

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

DATE: November 5, 1982  
TIME: 9:00 A. M.  
PLACE: County Office Building  
County Council Chamber  
4369 Rice Street  
Lihue, Kauai

ROLL  
CALL

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

MEMBERS Mr. Roland Higashi  
Mr. J. Douglas Ing  
Mr. Moses W. Kealoha  
Mr. Thomas S. Yagi  
Mr. Takeo Yamamoto  
Mr. Susumu Ono

STAFF Mr. James Detor  
Mr. Roger Evans  
Mr. Libert Landgraf  
Mr. Roy Sue  
Mr. Ralph Daehler  
Mr. Sam Lee  
Mr. George Niitani  
Mr. Dean Uchida  
Mrs. LaVerne Tirrell

OTHERS Mr. Bill Tam, Deputy Attorney General  
Mr. Peter Garcia, DOT  
Mr. Owen Miyamoto, DOT (Item F-7)  
Mr. Cline Mann and Mr. David Ramos (Item H-1)  
Mr. Hong (Item H-4)  
Mr. Gray (Item H-3)

ADDED  
ITEMS

Mr. Higashi moved to have the following item added to the agenda.  
Mr. Kealoha seconded and motion carried unanimously.

Other State Departments

Item J-8 -- Consent to Sublease - Lease No. DOT-A-78-29, Keahole Airport,  
Hawaii (Hawaiian Airlines, Inc. to Mid Pacific Airlines, Inc.)

Items on the Agenda were considered as follows in order to accommodate those persons present at the meeting:

ITEM H-3

CDUA FOR OFF-SITE DRAINAGE IMPROVEMENT USE FOR PUU ALII PLANNED DEVELOPMENT PHASES III & IV AT KANEOHE, OAHU (SWIRE MCCORMACK, LTD.)

Mr. Evans said that staff's recommendation to the board was discussed with the applicant, who had expressed some concern regarding Condition Nos. 14 and 15.

What staff has tried to establish under Condition No. 14, said Mr. Evans, was that the depth of the channel be measured before the project commences such that if there is any evidence at a later time that this activity causes the channel to fill, then this will be the applicant's responsibility.

As for Condition No. 15, the applicant has suggested, and staff agrees, that the fourth line of Condition No. 15 be amended to read: "the source shall be proven to be from construction activities relating to Puu Alii" instead of "the source shall be proven to be from Puu Alii".

In answer to Mr. Kealoha's question, Mr. Evans said that the concept with Condition No. 14 is that staff felt that there is an existing channel there which has an existing depth. This channel was dredged in 1969. One of staff's concern was that they want to provide a base line for measurement so that when construction activities start they don't fill up the channel. In order to provide a base line, staff's thinking was that the channel be measured before any activity takes place and again after the activity is over. Staff felt that this would protect the developer, as well as the public, who had expressed some concern.

What is the developer's problem, asked Mr. Kealoha?

The developer feels, as I understand it said Mr. Evans, that they do agree with the concept of establishing a base line. However, they are willing to do it before construction starts but don't want to have to do it before their plans are approved. Staff feels, however, that they should go ahead and do it and then submit their plans for approval. This is just a technical thing as to when it would be done.

The map, said Mr. Higashi, reflects two channels. As I understood it at the public hearing, there was only one channel.

That is correct, said Mr. Evans. Initially there was one, then two, then we changed it back to one. However, staff's recommendation is only for one.

I think it should be listed in the recommendation, said Mr. Ono, that since the request was for one channel why even consider the second one. There should be no reference to the second channel in order to avoid misunderstanding.

Mr. Gray, agent for Swire McCormack, Ltd., said that he had discussed with the applicant on how to do this monitoring and, as of this afternoon, they had decided that they would go out to the channel and take soundings immediately. Then they could proceed to get the construction plans approved. Another set of soundings would be taken immediately prior to construction and again after construction.

**ACTION**

Mr. Ing moved for approval, as submitted, with the amendment that the recommendation reflect that it is for only one of the proposed drainage ditches and not two. Mr. Higashi seconded and motion carried unanimously.

Mr. Ono commented that, during the public hearing on this particular application, there were concerns expressed about the general condition of Kaneohe Bay and that he had instructed the Aquatic Resources Division staff to do a sampling of a shoreline to see where we are as far as the quality of Kaneohe Bay is concerned.

VIOLATION OF LAND USE WITHIN THE CONSERVATION DISTRICT AT HANAMAULU, KAUAI.  
(PACIFIC STANDARD LIFE INSURANCE COMPANY AND JOHN GRAHAM).

Mr. Yagi was excused from participating because of a previous Ethics Commission ruling on this particular matter.

Being a Kauai County Building Department official involved in building permit activities, Mr. Yamamoto was also excused from participating because of a potential conflict.

If the Land Use Commission does not reclassify the land to urban, assuming that's the case, does staff's recommendation indicate that the land board would again re-establish its jurisdiction over the case, asked Mr. Ono?

If the petition to reclassify the land is denied by the Land Use Commission, said Mr. Evans, then that land would still remain in Conservation and the responsible authority would remain the land board.

I hope the applicant understands that it is not an automatic thing if the Land Use classifies from conservation to urban, said Mr. Ono. There may be some follow up action on the part of the board that may affect the applicant.

Has the applicant applied to the Land Use or is he going to wait for the board's determination at today's meeting and then reapply, asked Mr. Kealoha? Also, were they given a time frame to apply to the Land Use Commission as well as a time frame for the final disposition of the application. The reason I bring this up is because the application can go on for years, said Mr. Kealoha.

Mr. Evans did not know whether or not the applicant had applied to the Land Use Commission. Also, he had not discussed any recommendation he had with the applicant other than to retain our standard processing which is after the staff makes his report then as we do in all conservation applications, a copy of our submittal is sent to the applicant and the applicant's representative. As far as the time frame is concerned, we did not recommend that a petition be submitted within a certain time.

Assuming that the Land Use Commission denies their reclassification request, another CDUA would be coming to this board, which would trigger another series of hearings and review, said Mr. Ono.

That is correct, said Mr. Evans.

Do you have any recommendation as to a time frame per Mr. Kealoha's question, asked Mr. Ono?

I would recommend that we impose the same time frame as was imposed in the Manoa case, said Mr. Evans and I don't know right now exactly what that was.

The following communication, signed by Executive Vice President of Graham Partners, Inc., Seiji Kurasawa, dated November 5, 1982, was read, for the record, by Mr. Ono:

"Graham Beach Partners, developers of the Kauai Beach at Hanamaula, Kauai are in receipt of the staff report dated November 5, 1982 for the above matter.'

'Developers acknowledge that certain plantings, landscaping and a portion of a building were incorrectly placed within the conservation district. However, it should be noted that the placement of these improvements were not deliberate but on the reliance upon an interpretation of the shoreline which was subsequently found to be in error after the improvements were completed.'

'Based upon a shoreline certification obtained from the State Surveyor, our engineer, Portugal, Ibara and Associates, whose principal office is on the island of Kauai, advised us as to the location of the urban conservation land use district boundary. All subsequent land and improvements for the project were based upon this determination. Even the County of Kauai relied upon this determination in approving the plans and the granting of the permits necessary for construction. It was not until April of 1982, after the improvements were completed, that it was brought to our attention that the boundary interpretation was erroneous. While we do not deny the encroachment into conservation district, it was never our intention to encroach. On learning of the oversight in obtaining a CDUA permit for the subdivision, we immediately, and in good faith, applied for the same in an effort to resolve the situation. However, and only because the encroachment was discovered subsequent to our application, that the matter has not been resolved to date. Because of the mistake, although unintentional on the developer's part, we take full responsibility for our actions. Accordingly, we do not object to the staff's recommendation and hereby agree to the same. This is on the understanding and assumption that paragraph B.2 on page 12 of the staff's recommendation is the reclassification by Land Use Commission to the urban district of the land on which Building 24 lies, and not the removal of the building itself."

Mr. Ono called to Mr. Hong's attention the fact that if the Land Use Commission does not reclassify the land from conservation to urban that this board again would reclaim jurisdiction over this case and the applicant will have to come in and reapply for CDUA to attempt to correct the problem that is currently at hand.

Mr. Hong said that he understood this.

ACTION

Mr. Ing moved for approval of staff's recommendation with the following amendments:

1. That a copy of this notice be sent to all past and future purchasers of the condominium units at the project and that it be recorded with the Bureau of Conveyances.
2. That the landowner be required to file a petition with the Land Use Commission within six months and, that as noted by the board in its discussion on the submittal, we add the following language to Paragraph B.2 of the recommendation: "The board maintains continuous jurisdiction over this violation. In the event that the Land Use Commission denies the reclassification, this matter will be returned to the board for further disposition which may include the removal of the building from the conservation district."

Mr. Higashi seconded and motion carried. Messrs. Yagi and Yamamoto were excused from taking any action on this item.

ITEM H-1

CDUA FOR REPAIR AND REPLACEMENT OF PARKER RANCH NON-POTABLE WATER SYSTEM AT WAIMEA, NORTH KOHALA, HAWAII (PARKER RANCH).

Until the question of land ownership is resolved, and/or the Department of Hawaiian Home Lands concurs with the proposed use, staff, said Mr. Evans, must recommend denial of this request.

Mr. Evans said that as long as there is no increase in the carrying capacity of the pipe, staff had no objection to this request.

In answer to Mr. Ono's question, Mr. Evans said that we do have a process where the concurrence of the landowners must be obtained before we start the CDUA process.

Then why did we start process on this application if the landowners concurrence was not obtained, asked Mr. Ono? What bothers me is that we catch this at the tail end. If we had caught this problem in the beginning then the applicant would not have had to spend the time and money to go through this process.

Generally, in terms of our process, said Mr. Evans, we explain to the landowners that their signature, as landowners, will allow a document to be processed but does not make any further commitment as to our recommendation for approval or denial. In this particular case we did discuss this problem with Hawaiian Homes.

In answer to Mr. Ono's question, Mr. Evans said that he did not know whether or not they had signed the form.

In this case, asked Mr. Ing, when did the question of landownership arise? Was it after the application was filed and processed or was it prior to the processing or acceptance of the application?

Mr. Evans explained that a memorandum was sent to Hawaiian Homes in September, 1981 for review and signature as landowner. Subsequent to that there appears that the question relating to ownership came up and Hawaiian Homes responded back to us that they did not have any documentation that they own the land. Because of the apparent discrepancy we went to DAGS who said that Hawaiian Homes did own the land, so we sent the application to Hawaiian Homes asking them to sign and they said that they had no documentation that they own the land.

Mr. Cline Mann, agent for the applicant, said that he was at the meeting to speak briefly and try to focus in on what he considers to be the problem -- Parcel 17. He called attention to his November 4, 1982 letter to which was attached a colored map and which was distributed to the board at the meeting. Mr. Mann said that the letter was written to try to clarify any confusion that would arise from Exhibits A & I of the submittal.

Making reference to the map attached to the letter, Mr. Mann explained that there are 2-1/2 miles of pipe in the conservation district to be repaired -- both east and west lines. Colored green are portions in private land, owned by Richard Smart. There are three parcels of state land and the line through those three parcels are colored red. There is one parcel now colored yellow, which is only about 2/10ths of the whole 2-1/2 miles, and this is the area he focused on.

We concur that this particular Parcel 17 is Hawaiian Homes. Confusion, earlier, however is that the tax map embraces two ownerships. Tax Key 17 contains a portion of state land and a greater portion of Hawaiian Homes land. Initially, when we made our application a year and half ago, everybody considered this to be state land. However, when the application was submitted, the land department pulled out the current tax maps and found that the tax map showed the entire forest reserve, containing 8,000 acres, under the jurisdiction of the Hawaiian Homes Commission. It took many months on the part of myself, on behalf of the applicant, to trace the history of all this. Our findings assisted the State Surveyor in concluding that 8,000 acres in the forest were not Hawaiian Homes land but State land. They reported that Parcel 17 was also Hawaiian Homes land. We disputed that at the time and we pressed our point so that the staff requested once again the clarification from the State Surveyor. They concluded that the six acres is really state land, leaving 91-1/2 acres in the Hawaiian Homes area. So only the little section colored yellow belongs to Hawaiian Homes. However, said Mr. Mann, I would like to press the point again that the authority and jurisdiction over the area where the yellow line runs rests in this board.

Mr. Mann went on to explain that the line in question was constructed by Parker Ranch in 1901 while the land was under the jurisdiction of the board. Although the land came under the ownership of Hawaiian Homes in 1921, jurisdiction was almost immediately transferred by the Hawaiian Homes Commission back to this board. The land was made subject to a perpetual easement granted by the Territory of Hawaii, the approval of the then Attorney General and this board in 1932.

In 1938, by authority of this board and the Governor, Parcel 17 was added to the forest reserve and there is nothing in the record of even a murmur of descent by the Hawaiian Homes Commission in 1938.

In 1972, Arthur Akinaka, engineer, and former Land Survey, James Dunn, under contract with the Department of Hawaiian Homes, prepared an inventory of all the Department of Hawaiian Homes lands. This particular parcel is excluded. It has been 81 years since the pipeline was constructed; 61 years since the board acquired jurisdiction from the Hawaiian Homes Commission; 50 years since the granting of the easement; 44 years since it was placed in the forest; and 10 years since its exclusion in an official Hawaiian Homes land inventory. Only now does the Hawaiian Homes office ascertain jurisdiction. Under the foregoing circumstances, said Mr. Mann, we feel it unfair to deny our application.

Mr. Mann respectfully requested that the board, notwithstanding the contrary recommendation of the staff, grant approval to the subject application, that is, covering all alignments colored green, red and yellow on the map attached to their November 4, 1982 letter.

In the event that the board should find that it cannot accede to their request with regard to the section colored yellow, then we respectfully request that approval be granted to our application, as amended hereby, to include only the sections colored in green and red.

David Ramos, Parker Ranch Business Manager, answered specific questions with respect to the capacity of the pipes.

Would your latest amendment to the CDUA only include the green and red lines, asked Mr. Higashi?

Yes, said Mr. Mann, if the board feels that our request for the total line cannot be approved.

In answer to Mr. Higashi's question, Mr. Ramos said that there are three sources for this water. The Diversion dam on Pohakuhau Stream, which is on the left side. And, on the right side, is a diversion dam on the Alakahi Stream. The third source is makai on the Waikoloa Stream.

Why, asked Mr. Ono, would you put in a new pipe that would have more capacity than you would be allowed to draw?

Mr. Ramos said that their engineers had recommended the computed size be 5-1/2 inches, which is considered standard.

During drought times, asked Mr. Higashi, what kinds of water rights do you have?

Mr. Ramos said that the way the diversion dam on the stream is constructed, certain elevations on the stream are limited. In other words, the dam does not go all the way up the stream, just on the lower quarter portion. Because water is always flowing over the dam, we cannot take more water during times of drought.

Mr. Higashi first moved for approval for the green and red areas as shown on the applicant's map then after some discussion withdrew said motion.

ACTION

Mr. Higashi moved for approval of the original application as it relates to the entire area with the understanding that the question of jurisdiction for Parcel 17 be resolved with the proper authorities before the applicant can go in and actually remove the pipeline.

Does that mean, asked Mr. Ono, that the applicant would not be able to do any work on any part of the system unless they have clarification on Parcel 17.

Mr. Higashi explained that they cannot do any work on the yellow portion only. However, they can proceed in the areas colored green and red.

Another point of clarification, said Mr. Ing. I was under the assumption that they are only seeking approval on the west line. If that is not the case then maybe we ought to clarify that. Does the land use question deal with both the east and west lines?

Yes, said Mr. Mann. It includes specifically everything in conservation.

I would like to see some kind of statement in the action that is to be taken, if it is going to be an approval, that the applicant does not draw more water than is allowable, said Mr. Ono. I realize that there is a decision rendered by the judge; however, I would like to tie it in to this particular application as well. Because, if for whatever reason they start overdrawing, then at least we can get back into the case readily instead of going back to court.

Mr. Higashi expanded his motion by including Mr. Ono's suggestion as an added condition, together with the department's standard conditions. Also, that staff work out the legal problems regarding water withdrawal.

Mr. Kealoha seconded and motion carried unanimously.

ITEM C-1

APPOINTMENT OF DISTRICT FIRE WARDEN FOR DISTRICT NO. 5, ISLAND OF KAUAI.

ACTION

The board unanimously approved the appointment of Mr. Warren S. Robinson as District Fire Warden of Kauai, Fire District No. 5. (Yamamoto/Ing)

ITEM C-2

DISTRICT FIRE WARDENS, ISLAND OF HAWAII.

ACTION

The board unanimously approved the appointment of Mr. Jay Sasan for Fire Warden District No. 6, and the appointment of Mr. Kenneth Dillingham for Fire Warden District No. 9. (Higashi/Ing)

ITEM C-3

MASTER'S REPORT ON PUBLIC HEARING

ACTION

It was moved by Mr. Yamamoto that the board approve the withdrawal of approximately 5,000 acres of State land within the Na Pali-Kona Forest Reserve for the establishment of the Na Pali Coast State Park. Mr. Yagi seconded and motion carried unanimously.

ITEM E-1

FILLING OF GENERAL LABORER I POSITION NO. 32754, ROVING CREW, OAHU PARK SECTION.

ITEM E-2

FILLING OF GENERAL LABORER I POSITION NO. 11185, ROVING CREW, OAHU PARK SECTION.

ACTION

The board unanimously approved the appointment of Mr. Mark Obata to fill Position No. 32754, General Laborer I, Roving Crew, Oahu Park Section and the appointment of Mr. Todd Kubo to fill Position No. 11185. (Yagi/Higashi)

ITEM E-3

REQUEST TO USE AINA MOANA (MAGIC ISLAND) STATE RECREATION AREA, HONOLULU, OAHU

The United Japanese Society and Nippon Travel Agency (NTA), Pacific, Inc. are requesting a permit to use the Aina Moana State Recreation Area on June 10, 1983 for a fireworks display.

ACTION

Mr. Ing moved to authorize the issuance of a permit to the United Japanese Society and NTA Pacific, Inc. for the fireworks display, subject to appropriate conditions to be later specified and to include the following:

1. The permittee shall secure liability insurance, in the name of the State of Hawaii, in the amounts of \$500,000 for bodily injury and \$500,000 for property damage.
2. The permittee shall be responsible for paying any administrative costs that may arise as a result of this display.

Mr. Yagi seconded and motion carried unanimously.

Mr. Ono voiced concern that this event may conflict with the preparation of the Kamehameha Day parade.

Mr. Sue assured Mr. Ono that this had been checked out and there will be no conflict.

ITEM F-1

STAFF RECOMMENDATION FOR CANCELLATION OF GENERAL LEASE NO. S-4346, PEAHI, MAKAWAO (HAMAKUALOA), MAUI.

ACTION

Unanimously approved as recommended by staff. (Yagi/Ing)

ITEM F-2

HAWAIIAN COMMERCIAL & SUGAR CO., LTD. (HC&S) REQUEST FOR RECONVEYANCE OF FORMER TEACHER'S COTTAGE LOT, PUUNENE, MAUI.

The conveyance from HC&S to the Territory was made with a condition that the land shall be used as a teacher's cottage lot or for other school or educational purposes and that in the event it is not used for said purposes for a period of five (5) years, the land shall upon demand revert to HC&S.

The teacher's cottage lot has not been used for school or educational purposes for a period of more than five years and HC&S has now requested that it be reconveyed to them pursuant to the reverter provisions.

Mr. Yagi asked if another condition could be added to the submittal wherein the HC&S company would be required to plant sugar cane instead of redeveloping to some other thing.

Mr. Detor understood that they intend to put the area into sugar cane. However, he would have to check with the Attorney General's office as to whether this condition could be incorporated.

As I understand it, explained Mr. Tam, we have this area on a condition and, when that condition lapses, the area reverts automatically. We have no authority to add conditions for the reverter.

In answer to Mr. Yagi's question, Mr. Tam said that unless the land is to be used for a public use, we cannot condemn.

Even though we cannot add a proviso that may contradict with the original terms and conditions, said Mr. Ono, we can spell out the intent of the board.



ACTION

Mr. Yagi moved for approval of the reconveyance of the subject former teacher's cottage lot (TMK 3-8-06:7) to HC&S pursuant to the reverter provisions contained in that certain exchange document dated May 27, 1929 and filed under Land Office Deed No. 3561, subject to approval by the office of the Attorney General and other terms and conditions as may be prescribed by the Chairman. Also, be it known that the board desires to have the subject area remain in sugar cane. Should HC&S subsequently change this use, then the board is free to start condemnation proceedings.

Mr. Detor asked whether the motion meant that, in reconveying the land, we express the board's interest in having the land kept in agriculture for productive use. If, however, they should go in for rezoning, then we start condemnation proceedings.

Mr. Yagi answered yes.

ITEM F-3

MAUI ELECTRIC CO. REQUEST FOR AMENDMENT OF PREVIOUS BOARD ACTION AUTHORIZING SALE OF EASEMENT AT KAHAKULOA, WAILUKU, MAUI.

ACTION

The board, upon motion by Mr. Ing and a second by Mr. Higashi, unanimously voted to amend its action taken at its February 27, 1981 meeting under Agenda Item F-8 by authorizing the addition of the foregoing Easement E and Easement D covering parcels TMK 3-1-04:41 and 50, respectively, under said Item F-8. All other terms and conditions to remain unchanged.

ITEM F-4

STAFF RECOMMENDATION FOR CANCELLATION OF LAND OFFICE DEED NO. S-26897 AND SALE OF NEW EASEMENT AT KAHAKULOA, WAILUKU, MAUI.

ACTION

Unanimously approved as submitted, subject to all the terms and conditions contained in agenda Item F-15 approved by the board at its December 13, 1974 meeting. (Yagi/Kealoha)

ITEM F-5

COUNTY OF MAUI REQUEST FOR CANCELLATION OF EXECUTIVE ORDER NO. 2410, HONUOLA, MAKAWAO, MAUI.

ACTION

The board unanimously voted to approve of and recommend to the Governor, issuance of an executive order cancelling Executive Order No. 2410 issued to the County of Maui for park and recreation purposes subject to disapproval by the legislature in any regular or special session next following the date of this executive order. (Yagi/Higashi)

Mr. Ono stated that, heretofore, before we take any land back, we have some kind of plan for use of the property.

ITEM F-6

LAHAINA CHRISTIAN FELLOWSHIP REQUEST FOR AMENDMENT OF PREVIOUS BOARD ACTION (2/12/82, AGENDA ITEM F-5) AUTHORIZING SALE OF A LEASE AND EASEMENT AT HONOKOWAI, LAHAINA, MAUI.

ACTION

The board, upon motion by Mr. Yagi and a second by Mr. Higashi, unanimously voted to amend its action of February 12, 1982 under agenda Item F-5 authorizing the sale of a twenty-four (24)-ft.-wide easement for ingress/egress purposes. All other terms and conditions under agenda Item F-5 are to remain unchanged.

ITEM F-7

STAFF RECOMMENDATION FOR CANCELLATION OF EXISTING EXECUTIVE ORDERS,  
CONSOLIDATION AND RE-SET ASIDE OF HONOLULU INTERNATIONAL AIRPORT LANDS,  
HONOLULU, OAHU.

DOT would like to cancel all existing executive orders covering the airport area. Right now there are eight executive orders covering the airport area and additionally there are nine other areas within the airport complex which do not have formal coverage. Therefore, staff would like to cancel the existing executive orders and issue three new ones covering the same areas involved -- those under executive order and those that were not previously covered.

What's the reason for this action, asked Mr. Ing?

Mr. Detor explained that DOT would like to clarify the jurisdictional aspects and they would also like to provide coverage for those nine areas which have no coverage at all.

Mr. Owen Miyamoto explained that the reason DOT is asking for continuous executive order coverage for Keehi Lagoon, which includes all of the waterway areas which were originally a part of the Honolulu International Airport as a seaplane runway is that the FAA has said that DOT must continue to hold title to that land in order to qualify for federal aid. Since we had originally used it for airport we would like to continue to keep it for airport usage, even though the specific use of seaplane runway operations is no longer in use in that area. The reason that they want us to do this is because of the problems of incompatible encroachment of the airport.

FAA was very concerned, and DOT had to agree with them, that if we release control of these lands which are just waterways, there is a potential for some type of development coming in that area which may not be compatible with the use of the airport. The joint use between the Harbors and Airports Division is to allow boating recreation to continue in that area, which is something the people at Mokauea also wanted because they felt that the fishing activities and that sort of thing should continue and there should not be further development in that area.

One of the reasons, too, for the request for clarification of executive order is that much of our federal funding is continued on our clarifying our boundaries. A major part of this task was to correct the boundary discrepancies that were in many of the executive orders. With this correction and with the change in the executive orders, we will satisfy FAA requirements. Much of the federal monies is now being held up because of the lack of a good boundary.

In answer to Mr. Ono's question, Mr. Miyamoto said that approximately \$3 to \$4 million is being held up right now.

If nothing is done, asked Mr Ono, how long will they hold this money up?

They say that they cannot hold it for us indefinitely, said Mr. Miyamoto. Our concern is that it creates a problem of cash flow to our other projects.

Is your funding dependent upon the amount of land you have, asked Mr. Ing?

No, said Mr. Miyamoto. The only thing that we are committed to is the clarification of exact authority to control the land areas which are a part of the airport. It does not require us to have a certain number of acres. But it does require us to establish clearly the boundaries of our holdings and the extent of our control over those areas.

If this action is taken, would the proposal to create that new island be adversely affected, asked Mr. Ono?

I don't think so, said Mr. Miyamoto. The FAA has indicated that they are willing to put their stamp of approval on the island. But I think the way the island is to be developed will be of considerable interest to them.

ACTION

The board, upon motion by Mr. Kealoha and a second by Mr. Ing, unanimously voted to:

1. Approve of and to recommend to the Governor issuance of an Executive Order cancelling Executive Order Nos. 1016; 1839; 1843; 1878 Parts I, II, III, IV and V; 1924 Parts VI, VII and VIII; 2140; 2560; and 2619.
2. Approve of and to recommend to the Governor issuance of an Executive Order setting aside airport consolidation area 56 (Land Board Exhibit A) together with aviation easements appurtenant thereto (also listed in Land Board Exhibit A) under control and management of the Department of Transportation, Airport Division for airport purposes. The set aside shall be subject to all existing and applicable easements of record.
3. Approve of and recommend to the Governor issuance of an Executive Order setting aside consolidated area 57 (Keehi Lagoon area listed in Land Board Exhibit B) under dual control and management of the Department of Transportation, Airports and Harbors Divisions for airport and harbor purposes. The set aside shall be subject to all existing and applicable easements and encumbrances of record.
4. Approve of and recommend to the Governor issuance of an Executive Order setting aside airport area 38 (area adjacent to the Sand Island access road near the Bascule Bridge) under the control and management of the Department of Transportation, Airport Division for Bulk Fuel Tank site, subject to existing easements of record.

ITEM F-8

GORO NONAKA, ET AL, APPLICATIONS TO PURCHASE REMNANT PARCEL AT KALIHI, HONOLULU, OAHU.

This is a recommendation for sale of a remnant by sealed bid. The reason for the sealed bid procedure said Mr. Detor is that there are three abutting owners to this parcel who have all expressed interest in acquiring it and it is not feasible to subdivide the remnant into three parts.

ACTION

Finding the area to be physically unsuitable for development as a separate unit and by definition is a remnant, the board, upon motion by Mr. Ing and a second by Mr. Yagi, unanimously voted to authorize the termination of Revocable Permit No. S-2771 to Mr. Goro Nonaka on a date to be determined by the Chairman. The board also approved the sealed bid sale of the subject remnant to the party submitting the highest offer above appraised value subject to the terms and conditions listed in the submittal.

ITEM F-9

U. S. CORPS OF ENGINEERS REQUEST FOR RIGHT OF ENTRY FOR TOPOGRAPHIC SURVEYS, MAKAHA, WAIANAE, OAHU.

Mr. Detor thought it a good idea to put in a provision wherein the U. S. Corps of Engineers would be required to submit a status report annually inasmuch as the right of entry is for a period of three years -- November 15, 1982 to November 14, 1985.

ACTION

The board, upon motion by Mr. Ing and a second by Mr. Higashi, voted unanimously to:

1. Approve issuance of a right of entry to the subject area to the Department of the Army, Corps of Engineers from November 15, 1982 to November 14, 1985 for topographic surveys subject to the terms and conditions listed in the submittal.

2. In the event any unanticipated sites or remains such as shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings, or walls are encountered during the above activities, the applicant shall stop work immediately and contact the Historic Preservation Office at 548-7460 or 548-6408.
3. The applicant shall submit a status report annually to DLNR.

Mr. Detor asked that Item F-12, which is listed on the Agenda, be corrected to read Item F-11. The title, however, remains unchanged.

ITEM F-10      STAFF RECOMMENDATION FOR CANCELLATION OF GENERAL LEASE NO. S-4744, WAILUA, KAUAI.

Mr. Bruce Horka, lessee, due to "extreme financial business difficulties" has asked that his lease be terminated and that he be released from all obligations of the lease.

ITEM F-11      PUBLIC AUCTION SALE OF PASTURE LEASE, KAUAI (FORMERLY UNDER G.L. NO. S-4744).

ACTION      Mr. Yamamoto moved for approval of both Items F-10 and F-11, as recommended by staff, subject to the terms and conditions listed in said submittals. Mr. Ing seconded and motion carried unanimously.

Mr. Ono asked that Mr. Detor consider the possibility of having legislation introduced to deny any party that defaults from reapplying for another piece of State land. Such denial to be for a specified period of time. He did not feel it was fair to those who, in good faith, put in their bid and lost.

ITEM F-12      AUTHORITY TO TERMINATE REVOCABLE PERMIT NO. S-5887 AND TO ISSUE NEW PERMIT TO MRS. DIANE L. PETERS, WAILUA, KAUAI.

Mr. Detor explained that what was listed on the Agenda as Item F-12 was, in essence, Item F-11. F-12, as shown above was not listed.

ACTION      Because this item was not listed on the Agenda, Mr. Tam advised the board to defer action until the next meeting.

ITEM F-13      DEPARTMENT OF HEALTH REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING OFFICE SPACE AT 54-010 KUKUNA ROAD, HAUULA, OAHU.

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

ITEM F-14      DEPARTMENT OF HEALTH REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING COTTAGE AT 3420 KUHIO HIGHWAY, LIHUE, KAUAI.

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-15      DEPARTMENT OF HEALTH REQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE at 2045 KAM IV ROAD, HONOLULU, OAHU.

Mr. Ing felt that the rental was rather high and asked that staff find out what the prior rental was.

ACTION      Deferred.

STAFF RECOMMENDATION FOR ACCEPTANCE OF DEED AND AUTHORIZATION TO DEMOLISH BUILDING, FORMER ARMY RECRUITING STATION AT HALEKAUWILA AND MILILANI STREETS, HONOLULU, OAHU.

---

ITEM F-16

ACTION

Mr. Ing moved to accept the return of the 5,728 square feet ceded land, together with all improvements thereon and authorize the demolition of the former Army Recruiting Station building. Mr. Yagi seconded and motion carried unanimously.

ITEM H-1

CDUA FOR REPAIR AND REPLACEMENT OF PARKER RANCH NON-POTABLE WATER SYSTEM, NORTH KOHALA, HAWAII.

---

(See Page 7 for Action)

ITEM H-2

AMENDMENT TO CDUA FOR RESIDENTIAL USES AT KAHALUU, OAHU (GRAY, HONG AND ASSOCIATES, INC., AGENT FOR JAMES A. GOMES).

---

The applicant is requesting an amendment to his previously approved CDUA in order to allow for the selling of soil from his property. Approval of this request would supercede Condition No. 13 of the previous CDUA and thereby allow the applicant to dispose of the excess excavated material by selling it as topsoil. Condition No. 13 states: "The property and new improvements shall not be used for commercial purposes."

Accordingly, said Mr. Evans, staff is recommending denial of the proposed use.

Staff found that subsequent to the department issuing a cease and desist notice that the applicant nevertheless continued his activity. Thus, staff has recommended fines in the amount of \$2000 for four separate violations.

As I understand it, said Mr. Kealoha, you are only recommending denial of the commercial sale of the dirt but at the same time you are saying that the application for the original construction remain.

Yes, said Mr. Evans.

This application, said Mr. Kealoha, was filed in 1973. Under the regular construction permits, a residence or building normally has to be constructed within a two year period. How come this application is different? We have already lapsed nine years. The environment has changed, the population has increased and yet the site of the proposed construction remains the same. I would rather fine the guy, cancel his permit and let him put in a new application.

Mr. Evans agreed. When this application came in back in 1973 the proposed use was a permitted use. Also, in our administrative rule at that time, said Mr. Evans there was no time frame placed upon any applicant to build a house. As a result of this difficulty, when we did go to the public hearing on the revision of our administrative rule in 1978, we did for the first time put a standard condition in that when an applicant gets a use approved, the construction must start within one year and must be completed within three years unless good cause can be shown. The question, in terms of taking this new regulation and placing them into something that already has been approved as a permitted use may have to be answered by the Attorney General's office.

Can the board place a restriction on the original CDUA that was approved with additional restrictions through this CDUA which is currently pending, asked Mr. Ono? In affect, nullifying the CDUA which was approved in the early 70s.

If you try to cover an area that is not in this CDUA then I think it would be a retroactive nullification of the rule, and you would have difficulty, said Mr. Tam. But I think that the scope of this CDUA needs to be examined a little more closely in relation to its original.

Mr. Ing asked how Recommendation B.2, regarding revision of the site plans which may alter grading plans, would conflict with the County's requirement that work be done by the applicant by a certain date. I would not want us to reopen the regrading issue unnecessarily. In other words, one of our requirements is that they comply with the City and County and State ordinances and laws. If they violate that, any time limits in those laws could possibly be a violation under the original CDUA. If it is, then there might be some sanctions, other than say monetary, that we could impose.

In answer to Mr. Ono's question, Mr. Evans said that there is a current standard language wherein the applicant has to comply with all State, Federal and County laws, rules, etc. in the original CDUA that was approved.

Then Mr. Ing's question, said Mr. Ono, could be applicable. We may have two cases running parallel -- 1) reopening the original case, and 2) this new application. I would like to see two sets of recommendations coming in the next time, said Mr. Ono. One pertaining to the original CDUA to see if there are any violations to the set of conditions spelled out in the early 70s and one in reference to this current application.

ACTION Deferred to the next meeting.

ITEM H-3 CDUA FOR OFF-SITE DRAINAGE IMPROVEMENT USE FOR PUU ALII PLANNED DEVELOPMENT PHASES III & IV AT KANEOHE, OAHU.

(See Page 2 for action)

ITEM H-4 VIOLATION OF LAND USE WITHIN THE CONSERVATION DISTRICT AT HANAMAULU, KAUAI.

(See Page 4 for action)

ITEM J-1 MODIFICATION NO. 10 TO LEASE NO. A-62-22, HONOLULU INTERNATIONAL AIRPORT, OAHU (ALOHA AIRLINES, INC.)

Because they no longer need the area, Aloha Airlines has asked that Space No. 139, Building 39, and Space No. 001-118E, Diamond Head Service Court be deleted. The lessee's rental will be decreased in the amount of \$566.00 effective July 31, 1982.

ACTION Unanimously approved as submitted. (Yagi/Kealoha)

ITEM J-2 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS, AIRPORTS DIVISION.

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM J-3 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEEHI SMALL BOAT HARBOR, HONOLULU, OAHU (DONALD I. STODDARD).

The applicant will use the 8,120 sq. ft. parcel of unpaved land for construction of a steel passenger carrying catamaran and vehicle parking at a monthly rental rate of \$650.00.

ACTION Unanimously approved as submitted. (Kealoha/Yagi)

ITEM J-4 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KAWAIHAE HARBOR, HAWAII (CATTLEMEN'S FEED CO-OP, INC.).

This request is for the use of two dry storage tanks and an open, unpaved parcel of land to be used for storage and sacking area for DPL, a poultry by-product, used as a protein additive for cattle feed. Rental will be \$666.00 per month.

ITEM J-5 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PORT ALLEN PIER SHED, KAUAI (OCEANIC LIBRA CORP.)

This request is for 875 sq. ft. of covered secured storage and work area for repairing fishing gear. Rental is \$184.00 per month.

ACTION Unanimously approved as submitted. (Yamamoto/Yagi)

ITEM J-6 RESUBMITTAL - SPECIAL FACILITY LEASE AT HONOLULU INTERNATIONAL AIRPORT, DIAMOND HEAD SERVICE COURT, OAHU (NORTHWEST AIRLINES, INC.)

This request for a lease was originally approved by the board on May 14, 1982. DOT now plans for a special facility for air cargo operations to be constructed on the land pursuant to Section 261-52. There has been a change in the rental amount due to the implementation of the new rates and charges which became effective on August 1, 1982.

This lease is for thirty years. Annual rental for the first 15 year period is to be changed from \$169,050 to \$105,455.

In addition, the lessee will pay an additional fee sufficient to amortize the special facility revenue bonds issued to finance the cost of constructing the special facility, to pay the cost of operation and maintenance of the special facility and to pay all fees and expenses in connection with the administration of the indenture pursuant to which the special facility revenue bonds are secured.

ACTION Unanimously approved as submitted. (Kealoha/Yagi)

ITEM J-7 REVISION OF RENTAL, RENEWAL OF REVOCABLE PERMITS, AIRPORTS DIVISION.

ACTION Unanimously approved as submitted. (Yagi/Kealoha)

ADDED  
ITEM J-8 CONSENT TO SUBLEASE -- LEASE NO. DOT-A-78-29, KEAHOLE AIRPORT, HAWAII (HAWAIIAN AIRLINES, INC. TO MID PACIFIC AIRLINES, INC.)

Hawaiian Airlines entered into a lease with DOT on August 10, 1978 for the purpose of providing air transportation services at Keahole Airport for a period of 18-1/2 years ending on June 30, 1996. Mid-Pacific Air wishes to extend its inter-island operations to include Keahole Airport and the Lessee is willing to accommodate the Sublessee's plan of expansion.

ACTION Unanimously approved as submitted. (Higashi/Kealoha)

ADJOURNMENT There being no further business, the meeting adjourned at 11:45 A. M.

Respectfully submitted,



LaVerne Tirrell  
Secretary

APPROVED:



SUSUMU ONO  
Chairman

lt