensitive areas; potential degradation to the environment; and social welfare in terms of the community. Staff felt that these concerns were adequately addressed, that there is no significant effect in that area, and that issuance of a negative declaration was proper.

Mr. Ing asked whether it is going to be just a dirt access road. Is there going to be any paving?

Mr. Evans said there is not going to be any paving. When the application was made, the applicant did indicate gravel, but that was the applicant's proposal. He said should the board consider approving the application, staff would recommend that there be a condition that gravel not apply to the road, that it be left as a dirt road, and that it be maintained in the same manner as the existing access road.

Mr. Higashi said our Division of Forestry & Wildlife should work closely with them to see what is acceptable and not acceptable to the department, keeping in mind the sensitive areas.

Mr. Higashi said he was served with a judgment. He asked whether that suit was because the board held a public hearing.

Mr. Evans said it was his understanding that the suit was filed because staff issued a negative declaration. He said a certain segment of the community felt that we should have done an EIS. The procedure provides us with a judicial remedy, however, that judicial remedy must be exercised within sixty days.

Staff recommended that the board approve the three road easements, subject to the conditions listed in the submittal.

ACTION Mr. Higashi moved, seconded by Mr. Hong, to approve staff's recommendation.

Mr. Robert F. Miller, attorney representing the Hawaii Audubon Society, said they are the plaintiffs in the lawsuit. He said the lawsuit was filed regarding a negative declaration process and there was a 60-day statutory limitation. Their office tried to negotiate an agreement with the state, through Deputy Attorney General Johnson Wong, to stay that statute of limitation provision. However, Mr. Wong did not feel he could do that, so they were left with no recourse but to file a suit to protect the rights of their clients pursuant to the statutes.

Mr. Miller said he just received a copy of the submittal so he wasn't going to comment on any specifics because he really didn't have a chance to review it. However, he said there are couple of observations.

First, the purpose of the Environmental Impact Statement process, whether it is required or not required, has to do with whether or not there is going to be a "significant impact" on our natural resources. In this particular instance, he said the Office of Environmental Quality Control made an assessment that because of the proposed Natural Area Reserve, the unique characteristic of that section that the board itself has already recognized, and also because of the findings of the botanical survey team that there were rare endangered plants in the area, that the applicant, Blair, should be required to do an EIS. He said it is important for the board to be aware of the fact that the routes were pre-determined. The botanical people who conducted that survey were told where to go.

Mr. Miller suggested to the board that if they carefully review this, they will see that a lot of those things that would normally be done in the EIS process by the private applicant are going to be done by state people.

Mr. Miller further stated that if the board maintains the position that it has, that no EIS is required, then they will be left with no alternative but to move for permanent injunction.

Mr. Higashi said as far as Mr. Miller's clients finding endangered plants, he asked whether they know where the general location is.

Mr. Miller said it was not his client who found the plants. It was the state's botanical team. Mr. Mull may have originally discovered it, but it was the state survey team that confirmed that factor.

The attorney for Blair said the real question is at what point is an EIS required. His understanding of the position of the staff is that the possibility of significant effects of this use are remote, that they can be handled by the recommendation of the staff. As far as the terms recommended by the staff, he said the applicant is certainly willing to comply with them.

Mr. Watson suggested amending Condition No. 7 of the recommendation on page 18 of the submittal, by expanding it to say that they agree to hold the state harmless from any loss or damages resulting from any delays caused by litigation. He said if there is damage or loss resultant to the applicant, and the court finds it in favor of the state, it's up to the applicant whether he wants to counter-sue for damages.

The attorney for Blair agreed to hold the state harmless from any claim for loss.

Mr. Higashi amended his motion as suggested by Mr. Watson above and Mr. Hong seconded the amended motion. On the call of the question, the amended motion was unanimously carried.

TEMPORARY VARIANCE FOR FOLIAGE PENETRATION BATTLEFIELD SURVEILLANCE RADAR TESTS (FOLPEN BSR RADAR SYSTEM) AT MAKAHA RIDGE AND KOKEE STATE PARK, WAIMEA, KAUAI

ITEM H-6

At the last meeting staff asked to have this matter deferred because they wanted the Department of Health to provide us with some comments. The Department of Health suggested that the applicant must assume the responsibility for unauthorized people being exposed to the proposed test. Although the proposed test has been classified as nonhazardous by the applicant, they suggested that the applicant must inform the public who may enter the test area unknowingly about the ongoing test.

Mr. Evans said the Navy Department has indicated that should the board approve this as a temporary variance, that they agree to indemnify and hold the state harmless from all claims resulting from the testing. This indemnification does not, however, extend to damage suffered as a result of negligence of any state employee.

Mr. Evans recommended approval with the hold harmless clause which the Navy has indicated, and added Condition No. 12, "That the applicant inform the public who may enter the testing area unknowingly about the ongoing test of the radar system."

Mr. Ono asked what happens at the time of testing? What harm does it do to plants, animals and to people?

A representative, on behalf of the applicant, briefly explained what the test was all about. He said this is a low-power radar where they can monitor people coming in before they can be seen with the naked eye. He said as far as power, it is lighter than the average 10-power watt.

Mr. Ono asked whether the site selection couldn't have been done so state parks could have been avoided. He said the military has acres and acres of land.

The representative said they did select other sites, such as Bellows Air Field, the Kawailoa testing range, and they also went to Kekaha Sugar Company. The next site is at Kokee.

Mr. Watson expressed surprise that the Navy has agreed to the hold harmless clause. He said the Department of Navy has never agreed to hold the state harmless. Mr. Watson said the person who signed the letter probably did not check with their legal officer.

ACTION Mr. Yamamoto moved for approval as recommended by staff and as amended above. Mr. Higashi seconded.

On the call of the question, Mr. Ing, Mr. Hong and Mr. Ono voted no and the motion died.

Mr. Ono said he has reservations using the Kokee State Park area. He strongly emphasized that state parks should not be used for such testing. He said he was against this application only because of the use of state park.

Mr. Hong, too, said he was personally against using state lands for such testing. He asked why does it have to be in the state parks? He said the site can be simulated.

ITEM F-10 STAFF RECOMMENDATION TO ADJUST RENTAL RATES FOR PERMITTEES ON SAND ISLAND, HONOLULU, OAHU

This concerned rental rates for permits at Sand Island. At the January 22, 1982 meeting, the board approved of and voted to continue for another year permits issued to all permittees occupying state lands on Oahu. At that time the appraisal covering the Sand Island rentals were not ready so while the Sand Island permits were continued, there was no change in the rental rates. The board at that time asked the staff to come back at the next Oahu meeting with a recommendation on the Sand Island permits.

Mr. Detor said they are in receipt of a letter from the Sand Island Businessmen's Association asking that any action on this be deferred until the next Oahu meeting. The reason for this is some of the members are off the island and would not be able to be here today, and also they did not have sufficient time to inform all of the members at Sand Island on this particular matter.

Mr. Detor said if the matter is deferred, the next Oahu meeting won't be until April 23.

Should this be approved today, Mr. Detor said staff is recommending that the effective date for the new rates be June 1, 1982. This would give the staff enough time to get out the notification to the tenants.

Mr. Walter Arakaki, representing the Sand Island Businessmen's Association had a letter signed by Mr. Warren LaFrance, the President of their association, who was out of town. He and Mr. Stanley Unten were representing the organization today. They asked for deferral of any action on the rental increase until the next Oahu meeting so their officers could be present to speak on their behalf.

ACTION Mr. Yagi moved to grant an extension to the Sand Island Businessmen's Association and moved to defer this matter until the next Oahu meeting, April 23, 1982. Mr. Yamamoto seconded.

Mr. Hong said whenever the Sand Island problem was brought before the board, the board tried to take it up in a business-like manner. There has been a constant delay, back and forth, and this has been unsatisfactory as far as he was concerned.

Mr. Ing agreed, particularly in light of the number of people desiring to get land out there on permits. He said he would have no objection to the deferral so long as it is taken up at the April 23 meeting. He said the board has an obligation to the public to get a fair market value on the land.

On the call of the question, the motion was unanimously carried.

ITEM F-14 RESUBMITTAL - DSS&H REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING THE 1ST AND 2ND FLOORS AT 45-413 LULUKU ROAD, KANEOHE, OAHU

This was a resubmittal. At the previous meeting when this matter was taken up two things came up. Mr. Detor said there was some question on the rental rate that is applicable at Kaneohe. The board asked DSS&H to elaborate on that. The board also asked that the additional charges be also listed. The board wanted the true picture of exactly how much the state will be paying in rent, not only the basic rental.

Mr. Ernest Taketa from DSSH explained and submitted additional information to the board, including comparable costs for other locations in the Kaneohe area. He distributed a written memo from the Oahu Branch Administrator of the Public Welfare Division listing the information which was requested by the board.

Mr. Ing said he was satisfied with Mr. Taketa's presentation, that DSS&H looked for other available spaces in the Kaneohe area, and that this is the only suitable space. They are getting a building with the lessee putting in the improvements.

ACTION Mr. Ing moved for approval of Item F-14. Mr. Hong seconded and the motion was unanimously carried.

ITEM F-5 COUNTY OF MAUI REQUEST FOR EXECUTIVE ORDER SETTING ASIDE LAND FOR EXPANSION OF THE LAHAINA SEWER TREATMENT PLANT, LAHAINA, MAUI

This was a request from the County of Maui for an executive order setting aside state land in Lahaina to the county for the expansion of the Lahaina Sewer Treatment Plant. The two parcels involved are presently under lease and permit, respectively, to Pioneer Mill Company, and would have to be withdrawn from the operation of those arrangement. Pioneer Mill has no objection to that.

Staff recommended that the areas be withdrawn from General Lease No. S-3588 and Revocable Permit No. S-5367 and authorize recommendation to the governor for the issuance of the executive order for the purpose mentioned.

Mr. Jim Brock, who is designing the plant, said the area is designated for the expansion of the Lahaina Sewer Treatment Plant and is right adjacent to the existing plant. The area is also described in the original EIS which was submitted about ten years when the first area was given under an executive order.

Mr. Yagi said he checked with Mr. Vorfeld, the manager of Pioneer Mill, and he has indicated that they have no objection to the withdrawal.

Mr. Yagi, however, questioned the need for 5.5 acres.

Mr. Brock said there is a fairly large section that would end up not being used but it is too small an area to be harvested to cane. He said the area is master planned for further expansion of the treatment plant.

ACTION Unanimously approved as submitted. (Yagi/Higashi)

Item F-1-d EDWIN P. NAKI APPLICATION FOR REVOCABLE PERMIT, COVERING LAND AT WAIMANALO, KOOLAUPOKO, OAHU

This particular area was formerly under a permit but it has been vacant since the permit was cancelled sometime ago. Mr. Naki, has submitted an application for the area.

Mr. Ing reminded Mr. Naki that this is a very temporary thing and that the board has to review the permit annually and that it may not be renewed.

The applicant understood this.

ACTION Unanimously approved as submitted. (Ing/Higashi)

ITEM G-1 FILLING OF LAND COURT DOCUMENT RECEIVING CLERK I, POSITION NO. 15078

ACTION The board, on Mr. Higashi's motion and seconded by Mr. Ing, unanimously approved the appointment of Barbara Wright to fill Position No. 15078, Land Court Document Receiving Clerk I.

ITEM H-7 REQUEST TO FILL VACANT MICROBIOLOGIST III POSITION, AQUACULTURE DEVELOPMENT PROGRAM

ACTION The board, on Mr. Yagi's motion and seconded by Mr. Ing, unanimously approved the appointment of Miss Lauren Nakagawa to fill Position No. 21847E, Microbiologist III.

ITEM C-1 ACCEPTANCE OF HAWAI'I WILDLIFE PLAN

This was a request for the acceptance of the Hawaii Wildlife Plan. At the February 12, 1982 meeting, draft #3 of this plan was submitted to the board for review. Comments were received from several reviewers within the department and from the public sector. Mr. Landgraf said they made changes to the draft that were appropriate. A synopsis of the major comments and responses were attached to the board submittal. Mr. Landgraf recommended that the board accept the plan so they can finalize and publish it.

For the board's information, Mr. Landgraf pointed out that they have received a letter from the Hawaii Island Fish and Wildlife Advisory Committee asking that the board delay any action in adopting the proposed Hawaii Wildlife

Plan. They are making this request on the basis that several organizations, including the Hawaii Island Archery Club and the Sportsmen of Hawaii, have not had enough time to respond. These two particular organizations felt that enough copies were not available to be circulated among the group. They would like a little bit more time to review the draft, so more input can be put into the plan.

Mr. Landgraf further pointed out that these two organizations received draft #2 in May of 1981 and comments were provided to us at that time, and again on June 6, 1981, after public meetings were held in Hilo. The final draft was sent to both of these organizations on February 5, 1982, so staff felt that adequate input have been received from these organizations, and changes made accordingly. On that basis, Mr. Landgraf recommended that the board accept the plan.

Mr. Higashi didn't feel that we gave them sufficient time to review the voluminous document. He said there are some concerns about the favoring of the endangered species within the recreational area. He said their request is a bona fide one and asked to defer this matter until our next Oahu meeting.

Mr. Landgraf said based on the time schedule that they had set up, Mr. Ronald Walker, Wildlife Branch Chief, who will be on the mainland for a conference, was going to stop off in San Francisco to meet with the editor of the U. S. Fish and Wildlife Service to set up the final printing of this plan. However, he said he has no problem if the board wishes to defer.

ACTION Mr. Higashi moved to defer this matter until the next Oahu meeting, which is scheduled for April 23, 1982. Mr. Yagi seconded and the motion was unanimously approved.

ITEM I-1 FILLING OF POSITION NO. 25894, CONSERVATION AND RESOURCES ENFORCEMENT OFFICER II (OAHU)

ITEM I-2 FILLING OF POSITION NO. 29605, CONSERVATION AND RESOURCES ENFORCEMENT OFFICER II (OAHU)

ITEM I-3 FILLING OF POSITION NO. 34049, CONSERVATION AND RESOURCES ENFORCEMENT OFFICER II (OAHU)

ITEM I-4 FILLING OF POSITION NO. 02900, CONSERVATION AND RESOURCES ENFORCEMENT OFFICER II (OAHU)

ACTION The board, on Mr. Yagi's motion and seconded by Mr. Higashi, unanimously approved Items I-1 to I-4, as follows:

- Donovan W. Caldeira to fill Position No. 25894 (Oahu)
- David L. Gaud to fill Position No. 29605 (Oahu)
- Lyle M. Smith to Position No. 34049 (Oahu)
- Lawrence L. Terlep to fill Position No. 02900 (Hawaii)

ITEM D-1 PERMISSION TO ENTER INTO A CONTRACT FOR SURVEYING SERVICES FOR JOB NO. 46-OP-20, SAND ISLAND STATE PARK, PHASE III, INCREMENT 2 AND FENCING, HONOLULU, OAHU

ACTION Unanimously approved as submitted. (Hong/Higashi)

ITEM D-2 PERMISSION TO ENTER INTO CONTRACTS FOR CONSULTING SERVICES FOR JOB NO. 4-OW-17, PUMP, CONTROLS AND APPURTENANCES FOR WAIANAE WELL (2810-02), WAIANAE, OAHU
 ACTION Unanimously approved as submitted. (Hong/Higashi)

ITEM D-3 APPROVAL FOR AWARD OF CONTRACT - JOB NO. 35-MW-36, DRILLING WAIIEHU MONITOR WELL (5430-05), WAIIEHU, MAUI
 ACTION Unanimously approved as submitted. (Yagi/Higashi)

ITEM D-4 APPROVAL OF APPLICATION FOR FEDERAL ASSISTANCE UNDER THE USDA WATERSHED PROTECTION AND FLOOD PREVENTION ACT, PL 566, FOR THE GLENWOOD WATERSHED PROJECT, ISLAND OF HAWAII
 ACTION Unanimously approved as submitted. (Higashi/Hong)

ITEM D-5 PERMISSION TO ENTER INTO CONTRACT TO PREPARE CLIMATOLOGICAL NETWORK IMPROVEMENT PLAN
 ACTION Unanimously approved as submitted. (Higashi/Hong)

ITEM D-6 TRANSFER OF OWNERSHIP AND OPERATION OF HALEIWA WELLS 3405-03 AND 3405-04, WAIALUA GROUND WATER CONTROL AREA
 This board submittal is for the purpose of transferring the ownership from Oceanic Properties, the original owner of Haleiwa Wells 3405, to the Board of Water Supply.
 ACTION Unanimously approved as submitted. (Hong/Yagi)

ITEM D-7 TERMS OF WATER WITHDRAWAL AND USE PERMITS
 Mr. Chuck said the law and the rules call for this board to set the number of years that the permit is good for, a maximum of 50 years. Staff has recommended that a ground water withdrawal permit be first given in twenty-years' permit with a 5-year board review and with provisions that the permit and the development of ground water source development be completed within 18 months of the date of issuance of the permit.
 Mr. Hong wanted to know how that works. He asked whether after the 5-year review we can withdraw the permit if it is unsatisfactory.
 Mr. Chuck said yes, if there is adequate reason. For instance, if there is nonuse.
 Mr. Ing asked whether this proposal has been referred to the attorney general's office for comments.
 Mr. Chuck said it was not. However, he said this could be approved subject to the concurrence of the attorney general's office.
 ACTION Mr. Ing said he would just as soon know what the attorney general's office comments are and asked for deferral. The board had no objection.

ITEM D-8

THE KAMEHAMEHA SCHOOLS WATER WITHDRAWAL AND USE PERMIT APPLICATION, HONOLULU GROUND WATER CONTROL AREA

Mr. Chuck asked the board to approve issuance of a Water Withdrawal and Use Permit. However, he said perhaps if the time period is to be specified in this permit that we should wait until that matter of time is settled.

Mr. Chuck said Kamehameha Schools is asking for additional withdrawal of .04 mgd from the area to service the new buildings and the new and expanded athletic fields.

Mr. Hong asked how soon do they need this, and whether the buildings are now complete and ready for use. If so, then he said the board should act on this today rather than waiting for the attorney general's opinion.

Mr. Chuck said there is no problem in deferring this matter until the next Oahu meeting.

ACTION The board had no objection in deferring this matter until the next Oahu meeting.

ITEM D-9

APPOINTMENT TO ENGINEER (CIVIL) IV POSITION (NO. 12771)

ACTION The board, on Mr. Ing's motion and seconded by Mr. Hong, unanimously approved the appointment of Stephen H. Miyamoto to Engineer IV position.

ITEM H-1

CDUA FOR SUBDIVISION OF STATE-OWNED LANDS FOR FUTURE BOARD OF WATER SUPPLY CORPORATION YARD USE AT LUALUALEI, WAIANAE, OAHU

This was a request by the City and County Board of Water Supply for a subdivision at Waianae. This is located within our general subzone. This is not a permitted use. It is a conditional use. There is access to the site and the access is owned by the state. The site is currently undeveloped.

There was a public hearing held on this matter. The Division of Land Management recommended approval. This particular parcel is included in a land exchange between the state and the Board of Water Supply.

In this particular case when the applicant applied to the county, they applied only for the subdivision. They did not apply for any future improvements. As such the SMA that the county has granted relates only to the subdivision. As a result staff recommended approval only to the subdivision.

Mr. Evans brought to the board's attention that the Board of Water Supply has not made any funding or budgeting in its 6-year program for the improvements. Should that occur and the board approve this, the procedural requirement would be for the Board of Water Supply to come back at that time and have this application amended to incorporate what they want to do. As part of that amendment they would have to go back to the City Department of Land Utilization and obtain an SMA permit.

Mr. Higashi said rather than an amendment they would require a new CDUA because they would have to come back for the use.

It was recommended that Condition No. 4 on page 6 of the submittal be amended to read, "That approval of this Conservation District Use Application is solely for subdivision of land, and that construction of the proposed corporation yard will require the applicant to submit a new CDUA."

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

PERMISSION TO ADVERTISE FOR BIDS, JOB NO. 5-OP-40, ASPHALT
CONCRETE PAVING, WAAHILA RIDGE STATE RECREATION AREA, HONOLULU,
ITEM E-1 HAWAII

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

AWARD OF CONTRACT, JOB NO. 57-HP-16, GATES FOR CANOE SHED, WAI-
ITEM E-2 LOA RIVER STATE RECREATION AREA, HILO, HAWAII

ACTION The board, on Mr. Higashi's motion and seconded by Mr. Yamamoto,
unanimously voted to award the subject contract for Job No. 15-HP-16 to
include the basic bid with three additive alternatives to Railings, Incorpo-
rated for the total bid sum of \$12,400.00

ITEM F-1 DOCUMENTS FOR CONSIDERATION

MAUI

Item F-1-a REVOCABLE PERMITS

ANTHONY L. DECOITE - government land at Kahakuloa Homesteads,
Kahakuloa - for pasture purpose - \$129.00 per month

OAHU

Item F-1-b LEEWARD BUS COMPANY, LIMITED - government land at Waimanalo,
Koolaupoko - for bus parking - rental to be determined by staff appraisal

KAUAI

Item F-1-c JOSEPH S. BRUN - portion of the ahupuaa of Weliweli - for pasture use only -
\$37.00 per month

(See page 10 for Item F-1-d)

OAHU

Added

Item F-1-e CONSENT TO ASSIGN AND MORTGAGE (UNDER SECOND MORTGAGE)
LIVING DESIGNS, INC., a Hawaii corporation, as Mortgagor, and ALLAN
R. KUNIMOTO, Mortgagee - Lots 23 and 24 of the Waimanalo Agricultural
Subdivision - GL No. S-4007

Mr. Detor said Dr. Kunimoto was unable to be here today. Dr. Kunimoto and his wife are the sole stockholders of Living Designs, Inc. Living Designs, Inc. is the lessee. What they want to do is to take out a second mortgage where the company would be mortgaging to Dr. Kunimoto himself.

Mr. Detor said he pointed out to Dr. Kunimoto that we have some apprehension about this. When the state consents to a mortgage, he would not be able to foreclose on the mortgage since he is not a recognized lending institution. If he didn't pay the rent and the state closed out the lease, then we will have to pay him off. He said Dr. Kunimoto brought in a letter in which he states that he agrees that if there is a foreclosure on the lease

that we would not have to pay him if this mortgage is agreed to. Whether this is legally okay or not, Mr. Detor said he didn't know.

Mr. Detor suggested that we defer this so the attorney general's office can look at it, or we can have it approved, subject to attorney general's concurrence.

Mr. Ono suggested that we defer this and refer it to the attorney general's office.

- ACTION The board, on Mr. Hong's motion and seconded by Mr. Higashi, unanimously approved Item F-1 as submitted, with the exception of Added Item F-1-e which was deferred and referred to the Attorney General's Office.
- ITEM F-2 MERRILL TOLEDO REQUEST FOR CANCELLATION OF GENERAL LEASE NO. S-4006, WAIPIO VALLEY, HAMAKUA, HAWAII
- ACTION Unanimously approved as submitted. (Higashi/Yamamoto)
- ITEM F-3 DOT REQUEST FOR AUTHORIZATION TO ACQUIRE LAND REQUIRED FOR KUAKINI HIGHWAY REALIGNMENT, KEAHUOLU TO HULUALOA 1ST AND 2ND, NORTH KONA, HAWAII
- ACTION Unanimously approved as submitted. (Higashi/Yamamoto)
- ITEM F-4 COUNTY OF HAWAII, DEPARTMENT OF WATER SUPPLY, REQUEST FOR RIGHT OF ENTRY, PIIHONUA, SOUTH HILO, HAWAII
- ACTION Unanimously approved as submitted. (Higashi/Yamamoto)
- (See pages 9 and 10 for Item F-5.)
- ITEM F-6 FILLING OF POSITION NO. 27729, LAND AGENT IV, MAUI DISTRICT OFFICE
- ACTION The board, on Mr. Yagi's motion and seconded by Mr. Yamamoto, unanimously approved the appointment of Alan R. Tokunaga to Land Agent IV position, Maui District.
- ITEM F-7 STAFF RECOMMENDATION FOR DELEGATION OF AUTHORITY TO APPROVE CONSTRUCTION AND IMPROVEMENT PLANS TO THE CHAIRMAN
- ACTION Unanimously approved as submitted. (Yagi/Yamamoto)
- ITEM F-8 VENTURE FIFTEEN, INC., ET AL, REQUEST FOR DELETION OF PORTION OF WAIMALU ROAD EASEMENT, WAIMALU, EWA, OAHU
- ACTION Unanimously approved as submitted. (Ing/Higashi)
- ITEM F-9 HILTON HAWAIIAN VILLAGE HOTEL REQUEST FOR RIGHT OF ENTRY, DUKE KAHANAMOKU BEACH, WAIKIKI, HONOLULU, OAHU
- This was a right of entry request and staff's recommendation for confirmation of a right of entry in connection with the Hilton Hawaiian Village Hotel. In the past they have had luaus and private barbeque parties on the beach in front of the Hilton Hotel. This went on for quite a while and there was never

any permission granted by the state until just recently. We are now charging them and monitoring the events.

An arrangement has been entered to with them and the terms and conditions proposed were listed in the submittal. They would be charged \$100.00 fee each time an event takes place. However, Mr. Detor suggested that the dollar figure for administrative fees be left out, rather than saying, "plus \$75.00 administrative fees". It should merely be "plus administrative fees."

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

(See pages 8 and 9 for Item F-10.)

ITEM F-11 STAFF RECOMMENDATION FOR CANCELLATION OF GENERAL LEASE NO. S-4649, KEKAHA, KAUAI

ACTION Mr. Detor asked to withdraw this item since the lessee has paid the delinquent amount in full since this submittal was written. The board had no objection to the withdrawal.

ITEM F-12 RESUBMITTAL - JOSEPH ANDRADE, ET AL, REQUEST FOR RIGHT OF ENTRY FOR ACCESS PURPOSES, LAWAI, KAUAI

This was a resubmittal. This was a request for right of entry. The County of Kauai had some apprehensions on it.

Mr. Detor said they checked with the State Department of Transportation, and the letter dated March 5, 1982 from Mr. Edwin H. Nakano, the District Engineer on Kauai, stated that, "We have no objections to use of this parcel for access purposes since we believe it to be most suitable for this particular purpose. The angle of approach is skewed to the highway and its use has not been a problem as far as we know. Additional approach improvements may, however, be required at the development stage."

Mr. Ing said in cases like this, where the County of Kauai points out a potential problem, we have the standard hold harmless clause. He asked, as a backup to that, whether we have, in similar situations, required that they maintain an insurance policy, and the state to remain as the insured. If the applicant has no money, he said the hold harmless clause is no good. If we require an insurance policy with certain minimum requirement, naming the state as additional insured, then it gives us the protection.

Mr. Detor said what we have done in the past, where we have actually sold an easement, we required a bond.

Mr. Ing recommended that we include the general liability insurance in the amount of \$300,000.00 and naming the state as an additional insured.

ACTION Unanimously approved as amended by Mr. Ing above. (Yamamoto/Yagi)

ITEM F-13 BUDGET AND FINANCE REQUEST FOR ACQUISITION OF LEASE AT 2307 MAIN STREET, WAILUKU, MAUI

Mr. Detor said we don't have the information on the additional cost and asked that this matter be deferred.

ACTION The board had no objection to deferring this item.

(See page 9 for Item F-14.)

(See page 10 for Item G-1.)

(See pages 13 and 14 for Item H-1.)

ITEM H-2 CDUA FOR PROPOSED INSTALLATION OF "SURGEBREAKER" MODULES OFF-SHORE AT KUALOA REGIONAL PARK, OAHU

This project is for the construction of a 1,300-foot breakwater within the eroded area around Kualoa Point and another 200-foot breakwater protecting the archaeological area in the western shoreline.

The application was sent out to a number of agencies for comments. Where specific concerns were expressed, Mr. Evans said they were referred to the various agencies involved and they have responded. Staff felt, therefore, that they have addressed all of the concerns that were specified.

Mr. Evans said the county was given an emergency permit.

A representative from the county parks department was present in the audience to answer any technical question which the board may have

Mr. Hong said the beach erosion problem is a serious one and it gets to be frustrating for the owners of the beach lots because we don't allow them to put up walls unless it is an emergency situation.

Mr. Ono noted that Condition No. 1 is for approval on a temporary experimental basis. He wanted to know for how long.

Mr. Evans said his recommendation is for a maximum of five years. The reason for this is he wants to be able to come back to the board with data. He felt that the 5-year period would allow a winter-summer cycle so his data would be much more complete.

Mr. Hong said maybe a 5-year period is necessary so that we can get a real review. However, he said we should have some kind of a report back on a yearly basis.

Mr. Evans said they are asking for that information under Condition No. 6 of the submittal.

Mr. Don Griffin, a representative of the city, said the erosion at Kualoa is not a recent thing. The area has been monitored for 120 years. In fact, between 1930 and 1950, it receded 250 feet. In recent years, it has receded about 25 feet a year. Their first development was in 1974. As a part of this project, they plan, not only for monitoring for two years, but also to do some sand tracing studies to help them locate the best position for the breakwater.

Mr. Ing asked whether they are going to have signs.

Mr. Griffin said this is one of the conditions. They have talked to the Coast Guard about it from the standpoint of navigation. They said that this did not seem like a navigational area. However, they said they will review it and make their recommendations to the Department of Commerce.

Mr. Ono asked Mr. Griffin about the condition of the 5-year annual report. Mr. Griffin said they can extend their original two-year monitoring to a yearly basis if that is required.

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

ITEM H-3 CDUA TO ESTABLISH NA PALI COAST STATE PARK BOUNDARIES AND LAND USE, NA PALI COAST AT HANALEI/WAIMEA, KAUAI

Mr. Evans said an interim management plan and an interim CDUA have been approved by the board with certain conditions. Presented to the board today was the final CDUA. If the application is approved today, Mr. Evans said it takes the entire Na Pali Coast area and makes it a State Park in terms of the land use.

Mr. Evans said there are some improvements at Haena at the end of the road called the Haena State Park. This is separate from the Na Pali Coast State Park. He said in this particular plan, the board had originally approved three areas--Polihale, Milolii and Kalalau--for helicopter use. Polihale is not a part of this CDUA because it is not a part of the park.

There is also a proposed Natural Area Reserve in one area of this property. Mr. Evans said if the board approves that Natural Area Reserve, that particular area will be set aside as a Natural Area Reserve, and the park will be around it. If the board does not approve that as a Natural Area Reserve, all that area below the 1200-foot elevation will then become a part of this park.

Mr. Evans said should the board approve this CDUA, the next step in the process would be the land disposition for the entire area, set aside by executive order to the Division of State Parks.

Mr. Hong asked what happened to the helicopter situation.

Mr. Evans said that matter is currently under review by the Attorney General's Office.

Mr. Yamamoto said this is a long-pending matter and hoped that this can be resolved soon.

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

ITEM H-4 CDUA FOR CONSTRUCTION OF A CONCRETE DRAINAGE CULVERT AT HANAMAULU, KAUAI

A public hearing was held on this matter. Mr. Evans said there were concerns expressed, particularly as it relates to Kauai County Public Works. Staff has followed up on that and the County has indicated no objection. Staff felt that on the merits of the matter, recommendation for approval is appropriate.

For the board's information, Mr. Evans said they have received a complaint regarding a potential violation on the property in terms of a berm being constructed prior to Land Board approval. As a result, Mr. Evans said they would like to be able to continue their review into that matter. As such, staff has split their recommendation into two halves. The first half is a recommendation for approval. The second half is for the staff to continue to review the alleged violation.

Mr. Higashi asked whether this action would have any effect on the after-the-fact CDUA within the same area for which a public hearing was held recently.

Mr. Evans said that is a separate issue so he would think not, but he thought it might be an excellent idea for him to add a condition that this application is strictly for this drainage culvert and that this action in no way would imply anything to any other CDUA.

ACTION Mr. Hong moved to approve staff's recommendation with modification. Mr. Higashi seconded and the motion was carried.

The record showed that Mr. Yagi was excused and did not participate in any action taken by the board. Mr. Yamamoto left the room when the vote was taken, and he, too, did not participate in any action taken by the board on this matter.

(See pages 4 to 7 for Item H-5; pages 7 and 8 for Item H-6; and page 10 for Item H-7.)

ADDED REQUEST FOR PUBLIC HEARING FOR COMMERCIAL USE OF LAND WITHIN
ITEM H-8 CONSERVATION DISTRICT FOR COMMERCIAL PURPOSES

Mr. Evans asked to amend the submittal by adding CDUA OA-1453, Department of Transportation's application for drainage improvements for commercial facilities at Honolulu International Airport, Oahu.

ACTION Unanimously approved as amended. (Hong/Yamamoto)

(See page 11 for Items I-1 to I-4.)

ITEM J-1 CONSENT TO ASSIGNMENT OF LEASE NOS. DOT-A-80-21 (PACKAGED FOODS)
OAHU (DFS NORTH AMERICA, LTD. TO DUTY FREE SHOPPERS, LTD.)

ACTION Unanimously approved as submitted. (Yagi/Yamamoto)

ITEM J-2 SALE OF A LEASE BY PUBLIC AUCTION, HARBORS DIVISION, FIVE TAXICAB
STALLS CONTAINING A TOTAL AREA OF 900 SQUARE FEET NEAR THE FISHER-
MAN'S WHARF RESTAURANT, KEWALO BASIN, HONOLULU, OAHU

Mr. Ing said the area there doesn't appear to have any defined walkway. The traffic there is confusing and people are just walking all over the place. He said there is no paved sidewalk, and with the traffic coming in, pedestrians have to walk pretty close to the building. He suggested that DOT have their people designate a defined walkway.

ACTION Unanimously approved as submitted. (Ing/Higashi)

ITEM J-3 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 40, HONOLULU,
OAHU (P & R WATER TAXI, LTD.)

ITEM J-4 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 40, HONOLULU,
OAHU (AMERICAN GENERAL MARINE SERVICES)

Mr. Garcia asked to withdraw Items J-3 and J-4. The reason for this is that American General Marine Services decided not to be an agent. So DOT will combine the two and submit one submittal. P & R Water Taxi will be the applicant.

ACTION The board had no objection and Items J-3 and J-4 were withdrawn.

ITEM J-5 REQUEST FOR APPROVAL OF CONTINUANCE OF REVOCABLE PERMITS,
HIGHWAYS DIVISION

ACTION Unanimously approved as submitted. (Ing/Higashi)

ITEM J-6 APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT NO. 3594, KEAHOLE
AIRPORT, HAWAII (HAWAII COUNTRY CLUB OF THE AIR)

ACTION Unanimously approved as submitted. (Higashi/Hong)

(See pages 2 to 4 for Item J-7. The board asked that the record show on Item J-7 that the decision to deny was based strictly on the procedural matter and it was denied without prejudice.)

ITEM J-8 CONSENT TO MERGER, RESTAURANT AND BEVERAGE CONCESSION, GENERAL
LYMAN FIELD, HILO, HAWAII, AND KAHULUI AIRPORT, MAUI (HOST INTER-
NATIONAL, INC. AND MARRIOTT CORP.)

There was a discussion on the minimum annual guaranteed rental on page 2 of the submittal, and Mr. Higashi questioned the amount listed under the 10th lease year. He said the rental drops at the 10th year. He asked whether this was a typographical error or not.

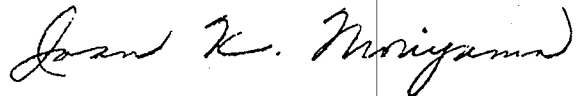
Mr. Garcia said he will check this out to see whether it is a typographical error.

ACTION Unanimously approved as submitted. (Higashi/Ing)

Mr. Garcia said on the question that was raised by Mr. Higashi, regarding the coin-changing machine at the airport, Deputy Director Jonathan Shimada has instructed his staff to take a look at those machines and see if there is a way in which the public would not have to be paying 15¢ out of a dollar. They will be checking to see if the Airports Division can pick up the cost as a service to the public.


ADJOURNMENT: There was no further business and the meeting was adjourned at 12:50 P. M.

Respectfully submitted,



JOAN K. MORIYAMA
Secretary

APPROVED



SUSUMU ONO
Chairman

jkm