

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

DATE: July 22, 1983

TIME: 9:00 A. M.

PLACE: State Office Building
Conference Room
3060 Eiwa Street
Lihue, Kauai

Roll
Call

The meeting of the Board of Land and Natural Resources was called to order by Vice Chairman J. Douglas Ing at 9:05 A. M., with the following in attendance:

Members

Mr. Takeo Yamamoto
Mr. Roland Higashi
Mr. Moses W. Kealoha
Mr. J. Douglas Ing

(Mr. Thomas Yagi and Mr. Susumu Ono
were absent and excused.)

Staff

Mr. Roger Evans
Mr. James Detor
Mr. Sam Lee
Mrs. Joan K. Moriyama

Others

Dep. A. G. Johnson Wong
Mr. Sonny Waialeale (Item F-17)
Mr. Peter Garcia

Added
Item H-7

Mr. Higashi moved, seconded by Mr. Kealoha, and the board unanimously approved to add Item H-7 to the board agenda on the Hawaii Biogenics matter in the offer of settlement from the Trustee.

Minutes

The minutes of June 9, 1983 were unanimously approved as circulated.
(Yamamoto/Kealoha)

ITEM H-2

CDUA FOR ALTERATION AND ACCESSORY USES TO AN EXISTING DWELLING
AT PACIFIC HEIGHTS, OAHU

This was a CDUA for alteration and accessory uses to an existing dwelling on private land at Pacific Heights on Oahu. It is located within our limited and general subzone. The applicant proposes to alter the residence by the addition of two small wood-framed decks and the construction of a new swimming pool adjacent to the existing residence. Staff didn't feel that this will increase any human activity other than what is already going on.

Staff felt that the proposed use is an exempt action under the EIS regulations, and recommended approval subject to our standard conditions.

Mr. Ing asked whether the applicant is aware that there is a single-family residential limitation on the use of that property.

Mr. Evans said they did not specifically state to the applicant that it's for single-family use only.

Mr. Higashi said as part of the submittal in the recommendation we should make it clear that no ohana zoning can be used, that it is for single-family dwelling only.

Mr. Evans said staff did not address the ohana zone concept because this particular application does not provide for second house on the two units on the same property.

Mr. Ing suggested an amendment to include an additional condition so that it would be used only for single-family residence. He said we have had problems at Tantalus where people were converting structures to second dwelling.

ACTION Mr. Kealoha moved, Mr. Higashi seconded, and the board unanimously approved Item H-2 with the amended condition as discussed above.

ITEM F-17 STAFF RECOMMENDATION FOR RECISSION OF PREVIOUS BOARD ACTION AUTHORIZING DIRECT ISSUANCE OF LEASE TO WAIALEALE BOAT TOURS, INC. TO OPERATE EXCURSION TOURS WITHIN THE WAILUA RIVER STATE PARK, WAILUA, KAUAI

This was a recommendation by the staff to terminate commitments for a new lease which were made to the Waialeale Boat Tours, Inc., for reason of nonpayment of certain back rents and appraisal cost deposits. However, Mr. Detor said, since this submittal was written, they have fully paid up the amounts that were listed in the submittal.

Staff had informed them by letter that if these payments were not made by today (July 22, 1983), we would recommend to the board that action be taken to rescind the commitment for a new lease. They have since made the required payment and they are now current.

Mr. Detor said Mr. Ono had suggested that the board consider imposing administrative costs incurred in processing this.

Mr. Higashi asked whether there is any penalty clause for nonpayment in the renegotiation of the lease.

Mr. Detor said since the passage of the law all of our new leases will contain a penalty clause for nonpayment of rent. The monthly payment on the back rent that was listed in the submittal, he said, does carry a 1% per month charge for interest.

Mr. Ing asked whether this 1% per month charge for the overdue rent is by way of an agreement.

Mr. Detor said yes. The agreement that we have with them does have that 1% feature.

Mr. Higashi thought that before a new lease is issued that we have to clear the old balance. He asked whether staff ever made demands of them for the full payment.

Mr. Detor said this is a little different situation because this deals with the appraisal deposit and a new lease that has not been issued.

Mr. Kealoha asked whether staff was recommending withdrawal of this item since they have satisfied their account.

Mr. Detor said there are grounds to withdraw this matter since they have satisfied the amounts that we asked for in our letter. The administrative cost would be a separate matter, he said.

ACTION Mr. Yamamoto moved to approve the withdrawal of this item. Mr. Higashi seconded the motion. The board agreed that the administrative cost would be worked out by the department and negotiated by the chairman. On the call of the question the motion was unanimously carried.

ITEM E-1 APPROVAL PROPOSED FUNDING OF PROJECTS UNDER THE LAND AND WATER CONSERVATION FUND PROGRAM

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM E-2 REQUEST FOR PERMIT TO CONDUCT A BARRIO-FIESTA CELEBRATION AT THE WAILOA CENTER, HAWAII

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM F-1 DOCUMENTS FOR CONSIDERATION

KAUAI

Item F-1-a REVOCABLE PERMIT

DAVID KAONA, JR.; DAVID K. KAONA, III; AND KENNETH K. KAONA - Government land situated at Waioli, Hanalei - for taro cultivation - \$19.00 per month

Item F-1-b ASSIGNMENT

NILO ELMER KOSKI and HELEN JORGENSEN KOSKI, husband and wife, Assignors, to JAMES W. LUSKE and MELODIE C. LUSKE, husband and wife, as Tenants by the Entirety, Assignees - Lot 30, Puu Ka Pele Park Lots, Wai-meia (Kona) - GL No. S-4037

Mr. Detor said all of the leases at Kokee and Puu Ka Pele run out in 1985. So question arises what would happen after that. These are recreation-residence leases which were issued directly without going to public auction. There is no provision in the lease for extension.

Mr. Yamamoto asked whether the assignees are aware of this situation.

Mr. Detor said the people there are very much aware that their leases run out at the end of 1985, and they are very anxious for a resolution.

Mr. Detor further stated that Mr. Ono had indicated to him that he would like to discuss this matter with the board members before the end of this year and present several alternatives that can be considered.

Mr. Detor said the law permits issuance of new leases no sooner than two years prior to the termination of the current ones, which means since these run out on December 31, 1985 that it is technically possible for the board to authorize new leases sometime right after the end of this year.

Mr. Ing asked whether the lessees were notified recently that the leases are due to terminate in 1985.

Mr. Detor said there are a number of letters on file, but he didn't think that a general circulation letter was sent to them. However, they have a community association there and the subject matter has come up. Also, the chairman has written to some of the legislators who inquired about this.

Mr. Ing said if there is a high demand for the area, the board has an obligation to the public to open it up to more people. At the same time, he didn't want to see the people there hurt by continuing to make substantial improvements.

OAHU

Item F-1-c REVOCABLE PERMIT
TADASHI FUJIEKI, KATSUE FUJIEKI AND BRYON Y. FUJIEKI - Waimanalo, Koolaupoko - TMK 4-1-08:61 - for diversified agriculture - \$18.00 per month

KAUAI

Item F-1-d REVOCABLE PERMIT
WILLIAM C. RITA - Portion of TMK 2-3-07:16, makai of Lolo Road at Kalaheo - for pasture purpose - \$10.00 per month

OAHU

Item F-1-e CONSENT TO MORTGAGE
CORMAX CORPORATION (Lessee-Mortgagor) to GECC Financial Corporation (Mortgagee) - North corner of Moanalua Road and Kaonohi Street, Kalauoa, Ewa - GL No. S-4644

Item F-1-f CONSENT TO ASSIGN AND MORTGAGE
FEDERAL LAND BANK OF SACRAMENTO and KAWAHARA NURSERY & LANDSCAPING CO., LTD., a Hawaii corporation - Lot 11, Waimanalo, Koolaupoko - GL No. S-3759

ACTION The board, on Mr. Kealoha's motion and seconded by Mr. Yamamoto, unanimously approved Item F-1 as submitted.

ITEM F-2 HAWAII ELECTRIC LIGHT CO., INC. REQUEST FOR AMENDMENT TO PREVIOUS BOARD ACTION (3/11/83, AGENDA ITEM F-2) APPROVING SALE OF AN EASEMENT AT WAIAKEA, SOUTH HILO, HAWAII

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM F-3 DOWALD REQUEST FOR RIGHT OF ENTRY TO REMOVE CINDER, PUU KAWAIWAI CINDER PIT, WAIMEA, SOUTH KOHALA, HAWAII

This was a request from the Division of Water & Land Development (DOWALD) for right of entry to remove approximately 400 cubic yards of cinder from the cinder pit in Waimea. They are going to use this material for the construction of an access road to facilitate renovation of the Upper Hamakua Ditch.

Mr. Ing said if this right of entry is to DOWALD the standard hold-harmless clause listed under Item 1 in the recommendation would not be necessary.

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

ITEM F-4 HAWAII ELECTRIC LIGHT CO., INC. REQUEST FOR AMENDMENT TO PREVIOUS BOARD ACTION (9/26/75, AGENDA ITEM F-4) APPROVING SALE OF AN EASEMENT AT WAIAKEA, SOUTH HILO, HAWAII

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM F-5 DOA REQUEST FOR RIGHT OF ENTRY FOR FACILITIES RENOVATION AND REPLACEMENT, HILO NURSERY AND ARBORETUM SITE, WAIAKEA, SOUTH HILO, HAWAII

This was a request from the Department of Agriculture (DOA) for permission to renovate, replace and continue usage of its facilities in Hilo. These facilities are located in the Forestry baseyard area. They have been in there for many years, and it goes back to when Forestry was under Board of Agriculture and Forestry. However, Mr. Detor said, our records do not show any documentation that authorized Board of Agriculture to be there.

Staff suggested that, with the concurrence of Division of Forestry and Wildlife, that the board approve of and recommend to the Governor the withdrawal of the area from the executive order and then setting it aside to the Department of Agriculture; and that the board authorize immediate right of entry for facilities renovation and replacement.

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM F-6 COUNTY OF MAUI, DEPARTMENT OF WATER SUPPLY, REQUEST FOR AMENDMENT TO PREVIOUS BOARD ACTION AUTHORIZING SET ASIDE OF RESERVOIR SITE AT WAHIKULI, LAHAINA, MAUI

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM F-7 COUNTY OF MAUI REQUEST FOR EXECUTIVE ORDER SETTING ASIDE LAND FOR BEACH RIGHT OF WAY AND DRAINAGE PURPOSES, KAONOULU, KIHEI, MAUI

ACTION Unanimously approved as submitted. (Yamamoto/Higashi)

ITEM F-8 DOWALD REQUEST FOR RIGHT OF ENTRY TO DRILL EXPLORATORY WELL, KOOLAU, HANA, MAUI

ACTION Unanimously approved as submitted. (Kealoha/Higashi)

ITEM F-9 U. S. NAVY REQUEST FOR CONVEYANCE OF HIGHWAY PARCELS 1 AND 1-A OF THE PEARL HARBOR SPUR, PEARL HARBOR, OAHU

This was a request for conveyance of land, outside of the Pearl Harbor main gate, to the Navy for a nominal consideration of \$100.00. The State Department of Transportation has negotiated this with the Navy.

Back in 1965, the Navy conveyed this subject parcel to the State Department of Transportation with a reversionary clause, that when the use ceases it goes back to them. The U. S. Navy is requesting that we return the land to them now because they have problems in maintaining security and enforcing traffic regulations.

Mr. Ing didn't think the nominal consideration of \$100.00 is appropriate.

Mr. Detor said the rationale behind this is (1) originally it came on a gratis basis from the Federal Government, and there is a reversionary clause in the conveyance; and (2) it is actually relieving the state of maintenance of what is part of the road. For this reason, staff really didn't see the rationale in charging a fair market value.

ACTION Mr. Kealoha moved for deferral. Mr. Yamamoto seconded and the motion to defer was unanimously carried.

ITEM F-10 CARLTON KUSUNOKI, ET AL, APPLICATION TO PURCHASE HIGHWAY REMNANT, HALAWA, HONOLULU, OAHU

ITEM F-11 JOHN YAP, ET AL, APPLICATION TO PURCHASE HIGHWAY REMNANT PARCEL K-160, FAP NO. I-H1-1(23), PELE STREET TO KEEAUMOKU STREET SECTION, HONOLULU, OAHU

ACTION Items F-10 and F-11 were unanimously approved as submitted. (Kealoha/Yamamoto)

ITEM F-12 EWA HOUSING FOUNDATION REQUEST FOR RIGHT OF ENTRY FOR INSTALLATION OF SEWER AND DRAINAGE LINES, EWA, OAHU

This was a request from the Ewa Housing Foundation for right of entry in connection with their subdivision and rehabilitation of plantation housing project called the Fernandes Village. They want a right of entry to have the sewer drainage lines across the old OR&L railroad right of way. Once these lines are in, Mr. Detor said, the sewer system would be dedicated to the city.

ACTION Unanimously approved as submitted. (Kealoha/Yamamoto)

ITEM F-13 ISAMI SHIMOKAWA APPLICATION TO PURCHASE ABANDONED DITCH RIGHT OF WAY, WAIMANALO, OAHU

This was an application to purchase a ditch right of way which runs through a fee simple property in Waimanalo. The abutting owner on both sides is the same.

Mr. Detor asked to make one amendment. This ditch right of way, which is no longer in use, is still encumbered by an executive order to the former Hawaii Irrigation Authority. Therefore, this portion of the ditch right of way must be withdrawn from the executive order. So he asked that Condition C be added to the recommendation, authorizing the board to approve of and recommend to the Governor the withdrawal of this portion of the ditch right of way from Executive Order No. 1598.

ACTION Unanimously approved as amended above. (Kealoha/Yamamoto)

ITEM F-14 HILTON HAWAIIAN VILLAGE REQUEST FOR RIGHT OF ENTRY TO PORTION OF LAGOON AND FORT DERUSSY BEACH, HONOLULU, OAHU

This was a request from the Hilton Hawaiian Village for permission to hold events at Hilton Lagoon and Fort DeRussy on August 8 and 11, 1983. This is in connection with the 7th Annual Advanced Micro Devices International Sales Conference. They are going to have volleyball games and tug-of-war on the beach, and canoe and surfboard relay races at the lagoon.

To be consistent, Mr. Detor said, we are charging them five cents per square foot for the use of the area.

ACTION Unanimously approved as submitted. (Kealoha/Yamamoto)

ITEM F-15 HILTON HAWAIIAN VILLAGE REQUEST FOR RIGHT OF ENTRY TO PORTION OF DUKE KAHANAMOKU BEACH, HONOLULU, OAHU

This request was somewhat similar to Item F-14 above. Hilton Hawaiian Village is asking for use of Duke Kahanamoku Beach for fireworks display and musical entertainment purposes. This is in addition to the blanket approval that the board approved back in January for fifteen events for the year 1983.

ACTION Unanimously approved as submitted. (Kealoha/Yamamoto)

ITEM F-16 PRIDE COMPANY, INC. APPLICATION TO LEASE PORTION OF THE GOVERNMENT LAND OF KEKAHA, WAIMEA, KAUAI

ACTION Unanimously approved as submitted. (Yamamoto/Higashi)

(See pages 2 and 3 for Item F-17.)

ITEM F-18 STAFF RECOMENDATION FOR ACCEPTANCE OF SURRENDER OF GENERAL LEASE NO. S-3804, ANAHOLA, KAUAI

ACTION Unanimously approved as submitted. (Yamamoto/Higashi)

ITEM F-19 DARREL TANAKA REQUEST FOR EXTENSION OF TIME WITHIN WHICH TO SATISFY BUILDING REQUIREMENT, LOT A-17, WELIWELI HOUSE LOT SUBDIVISION, WELIWELI, KAUAI

ITEM F-20 MURL NIELSEN REQUEST FOR EXTENSION OF TIME WITHIN WHICH TO SATISFY BUILDING REQUIREMENT, LOT 3-B, HANAPEPE TOWN LOTS, 1ST SERIES, HANAPEPE, KAUAI

ACTION Mr. Yamamoto moved for approval of Items F-19 and F-20.

Mr. Higashi asked whether we can reconsider the building construction time. He said we give them five years to pay and only three years to build. He asked whether we can consider amending the law to make it consistent. He felt that if we are going to give them five years to pay, we should give them five years to build.

Mr. Detor said it used to be that the board could give as much time as they wanted, but the law was changed and the limit now is five years.

Mr. Ing noted that the bond for Item F-19 is set for \$5,000.00. For Item F-20, the bond is set for \$500.00.

Mr. Detor said that's an error and Item F-19 should be corrected to read \$500.00.

Mr. Yamamoto so amended his motion on Item F-19 to reflect the change on the bond to \$500.00. Mr. Higashi seconded and the amended motion was unanimously carried.

ITEM F-21 DOH REQUEST FOR ACQUISITION OF LEASE COVERING SUITE 875 OF THE FIRST INSURANCE BUILDING, HONOLULU, OAHU

ITEM F-22 DEPARTMENT OF THE ATTORNEY GENERAL REQUEST FOR ACQUISITION OF LEASE COVERING ROOMS 303, 305, 307, 309, 311 AND 313 OF THE BETHEL-PAUAHI BUILDING, HONOLULU, OAHU

ACTION Items F-21 and F-22 were unanimously approved as submitted. (Kealoha/Yamamoto)

ITEM F-23 DLIR REQUEST FOR APPROVAL OF AMENDMENT OF SUBLEASE COVERING OFFICE SPACE IN THE CHARLES D. KENDALL BUILDING, HONOLULU, OAHU

ACTION Unanimously approved as submitted. (Kealoha/Yamamoto)

ITEM F-24 DSSH REQUEST FOR ACQUISITION OF LEASE COVERING STORAGE SPACE AT 1812 KALANI STREET, HONOLULU, OAHU

ITEM F-25 DSSH REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING ROOMS 606 & 706, 770 KAPIOLANI BUILDING, HONOLULU, OAHU

ITEM F-26 DEPARTMENT OF THE ATTORNEY GENERAL REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING SUITES 902 & 908, 1000 BISHOP STREET, HONOLULU, OAHU

ACTION Unanimously approved as submitted. (Kealoha/Yamamoto)

ITEM H-1 CONSERVATION DISTRICT USE APPLICATION FOR CONSTRUCTING A FINGER PIER AT MAALAEA HARBOR, MAUI

ACTION Unanimously approved as submitted. (Kealoha/Yamamoto)

(See pages 1 and 2 for Item H-2.)

ITEM H-3 CONSERVATION DISTRICT USE APPLICATION FOR AN AFTER-THE-FACT BEDROOM EXTENSION AT KALIHI, HONOLULU, OAHU

This was an after-the-fact CDUA. It is within our resource subzone. Staff recommended approval of the application. Staff pointed out to the board's attention to Condition 7. Because this was an after-the-fact application, staff recommended that the board impose a fine of \$500.00.

Mr. Evans asked to amend the submittal by adding Condition 8, that failure on the part of the land owner or applicant to comply with Condition 7 within sixty days after the receipt of our notice, that the matter be turned over to the Attorney General's Office for disposition, which means litigation in which the state seeks to recover administrative, court cost and interest.

Mr. Ing wanted to be sure that this is for a single-family residential use, and that the standard recordation clause is included.

Mr. Evans said that could be taken care under Condition 9.

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

ITEM H-4 CDUA FOR COMMUNICATIONS RENOVATION AND ADDITIONS AT KOOLAU, SUBSTATION AND MALAE BASE RADIO STATIONS AT KANEOHE, OAHU

ACTION Unanimously approved as submitted. (Kealoha/Yamamoto)

ITEM H-5 VIOLATION OF BOARD IMPOSED CONDITIONS OF LAND USE AND LAND USE STANDARDS IN THE STATE CONSERVATION DISTRICT AT HAENA, KAUAI, TAX MAP KEY 5-9-02:29

This was a violation of conditions that were imposed by the board when the CDUA was approved. The applicant failed to submit the construction plans and they were not approved. Staff recommended imposing a fine of \$500.00, plus administrative cost of \$50.00.

Mr. Evans asked to make one modification. Under Section D, on page 5 of the recommendation, add "and interest" to the last line.

ACTION Unanimously approved as amended. (Yamamoto/Higashi)

Mr. Kealoha suggested that the staff get together with the Kauai County. This is the second or third time that this has happened. The county issues the permit to the applicant for the construction of a dwelling without realizing it is within conservation district and without touching basis, or referring them to us. He said the county is completely ignoring the CDUA process.

Mr. Evans said staff will make an attempt to make sure that the county is aware of this.

ITEM H-6 CDUA FOR REHABILITATION AND UPGRADING OF THE EXISTING HYDROELECTRIC SYSTEM FOR LIHUE PLANTATION CO., LTD. AT LIHUE-KOLOA FOREST RESERVE, KAUAI

ACTION Mr. Kealoha moved for deferral of Item H-6 to the next meeting. The board had no objection to the deferral.

(See pages 10 and 11 for Added Item H-7.)

ITEM J-1 CONSENT TO SUBLEASE AGREEMENT, PORTION OF BUILDING 360, EWA CONCOURSE, HONOLULU INTERNATIONAL AIRPORT, OAHU (CONTINENTAL AIR LINES, INC. TO WESTERN AIR LINES, INC.)

ACTION Mr. Garcia asked to defer Item J-1 until the next meeting. The board had no objection.

ITEM J-2 ASSIGNMENT OF LEASE NO. DOT-A-82-17, LIHUE AIRPORT, KAUAI (HAWAII INTERNATIONAL RESEARCH CORP. TO STEPHEN OTSUKI DBA S. O. ENTERPRISES)

ACTION Unanimously approved as submitted. (Yamamoto/Higashi)

ITEM J-3 ASSIGNMENT OF LEASE NO. DOT-A-82-3, HONOLULU INTERNATIONAL AIRPORT, OAHU (HAWAII INTERNATIONAL RESEARCH CORP. TO STEPHEN OTSUKI DBA S. O. ENTERPRISES)

ACTION Unanimously approved as submitted. (Kealoha/Yamamoto)

- ITEM J-4 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS, AIRPORTS DIV.
- ACTION Unanimously approved as submitted. (Higashi/Yamamoto)
- Mr. Higashi asked Mr. Garcia to give this board a summary of potential available spaces at General Lyman Field, for cargo services, by the next meeting.
- ITEM J-5 USE OF HARBORS DIVISION FACILITIES, PIER 10 PASSENGER TERMINAL, HONOLULU, OAHU (HAWAII PUBLISHERS ASSOCIATION)
- ACTION Unanimously approved as submitted. (Kealoha/Yamamoto)
- ITEM J-6 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISON, NEAR PIER 39, HONOLULU HARBOR, OAHU (THE KING'S LANDSCAPE CO.)
- ACTION Unanimously approved as submitted. (Kealoha/Yamamoto)
- ITEM J-7 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, ALA WAI SMALL BOAT HARBOR, HONOLULU, OAHU (ROYAL HELICOPTERS, INC.)
- ACTION Unanimously approved as submitted. (Kealoha/Yamamoto)
- ITEM J-8 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, ALA WAI SMALL BOAT HARBOR, HONOLULU, OAHU (HAWAII PACIFIC HELICOPTERS, INC.)
- ACTION Unanimously approved as submitted. (Kealoha/Higashi)
- ITEM J-9 ISSUANCE OF REVOCABLE PERMIT NO. HY-83-700, HIGHWAYS DIVISION, KANEOHE, OAHU (HAWAIIAN DREDGING AND CONSTRUCTION CO.)
- ACTION Unanimously approved as submitted. (Kealoha/Yamamoto)
- ITEM J-10 USE OF HARBORS DIVISION FACILITIES, PIERS 9 AND 10, PASSENGER TERMINALS, HONOLULU, OAHU (HAWAII COUNCIL ON PORTUGUESE HERITAGE)
- ACTION Unanimously approved as submitted. (Kealoha/Yamamoto)
- ITEM J-11 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 2 TRANSIT SHED, KAHULUI HARBOR, MAUI (CHARLES S. OTA, DBA VALLEY ISLE ASSOCIATES)
- ACTION Unanimously approved as submitted. (Yamamoto/Kealoha)
- ADDED
- ITEM H-7 OFFER OF SETTLEMENT FROM HAWAII BIOGENICS TRUSTEE (VERBAL)
- Mr. Johnson Wong briefly covered the background on Hawaii Biogenics. Hawaii Biogenics, Ltd. went bankrupt and subsequently General Lease No. S-4391 was sold to Tom Mee. Thereafter, Tom Mee went into bankruptcy in California courts so that complicated matters more. Apparently, Francis I. Pacheco, Trustee in the Hawaii Biogenics action, had reached an agreement with Tom Mee to transfer the lease back to the Hawaii Bankruptcy Court. Mr. Pacheco now says he can either continue to sell the lease to another buyer, with court approval, or return the lease back to the state.

If he were to return the lease to the state, he is asking for the right to sell the personal assets, and signing of whatever claim we have against Tom Mee for back rent to him, and the proceeds would be applied first to these administrative legal fees and the balance to the creditors.

Mr. Wong said Mr. Ing had suggested that we should add the hold harmless clause. He said they would go along with that.

It was Mr. Wong's understanding that Mr. Pacheco is asking for a minimum of about \$100,000 as Trustee's fees.

The board discussed Condition 6 (Land Department waiving any rights for fees against the Trustee.). The board wanted to know whether we have any claims against the Trustee.

Mr. Wong said he is not aware of any, but apparently the Trustee is trying to protect himself. He said there is some question as to whether he has been managing that trusteeship prudently. For the last two or three years he has not collected any revenues.

Mr. Ing said we haven't been following up on this. He said if he hasn't done anything, then he has nothing to be afraid of.

Mr. Ing asked whether there is any reason why his fees should take priority over us.

Mr. Wong said from what he understands the administrative fees get the first chance in bankruptcy actions.

Mr. Ing asked, timewise, when will we be able to reissue this lease.

Mr. Wong said the Trustee wants up to six months after court approval to complete this sale, so that would be about six months from now.

Mr. Kealoha asked why must we wait for six months from today before we get the lease. If Mr. Pacheco is permitted to sell the personal property, and he is willing to give us back the lease, why can't he give us the lease now. He said there's been talk about what we are going to do with this for several months. The notice is dated June 15, and they got into this before that. So if we go back to that period (six months from that period to dispose of the personal property), it would mean three more months from today.

Mr. Wong said they can approach the Trustee and convey to him what the board wants, that we want the lease back now. However, the court has to approve it, pursuant to approval of this board and the Trustee.

Mr. Higashi thought the board would be reasonable. If Mr. Pacheco cannot liquidate all the assets within the period granted, he can get an extension.

Mr. Wong asked for board approval to the proposed settlement. On the question raised by Mr. Ing as to the waiver of the claim against the Trustee, he said, we can inform them that the board opposes it. He said he can also inform them that the board wants the lease returned to us now, and give them four months from now to dispose of the assets since they already have two months previously, unless further extended by the chairman or the board.

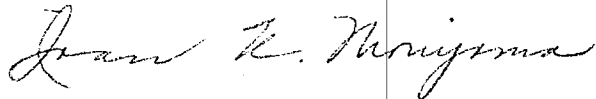
ACTION Mr. Higashi moved for approval of the proposed settlement as discussed above. Mr. Yamamoto seconded and the motion was unanimously carried.

Resolution

The board, by unanimous vote, adopted a Resolution extending to Mrs. LaVerne Tirrell and her family its deepest sympathy for the loss of their beloved daughter, Rhonda Nohealani Tirrell, who passed away on July 17, 1983 following a car accident.

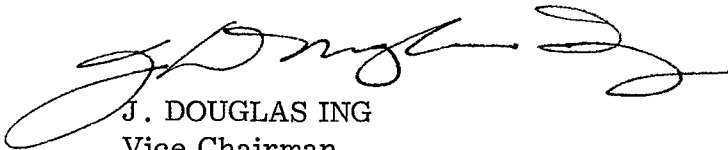
ADJOURNMENT: There was no further business and the meeting was adjourned at 11:10 A. M.

Respectfully submitted,



JOAN K. MORIYAMA
Secretary

APPROVED



J. DOUGLAS ING
Vice Chairman

jkm