

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

DATE: March 23, 1984
TIME: 9:00 A.M.
PLACE: County Office Building
County Council Chambers
Lihue, Kauai

Roll
Call

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

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

(Mr. Ing was excused at 10:00 A.M.)

Staff Mr. Libert Landgraf
Mr. Robert Chuck
Mr. Ralston Nagata
Mr. James Detor
Mr. Roger Evans
Mr. Sam Lee

Others Deputy A. G. Johnson Wong
Mr. Kenneth Kobatake (Added Item D-6)
Mrs. Libbie Kamisugi (Item H-4)
Mr. Ray Scanlan (Item H-4)
Mr. Young (Item H-4)
Dr. Harold Masumoto (Item F-1-H)
Mr. Freckles Smith (Item F-11)
Mr. Peter Garcia, DOT

MINUTES: Mr. Kealoha moved for approval of both the February 10, 1984 and February 24, 1984 minutes as submitted. Mr. Yagi seconded and motion carried unanimously.

Added
Item Upon motion by Mr. Yagi and a second by Mr. Kealoha, the board voted unanimously to add the following item to the agenda:

Water and Land Development

Item D-6 -- Approval for Award of Contract - Job No. 4-OW-27, Waimanalo Watershed Project, Solid Waste Collection Site, and to Authorize the Chairperson to Execute Amendment No. 2 to Project Agreement No. 59-9251-3-33, Waimanalo Watershed Project, Waimanalo, Oahu.

To accommodate those applicants present at the meeting, items on the Agenda were considered in the following order:

ITEM H-2 CDUA FOR EXTENSION OF EXISTING BREAKWATER AT PORTLOCK, OAHU (CITY & COUNTY OF HONOLULU, DEPARTMENT OF PUBLIC WORKS).

This request for extension by the City & County Department of Public Works is needed to extend the existing breakwater. This work is meant to keep the existing box drain outlet free from sand blockage and alleviate the flooding problems in the area.

ACTION Unanimously approved as submitted. (Ing/Kealoha)

ITEM F-17

DEPARTMENT OF SOCIAL SERVICES AND HOUSING REQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE AT 233 SO. VINEYARD STREET, HONOLULU, OAHU.

ACTION

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

ITEM H-4

CDUA FOR A RECREATION CENTER FOR THE WAIALAE PINNACLE DEVELOPMENT AT WAIALAE-NUI, OAHU (MS. LIBBIE KAMISUGI).

In addition to those testimonies received at the public hearing on March 8, 1984, Mr. Evans said that staff also received a number of letters and petitions both in support and opposition to the project. Comments were also received from Legislators Cobb and Marumoto disagreeing with the project.

Mr. Evans said that staff is recommending denial of the proposal based upon the proposed use as opposed to passive recreational uses and the intrusion that this would be in the conservation district. That, coupled with the representation that other areas zoned urban are available for the proposed use.

RECESS:

The board recessed at 9:15 a.m. to go over correspondence presented by the applicant, Ms. Libbie Kamisugi.

RECONVENE:

9:20 a.m.

In answer to Mr. Ing's question, Mr. Evans said that the use, as reflected in the submittal, is in the Resource Subzone.

However, said Mr. Ing, the applicant is of the opinion that the subject area lies in the General Subzone.

Mr. Evans said that an on-site inspection was made about a week ago and it was confirmed by staff that the area is in the Resource Subzone.

In the Letter Testimony given to the board today, said Mr. Ing, you have indicated a willingness to place restrictive covenants on the Urban Section of the property. Mr. Ing asked Ms. Kamisugi if this wasn't a change of her position since the time of the public hearings.

Ms. Kamisugi answered no. She stated that what she did say was that she would agree to anything reasonable. But, since she was never asked to do anything, she submitted a proposal which she thought made more sense.

There is a reference in your testimony of today to some type of a settlement agreement of a lawsuit. This matter did not come up during the course of the public hearing. What is the nature of this lawsuit, asked Mr. Ing?

Ms. Kamisugi said that it was regarding a sewer easement.

What was the outcome of the lawsuit, asked Mr. Ing? Is it still pending?

Ms. Kamisugi answered no to Mr. Ing's question and stated also that the sewer was completed.

You have, in your testimony to the board today, a statement which reads: "urban use may no longer be premature on this parcel and it was felt that the subzone land is incorrectly zoned because it is perfectly suited for urban use." Who can this statement be attributed to, asked Mr. Ono?

Gordon Furutani, answered Ms. Kamisugi.

Regardless of what was said by the Land Use staff, in the end it was the Land Use Commission itself that denied your application, said Mr. Ono.

Another point that I would like to get clarification on is that at the public hearing you mentioned that the State had bulldozed in the area, said Mr. Ono.

Ms. Kamisugi said that the area was cleared and graded sometime ago but is now overgrown.

Mr. Ono said that her statement made it seem like the bulldozing had just been done recently.

You have also, in your testimony, a cost differential between building the tennis courts on urban land vs. conservation land, said Mr. Ing.

That is not a significant cost to me inasmuch as the Bishop Estate is requiring that I purchase the land and that costs just about as much as the additional walls that I would need to build the tennis courts. The cost is not the issue to me, said Ms. Kamisugi.

On the first page of your statement, you quote from a March 23, 1984 statement which indicates that the lands lie in the General Subzone. I would like to determine where you got this information from, said Mr. Ing.

Ms. Kamisugi said that the statement was taken out of Mr. Evans write-up, listed as Exhibit 4.

Mr. Ono stated, for the record, that representatives from the community association were in the audience.

Exhibit 4 refers to the subject area as being in the General Subzone, and it also refers to Land Use Commission Petition A81-526. Was there any difference in the Land Use Petition in terms of the land to be used by this CDUA, asked Mr. Ing?

Mr. Evans said that he wasn't sure exactly what lands were in the petition, which is one of the reasons why staff went on site with the District Forester and it was confirmed that the lands involved were Resource.

The confirmation you speak of, said Mr. Ono, is an on-site visit? How would that confirm what subzone that particular parcel is in. There are no markings on the ground to confirm one way or the other.

Mr. Evans explained that this particular application was processed as a proposal in the Resource Subzone. As such, when the proposal first came into the office, staff checked to see what subzone it was in. In this particular instance, staff wanted to also reconfirm this with the District Forester.

Was this confirmation also followed up with the Land Use Commission staff, asked Mr. Ono?

In terms of the subzone, our department would discuss the question of a Conservation District boundary with the Land Use Commission staff -- whether it's urban or conservation and where the exact line would be. Staff would not really discuss a question of the specific subzone with the Land Use Commission people at all because the question of conservation subzone is an administrative function of the Board of Land and Natural Resources rather than the Land Use Commission, said Mr. Evans.

I understand that, said Mr. Ono. But when you have conflicting information, don't you try to check it out with the agencies that were originally involved?

Yes we would, said Mr. Evans. In this case, the specific agency involved in this area would have been our own Forestry Division.

Mr. Ing is referring to a communication from the DLNR to DPED on a Land Use petition, said Mr. Ono. What I'm trying to find out is which is the property subzone to consider before the board makes a decision. Right now there are two possibilities -- one General and one Resource.

ACTION

Mr. Ing moved for approval of staff's recommendation, which is denial of Item H-4. However, because there is some confusion as to whether this is Resource or General Subzone, the motion is without prejudice of the applicant to refile this application. If this area is, in fact, in the General Subzone, it may make a difference in terms of the evaluation. Mr. Kealoha seconded and motion carried unanimously.

Mr. Ray Scanlan of the Community Association asked for clarification as to what the board's action meant. Does this mean that the applicant gets a new timetable if she does reapply?

It means that her request for putting the tennis courts in the conservation district has been denied, said Mr. Ing.

A Mr. Young, also of the Community Association, thanked the board for their concern and for taking the time to look into the matter.

ITEM J-9

ISSUANCE OF REVOCABLE PERMIT, HY-83-705, HIGHWAYS DIVISION, AIRSPACE UNDER H-1 FREEWAY, MAUKA OF SALT LAKE BLVD., OAHU (STADIUM PARTNERS).

ITEM J-10

ISSUANCE OF REVOCABLE PERMIT, HY-82-691, HIGHWAYS DIVISION, AIRSPACE UNDER H-1 FREEWAY, MAUKA OF SALT LAKE BLVD., OAHU (STADIUM PARTNERS).

When these submittals were deferred earlier, specific questions were asked. Mr. Ing asked whether or not Mr. Garcia now had answers to those questions.

Mr. Garcia said that a representative of Stadium Partners was present at the meeting to answer whatever questions the board may have.

Mr. Garcia stated that the following questions were asked:

1. How many parking stalls were there?
2. How much revenues was obtained through the rental of said stalls at the football games?
3. What was the reaction of the Stadium Authority as far as having spaces there?

In answer to the third question, Mr. Garcia said that staff did check with Mr. Bessette at the Stadium and he did indicate that there was no problem in providing extra space for additional parking and was in favor of having more space around the stadium area inasmuch as they do have a shortage of space.

Mr. Doug Taylor, a General and Managing Partner with Stadium Partners, in answer to the first question, said that there are approximately 153 stalls under the freeway, which the partners turned over to an individual and his family in exchange for his doing work at the Stadium Mall. I think, at the time, the fee was \$2.00 for parking under the freeway. But, because we did not control the monies, nor did we take in any monies for the stalls, I can only surmise that approximately \$124.00 was taken in during the course of the football season.

What do you intend to do with the airspace under the Freeway, asked Mr. Ing?

Mr. Taylor said that as far the operation itself, there are presently no buildings on that end. However they do intend eventually to have a building on that end at which time the area could be utilized for parking for customers.

Is it the intent of the DOT to review any rate changes for parking stalls, asked Mr. Ono?

Mr. Garcia said yes -- if there are any proposals to change what they are presently doing, then DOT would.

Usually, when the State leases out lands and its for public purposes, one of the justifications is that it is tied in to the stadium, which is a government facility. Also, so there is a close tie with a government agency and the request to justify this particular permit, don't you feel that the State should get involved in at least reviewing the rental structure under such circumstances, asked Mr. Ono?

We do have the rental now which we have reviewed, said Mr. Garcia.

I'm not sure how you arrived at the \$450.00 per month rental. How much per stall is that, asked Mr. Ono?

Mr. Garcia said that it wasn't on the basis of per stall. It was based on the value of the 63,000 sq. ft. of land.

So as far as the permittee is concerned, can they charge any amount they want, asked Mr. Ono?

As far as we know right now, they will not be charging for use of space anymore. If they do, then they will have to come back to DOT for a different rate of rental, said Mr. Garcia.

Mr. Ono called attention to the remarks listed in the submittal which reads: "Parking for customers and employees of Stadium Mall except on special events."

I guess what we can do is eliminate the words "except on special events." said Mr. Garcia. However, we will leave it as listed on Item J-10 inasmuch as the effective dates of October 1, 1982 to September 30, 1983 has already expired.

Why are we going through the permit route instead of the leasing route, asked Mr. Ono?

Mr. Garcia said that he could not answer that question definitively.

ACTION

Mr. Kealoha moved for approval of both Items J-9 and J-10, with the understanding that if there is any change in the structure to charge the general public for using the particular parcel, then the applicant would be required to go back to the Department of Transportation for approval. Mr. Yagi seconded and motion carried unanimously.

Mr. Ono asked that Mr. Garcia check out the possibility of leasing out the property instead of letting it out on a permit basis.

Mr. Kealoha asked also that Mr. Garcia check to see how DOT had arrived at the value of the land.

Item F-1-h

SCIENCE & ENGINEERING RESEARCH COUNCIL (SERC) APPLICATION FOR REVOCABLE PERMIT, HALE POHAKU, MAUNA KEA, HAMAKUA, HAWAII.

Mr. Deter asked that the name of the California Institute of Technology be added to the submittal as a co-permittee inasmuch as both organizations would be using the land and existing facilities at Hale Pohaku.

Are these two applicants the only people that are contemplating construction at this time, asked Mr. Higashi? What about the University of California?

Dr. Harold Masumoto of the University of Hawaii said that the University of California might probably start to build about a year from now. We would probably recommend at that time that the board deal directly with the University of California.

Mr. Higashi asked Mr. Deter if he had checked to see whether the Divisions of State Parks and/or Enforcement might be interested in a building for some other use.

Mr. Deter said that before checking with the divisions, that he and his staff would first like to get together with the University of Hawaii to iron out a few things.

Mr. Higashi asked Mr. Masumoto if he had any objection to having just two buildings -- a dormitory for each applicant.

Mr. Masumoto said that all they would like to have is the old University building, not the newer CHFT building.

Mr. Higashi asked that the submittal be amended by having the monthly rental determined by the Chairman -- payment to be made in either money or in-kind services. Security deposit and liquidated damages also to be determined by the chairman.

Mr. Deter suggested that the submittal be amended simply by saying that rental is to be determined by the Chairman.

Mr. Ono said that the intent to accept in-kind services should be mentioned somewhere.

Mr. Masumoto mentioned that he had suggested to the applicant for the new telescope project that he deal directly with the Board inasmuch as the three buildings that they are interested in, by agreement, has been made available to the Board.

In this regard, Mr. Ono asked that the UH continue to act as agent to the Board as they have all along since the Board has not dealt one on one with all of the applicants.

Mr. Masumoto said that they would be glad to after, however, getting clearance from the Board.

Mr. Deter suggested that the following wording be added after Rental: "In-kind services or a combination of both."

ACTION

It was moved by Mr. Higashi that Item F-1-h be approved with the following amendment:

1. That the California Institute of Technology be listed as a co-permittee.

2. That the Monthly Rental read as follows: In-kind services or a combination of both.

Mr. Kealoha seconded and motion carried unanimously.

ITEM F-11

SMITH'S MOTOR BOAT SERVICE, INC. APPLICATION TO LEASE LOT 21 OF THE WAILUA RICE & KULA LOTS, WAILUA, KAUAI.

The subject area, which was occupied and utilized by Destinations Development Corporation under General Lease No. S-4140 was recently cancelled by the Board for non-performance and, at the same time, a month-to-month permit was issued to Smith's Motor Boat Service, Inc.

Mr. Detor stated that the new lessee would have considerable expenses to put the area back into operating condition and suggested that the first year's rental be waived. He explained that under the law you can waive rental for two years for pasture or agricultural use but only one year for a commercial use of this kind.

Inasmuch as Mr. Detor had mentioned that the lease would be sold at public auction under the same terms and conditions as the original lease, Mr. Ono asked whether or not Mr. Detor expected to use the same method of arriving at the upset rental.

Mr. Detor explained that the method of arriving at the upset rental would be different. Originally when the lease was offered it was raw land. Now that it has been developed, an appraisal would probably come in higher than before. The improvements would have to be taken into consideration.

Isn't it a fact that the rental would be higher, asked Mr. Ono? He did not want anyone to be misled into thinking that the rental would remain the same.

After much discussion as to whether or not the use of the area could be used for concession purposes e.g. restaurant etc., Deputy A. G. Wong said that the problem is that if you put out a lease under a specific purpose that you will have difficulty amending the lease to allow another use. If there are any plans to open up a restaurant, etc. it would be better to put it in as a use now and go through the CDUA route if necessary.

Mr. Ono said that his greatest concern is that if you get an appraiser to go in then all of the improvements put in previously would have to be considered in arriving at the upset rental and he wasn't sure whether the current applicant was fully aware of that kind of consequence. If not, then it should be called to their attention. Therefore, it may be worthwhile to defer this item and discuss it with the applicant or any other person that might be interested in applying for the use of that property.

Mr. Smith said that if the use was changed to commercial use he didn't think they would be able to bid against the other interested parties. One of his major concerns is that the place is kept. Because the area was so badly run down, he had wanted to get in there and clean it up so that others could appreciate the area.

ACTION

The board deferred taking action until the next board meeting.

Mr. Detor said that it was fine to defer taking action until the next meeting. However, if other uses were to be considered it would taken more time than that. There are a lot of things to be taken into consideration, including what an expanded operation would do to the State's concessionaires next door.

We have to keep in mind also that the applicant had requested keeping the scope narrow as far as usage is concerned, said Mr. Ono.

Mr. Ono asked also that staff meet with the applicant on an informal basis to discuss, without prejudice in the case, on how the upset price will be determined, etc., and report back to the board.

Mr. Kealoha thought also that the former applicants should be notified to remove their personal belongings from the area.

ITEM C-1 APPOINTMENT OF DISTRICT FIRE WARDEN, DISTRICT NO. 17, MOLOKAI.

ACTION The board unanimously approved the appointment of Mr. Toshiaki Inouye as District Fire Warden for District No. 17, Island of Molokai. (Yagi/Yamamoto)

ITEM C-2 PERMISSION TO HIRE AN AVICULTURAL CONSULTANT FOR THE ENDANGERED SPECIES FACILITY AT POHAKULOA, ISLAND OF HAWAII.

Mr. Landgraf asked that staff's recommendation be amended by adding "subject to approval by the Governor" at the end of the sentence.

Action The board unanimously authorized the Chairperson to negotiate and execute a contract for avicultural consultant services at the Endangered Species Facility at Pohakuloa on the Island of Hawaii, subject to approval by the Governor. (Higashi/Yamamoto)

ITEM D-1 PERMISSION TO ENTER INTO CONTRACT FOR SURVEYING SERVICES - JOB NO. 4-OW-29, DRILLING MILILANI-MAUKA EXPLORATORY WELLS, OAHU.

ACTION Unanimously approved as submitted. (Kealoha/Yagi)

ITEM D-2 PERMISSION TO ENTER INTO CONTRACT FOR CONSULTING SERVICES - JOB NO. 4-OW-30, PUMP AND CONTROLS FOR WAIALAE NUI WELL (1747-03), WAIALAE NUI, OAHU.

ACTION Unanimously approved as submitted. (Kealoha/Higashi)

ITEM D-3 PERMISSION TO ENTER INTO CONTRACT FOR CONSULTING SERVICES - JOB NO. 4-OW-31, PUMP AND CONTROLS FOR MANOA II WELL (1748-01), HONOLULU, OAHU.

ACTION Unanimously approved as submitted. (Kealoha/Yagi)

ITEM D-4 PERMISSION TO ADVERTISE FOR BIDS - JOB NO. 35-MW-38, IMPROVEMENTS AT MONITOR WELL, WAIEHU, MAUI.

ACTION Unanimously approved as submitted. (Yagi/Kealoha)

ITEM D-5 DUTY STATUS TO ATTEND THE AMERICAN WATER WORKS ASSOCIATION ANNUAL CONFERENCE, DALLAS, TEXAS, JUNE 8-15, 1984.

ACTION Unanimously approved as submitted. (Yagi/Higashi)

ADDED
ITEM D-6 APPROVAL FOR AWARD OF CONTRACT - JOB NO. 4-OW-27, WAIMANALO WATERSHED PROJECT, SOLID WASTE COLLECTION SITE, AND AUTHORIZE THE CHAIRPERSON TO EXECUTE AMENDMENT NO. 2 TO PROJECT AGREEMENT NO. 589-9251-3-33, WAIMANALO, PROJECT, WAIMANALO, OAHU, HAWAII.

Mr. Chuck explained that they have an open ditch system in Waimanalo and have contemplated putting in pipelines and other water system services into that area to upgrade it. The first part of the project is this Job No. 4-OW-27, which is the installation of a solid waste collection site in Waimanalo, and is being done in cooperation with the Federal Soil Conservation Service. At the present time there is much dumping alongside the roads. However, they will now have a place after this facility is put in to correct the solid waste in Waimanalo.

When bids were open for this project, explained Mr. Chuck, Delta Construction Corp. was the low bidder as indicated in the submittal, at a bid of \$144,935.00. The next low bid was \$165,755.00. The state's estimate was \$149,780.25. The submittal recommends that the bid be awarded to Delta Construction Corp. However, Mr. Chuck said that he was subsequently informed by the low bidder that he would like to address the board on the basis that he would like to withdraw his bid because of a mistake that he made. He would also like to have the bid bond waived.

Mr. Chuck explained that staff's specifications say two things in this particular job: First, if the contract is not consummated by the low bidder by a certain time then the agency takes the bid bond and also charges the difference between the second low bidder and the first bidder, which in this case is \$20,820.00. The bid bond amount is \$4,398.70 so, in effect, if the specifications are followed a bill of \$16,421.30 would be submitted to the Delta Construction Corp should they not consummate this award contract.

Assuming the contract was awarded, asked Mr. Kealoha, my question is: 1) Was the contract awarded after the board's action, which finalizes the contract award; or, 2) upon notification that he was the lowest bidder?

Mr. Chuck said that the board's action today would be the first step of awarding the contract, and the notification to the contractor that he is the low bidder is not the award of contract.

Mr. Kealoha stated that Mr. Kobatake, in a letter to Takeo Fujii, explained that there was an oversight in putting in the numbers on Items 7 to 15 of the contract -- causing him to be the lowest bidder. With respect to the condition of the bidding, wherein if you withdraw you forfeit the bond and the difference between second bidder and his bid -- I don't know whether or not the board is required to take the lowest bidder. Supposing we do not accept this bid, then who is responsible for the state's estimate vs. the second bid and how do we treat this so-called low bidder? I realize your position must be the same that you carry out those specifications -- my dilemma right now is which comes first?

The process, according to the specifications, said Mr. Chuck is that staff recommends to the board that the low bidder be awarded the bid. The board may take any action that it desires, which is that they may or may not accept staff's recommendation -- or the board could take some other action. If the board takes the action to award to the low bidder, then the low bidder has a certain time in which to consummate the signing of the contract and in the getting of a performance bond. The contract specifications say that if he does not do that within a certain time then he forfeits his bid bond, plus the \$16,421.30.

The situation before the board is that staff is recommending that we award this contract to Delta Construction Corp. for his low bid of \$144,935.00.

Can we legally consider the lowest bidder at this point and time, asked Mr. Ono?

Mr. Wong said that if we make a determination that the lowest bidder is not interested in consummating the contract, then the board may now consider the next lowest bidder.

In answer to Mr. Ono's question, Mr. Wong said that the low bidder would still be subjected to the specifications.

Is it standard practice that if the low bidder does not accept the job, said Mr. Higashi, that he is to pay the difference from the next bidder? Because if that is the case then it would be foolish for him not to accept the job if he has to pay the penalty.

Mr. Chuck said that by state specifications and by state law, the state's specifications only state that he must forfeit his bid bond and he does not have to pay the difference. But, because the Federal government is paying half of the money, the specifications we are using are Federal specifications.

Mr. Kobatake said that he was appearing before the board today to ask to be excused from his bid because of two human errors that were committed when the bid was put together. He said that he has never done this since he started his business about six years ago and it is not to say that there is precedence for this but he believes that many other agencies do allow contractors to withdraw their bids providing an honest error is made. In making our bid, I did make two errors and I am therefore requesting that I be allowed to withdraw without penalty.

Mr. Higashi asked whether the error was greater than the \$16,000 penalty?

I believe that if the penalty were to be imposed as stated by Mr. Chuck, it would be \$20,000.00 or more. The error that we committed would amount to about \$12,000 somewhat dollars, said Mr. Kobatake.

If the penalty were to be imposed, would you then accept the project, asked Mr. Higashi?

If the penalty were to be imposed then I would seriously consider taking the project, said Mr. Kobatake.

Mr. Kealoha moved for approval of staff's recommendation as submitted.

Mr. Yagi asked whether DLNR was forced to penalize the contractor because of the federal law.

Mr. Chuck said that staff would have to go back to the federal government and tell them that the department and the board is going a little bit different from the way it is in the specifications and that we will need their concurrence on that -- so my answer is that we have to go back to the Federal government.

Then the federal government will still have to consider this matter, said Mr. Yagi?

They would have to make the decision once we tell them what we expect to do, said Mr. Chuck.

Mr. Yagi then asked that this matter be deferred to the next meeting.

Mr. Chuck said that March 31st is the date by which we must consummate this contract or the whole thing falls through. He explained that the contract had already been extended from December 31st and that they had tried to extend it for another thirty-one days but were only able to extend it for three months, or up to March 31st. If the board acts today then staff will be able to consummate this contract by March 31st and the project will go.

Mr. Yagi asked if the contract could be awarded as called for in the submittal and then ask the federal government to waive their requirement. In the event that they do not waive then we go ahead as planned. In other words, said Mr. Yagi, in fairness to Delta Construction Corp., let's see if we can waive the federal government's requirement and if that is not possible, then I would rather see the company take a \$12,000 loss instead of a \$20,000 loss. I was wondering if that could be done legally?

Mr. Ono called to Mr. Yagi's attention that a motion was already on the floor.

Mr. Wong said that if the federal government agrees to waive the deficiency, then how do we adjust the contract?

Mr. Higashi said that if they waive, then Delta can surrender.

Yes, said Mr. Wong, but we would have to get that decision by March 31st.

What if the decision doesn't come by then, asked Mr. Ono?

If it doesn't come by then, said Mr. Yagi, then I would like to make a motion that Mr. Kobatake would have to take the \$12,000 loss. But if the decision comes from the federal government saying that we can waive the requirement, then Mr. Kobatake can withdraw his bid and the next bidder gets the project.

Mr. Chuck indicated that there would be problems on funding as the bid price goes up.

We've been talking about the federal penalty, said Mr. Ono. But what about the State penalty?

The reason for the state penalty, said Mr. Chuck, is that if there is a low bidder that there should also be some kind of penalty. If the precedence is set each time a low bidder comes in and, without any penalty can withdraw, then the integrity of the bidding process is at stake.

ACTION

Mr. Kealoha withdrew his first motion and moved instead that the contract be awarded to the low bidder, Delta Construction Corp., for its low bid of \$144,935.00 with the following provisions:

If Delta Construction Corp. does not sign the contract document and withdraws as a contractor on this job, Delta construction Corp. will: (1) forfeit the bid bond; (2) forfeit the difference between the second low bidder and the first low bidder and the bid bond guaranty shall be available to offset the payment of such difference to the State; (3) that the Board of Land and Natural Resources, upon failure of Delta Construction Corp. to consummate this contract, awards the construction contract for this project to the next low bidder who will accept the contract; (4) the fifth paragraph of the board submittal is amended to insert the appropriate correct dollar figures for Clause A, Clause C.1, and Clause D.1.

Motion carried unanimously with a second by Mr. Higashi.

ITEM E-1

PERMISSION TO ADVERTISE FOR BIDS, JOB NO. 39-HP-11X, VACATION CABIN REPAIR, MAUNA KEA STATE PARK, POHAKULOA, HAWAII.

ACTION

Unanimously approved as submitted. (Higashi/Yamamoto)

APPROVAL TO ENGAGE THE SERVICES OF A CONSULTANT TO PREPARE A MASTER PLAN, ENVIRONMENTAL IMPACT STATEMENT AND PHASE I CONSTRUCTION PLANS FOR A STATE PARK AT AIEA (RAINBOW) BAY, OAHU.

ITEM E-2

ACTION

Unanimously approved as submitted, subject to approval by the Governor. (Kealoha/Higashi)

ITEM E-3

MAKIKI ENVIRONMENTAL EDUCATION CENTER (MEEC): FEES AND STATE GRANT REQUEST.

Mr. Nagata said that a request was received from the organization to defer action on this item until the Oahu meeting. Mr. Nagata indicated that staff may also want to review this matter further.

Mr. Kealoha asked that staff also look into 1) whether or not the Center can, in fact, charge fees; and 2) what is their present method of funding.

ACTION

Deferred.

ITEM F-1

DOCUMENTS FOR CONSIDERATION

ITEM F-1-a

ASSIGNMENT OF LEASE. JAMES F. TEMPLE II and MAIDEN E. TEMPLE to MAIDEN E. TEMPLE - Lot 8, Puu Ka Pele Park Lots, Waimea, Kauai, being TMK 1-4-02:16 containing 1.06 acres, more or less. G. L. No. S-4158.

ITEM F-1-b

REVOCABLE PERMIT. KAHAKULOA PROTESTANT CHURCH request for Govt. land at Kahakuloa Valley, Maui, being TMK 3-1-04:05 containing 14,375 sq. ft. Rental: \$10.00 per mo. Effective Date: April 1, 1984.

F-1-c

REVOCABLE PERMIT. LAMA KARMA RINCHEN request for por. of Govt. land of Kalo'i and Kanaio, Makawao, Maui, being TMK 2-1-03:por. 5, containing 24,400 sq. ft. Rental: \$10.00 per mo. Effective Date: April 1, 1984.

F-1-d

REVOCABLE PERMIT. REEDS BAY DEVELOPERS, INC. request for Govt. lands at Waiakea, So. Hilo, Hawaii, being TMK 2-1-06:79, containing 24,600 sq. ft. Rental: \$128.25 per mo. Effective Date: April 1, 1984.

Mr. Detor explained that the applicant will be paying rental retroactive from January 1973 in the total amount of \$12,240.75.

In answer to Mr. Kealoha's question, Mr. Detor said that he was not sure what our chances were of collecting the \$12,240.75.

Mr. Ono said that he would like to add another condition that this permit not be issued until the delinquent amount of \$12,240.75 is paid up. Even though it is the intent of staff to collect said amounts before issuing the permit, it is not listed as one of the conditions and he would like to make this point very clear.

(Mr. Detor said that a new condition will be added stating that a permit is not to be issued until such time that the delinquent rental of \$12,240.75 is collected.)

F-1-e

ASSIGNMENT OF LEASE. HAROLD T. TANOUYE, JR. to GREEN POINT NURSERIES, INC., Lots 12, 13 and 14, Panaewa Farm Lots, Second Series, Waiakea, So. Hilo, Hawaii, containing 30.340 acres, G. L. No. S-4445.

F-1-f

CONSENT TO ASSIGNMENT OF LEASE BY WAY OF SUB-AGREEMENT OF SALE, CONSENT TO SUB-AGREEMENT OF SALE. By and Between LERAE BRITAIN MOELLER and LOIS J. KITTLE as Seller, and CHARLES WILLIAM SMITH and HELEN SMITH, as buyer. Lot 44, Waimanalo Agricultural Subdivision, Waimanalo, Oahu, being TMK 4-1-27:2. G. L. No. S-4093.

F-1-g CONSENT TO MORTGAGE. MICHAEL Y. W. AU to STATE OF HAWAII (DOA). Lot 2, Pahoia Agricultural Park, Phase II, Puna, Hawaii, being TMK 1-5-116:29, containing 5.002 acres. G. L. NO. S-4792. Mortgage Amount: \$65,000.00.

F-1-h (See Pages 6 and 7 for Action)

F-1-i REVOCABLE PERMIT. KUWAYE TRUCKING, INC. request for Lot 4, Puumaile govt. Lots, Waiakea, So. Hilo, Hawaii, being TMK 2-1-06:por. 33, containing 5,480 sq. ft. Rental: To be determined by the Chairman. Effective Date: April 1, 1984.

(Rental was amended from \$62.00 per mo.)

ACTION Mr. Higashi moved for approval of Item Nos. F-1-a, b, c, e, f and g as submitted, and Item Nos. F-1-g and i as amended above. Mr. Kealoha seconded and motion carried unanimously.

ITEM F-2 CHIEKO OKADA APPLICATION FOR EASEMENT, WAIAKEA, SO. HILO, HAWAII.

ACTION The board voted unanimously to authorize the direct sale of the above-described easement to the applicant subject to the terms and conditions listed in the submittal and also authorized an immediate construction right-of-entry to the area in question subject to the standard indemnity and hold-harmless clause. (Higashi/Kealoha)

ITEM F-3 STAFF RECOMMENDATION FOR AMENDMENT OF PREVIOUS BOARD ACTION (7/23/82, AGENDA ITEM F-8) ON SET ASIDE OF STATE LAND FOR NEW KONA POLICE STATION SITE, KEALAKEHE, NO. KONA, HAWAII.

Mr. Detor said that at the July 23, 1982 meeting the board was asked to approve in principal the set aside of some 5 acres of conservation land at Kealakehe in Kona to the County of Hawaii for a new police station site.

It was brought out at that meeting that the same thing would have to be done as far as the Land Use Commission is concerned with the proposed County Park and/or industrial area.

However, the County has no money right now to go ahead with the park and they cannot forecast when they will have funds. Insofar as the industrial subdivision is concerned, we also have no expressions of interest at the present time.

Mr. Detor asked that the area listed under Condition A. be changed from 7.5 acres to "not more than 10.0 acres".

ACTION Mr. Higashi moved to amend the board's action of July 23, 1982, under Agenda Item F-8 by allowing the County of Hawaii to file a conservation district use application for Land Board approval for the police-station-site use subject to the condition that the County of Hawaii further petition for land-use classification of the not more than 10-acre site when any remaining portions of TMK 7-4-08:17 are earmarked for development or sooner; and, should such conservation district use application be approved, the board also approve and recommend to the Governor the set aside of not more than 10.0 acres, to the County of Hawaii for police-station-site purposes. Mr. Kealoha seconded and motion carried unanimously.

ITEM F-4

STAFF RECOMMENDATION TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO DISPOSE OF SURPLUS HIGHWAY REMNANTS, STATEWIDE.

ACTION

Unanimously approved, subject to those conditions listed in the submittal. (Kealoha/Yamamoto)

ITEM F-5

BETTY ALBORO HUI APPLICATION TO PURCHASE RECLAIMED LAND AT PUUIKI, LAHAINA, MAUI.

Mr. Detor explained that this is a seawall which was put in many years ago and no one seems to know who built the wall or when it was built. Because removal of the seawall would cause serious erosion problems, staff is recommending selling the land to the present owner.

Are we sure that this area falls under the definition of "reclaimed land", asked Mr. Ono?. Because if we're not careful we will probably be getting all kinds of requests from seawall builders coming in to purchase "reclaimed land." If that has been checked out than there is no problem.

Mr. Detor said that one of the conditions of the submittal is that the purchaser release any littoral rights to any future accretion they may have.

Mr. Ono asked that the minutes reflect that he is voting on this item with the full understanding that this is really "reclaimed land." He did not want the board's action to set a precedence to all other seawall owners who might have built on state land.

Mr. Detor suggested that maybe this item should be deferred for further study.

ACTION

Deferred for further study.

ITEM F-6

STAFF RECOMMENDATION FOR AMENDMENT OF EXECUTIVE ORDER NO. 1446 (MEMORIAL PARK AND NATATORIUM), WAIKIKI, HONOLULU, OAHU.

Mr. Detor said that the condition listed in the submittal recommends issuance of an Executive Order amending the present E.O. Staff has looked over the recommendation again and discussed it in some length and feel that it would probably be better to go the route of cancelling the present executive order and issuing a new one issued for "Memorial Park" purposes.

The reason for the suggested change said Mr. Detor is that the language of the statute 171-11, which covers the issuance and cancellation of executive orders, reads that it has to be posted to the legislature and that you cannot touch or erect any improvements until the legislature has had a chance to act. That section does say "cancellation and re-set aside." So in order to be consistent with the statute I think we would be on better grounds if we went that route.

ACTION

Mr. Kealoha moved for approval as amended. Mr. Higashi seconded and motion carried unanimously.

ITEM F-7

KAMAKANI IKAKA, INC. REQUEST FOR RIGHT OF ENTRY FOR WIND TESTS, WAIALEE AND PAHIPAHIALUA, KOOLAULO, OAHU.

ACTION

Unanimously approved subject to those conditions listed in the submittal. (Kealoha/Higashi)

- ITEM F-8 DEPARTMENT OF TRANSPORTATION REQUEST FOR RIGHT OF ENTRY FOR TOPOGRAPHIC SURVEY, KALIHI, HONOLULU, OAHU.
-
- ITEM F-9 DEPARTMENT OF TRANSPORTATION REQUEST FOR RIGHT OF ENTRY FOR TOPOGRAPHIC SURVEY AND SUBSTRATA INVESTIGATION, KANEHOE,, KOOLAUPOKO, OAHU.
- ACTION Mr. Kealoha moved for approval of both Items F-8 and F-9 subject to those conditions listed in the submittal. Mr. Yagi seconded and motion carried unanimously.
-
- ITEM F-10 USA APPLICATION FOR NEW LEASE COVERING MICROWAVE RELAY SITE AT WAIMEA, KAUAI.
- ACTION Unanimously approved subject to those conditions listed in the submittal. (Yamamoto/Yagi)
-
- ITEM F-11 SMITH'S MOTOR BOAT SERVICE, INC. APPLICATION TO LEASE LOT 21 OF THE WAILUA RICE & KULA LOTS, WAILUA, KAUAI.
- (See Page 7 for Action)
-
- ITEM F-12 JEAN NADATANI AND CAROL ANN DECOSTA SHINAGAWA REQUEST FOR CANCELLATION OF GENERAL LEASE NO. S-3957, KALAHEO, KAUAI.
- ACTION Unanimously approved as submitted, subject to the review and approval of the Office of the Attorney General. (Yagi/Kealoha)
-
- ITEM F-13 DEPARTMENT OF SOCIAL SERVICES AND HOUSING REQUEST FOR APPROVAL OF RENEWAL LEASE COVERING ROOM 210, 180 KINOOLE STREET, HILO, HAWAII.
- ACTION Unanimously approved subject to the review and approval of the lease agreement by the Office of the Attorney General. (Higashi/Kealoha)
-
- ITEM F-14 DEPARTMENT OF SOCIAL SERVICES AND HOUSING REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING SPACE AT PALAMA SETTLEMENT, HONOLULU, OAHU.
- ACTION Unanimously approved subject to the review and approval of the lease agreement by the Office of the Attorney General. (Kealoha/Yagi)
-
- ITEM F-15 DEPARTMENT OF SOCIAL SERVICES AND HOUSING REQUEST FOR ACQUISITION OF LEASE COVERING ROOM 401 OF THE ROYAL QUEEN EMMA BUILDING, HONOLULU, OAHU.
- ACTION Unanimously approved subject to the review and approval of the lease agreement by the Office of the Attorney General. (Kealoha/Yagi)
-
- ITEM F-16 DEPARTMENT OF SOCIAL SERVICES AND HOUSING REQUEST FOR APPROVAL OF RENEWAL LEASE COVERING SPACE IN THE ALA MALAMA BUILDING, KAUNAKAKAI, MOLOKAI.
- ACTION Unanimously approved subject to the review and approval of the lease agreement by the Office of the Attorney General. (Yagi/Kealoha)
-
- ITEM F-17 DEPARTMENT OF SOCIAL SERVICES AND HOUSING REQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE AT 233 SO. VINEYARD STREET, HONOLULU, OAHU.
- (See Page 2 for Action)
-
- ITEM F-18 OFFICE OF THE GOVERNOR REQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE AT 85-670 FARRINGTON HIGHWAY, WAIANAE, OAHU.
- Unanimously approved subject to the review and approval of the lease agreement by the Office of the Attorney General. (Kealoha/Yagi)

ITEM F-19

RESUBMITTAL - HUI MEA HANA O HAWAII REQUEST FOR REDUCTION IN AREA AND RENTAL - REVOCABLE PERMIT NO. S-5282, WAIMANALO, OAHU.

Mr. Detor explained that this deals with the vendors at Waimanalo in the pine tree area. When this started out some years ago, there were about some 80 vendors involved. However, only about two vendors are left today and, accordingly, they would like to cut down on the area being used in order that their rental also will be reduced. Mr. Detor also called to the board's attention also that this land belongs to Hawaiian Homes.

As indicated by Mr. Detor, this submittal was deferred by the board at its December 16, 1983 meeting for the reason that it was concerned about the Department of Hawaiian Home Lands' position with regard to the subject rental reduction request. DHHL has advised us that it has no objections to the rental reduction in question.

Mr. Kealoha thought we were also going to look into the possibility of DHHL taking back the area under their management. He felt that it was about time they started managing their own lands.

Mr. Detor said that the reason that DLNR has kept the area up to now is because this particular area was involved in a land exchange. The idea was that we would ultimately acquire this property. But since so much time has gone by I'm in doubt about the exchange and I would just as soon return the area to the DHHL.

Mr. Ono said that maybe we should just write DHHL and ask them to take the area back and then come back to the board with their response.

ACTION

The board unanimously authorized a reduction of the area covered by Revocable Permit No. S-5282 to 21,780 sq. ft. and a corresponding reduction in monthly rental to \$250.00 effective December 1, 1983. (Kealoha/Yagi)

ITEM G-1

FILLING OF MICROPHOTOGRAPHER II, POSITION NO. 150, OAHU.

ACTION

The board unanimously approved the appointment of Marylyn A. Leeloy to Position No. 150 effective April 2, 1984. (Yamamoto/Higashi)

ITEM H-1

AMENDMENT TO CORRECT TAX MAP KEY AND ADD TWO ELECTRICAL EASEMENTS ON CDUA FOR WAILUA-KAPAA SYSTEM, 1.0 M.G. TANK, PIPELINE AND SOURCE IMPROVEMENTS AT KAPAA HOMESTEAD, KAPAA, KAUAI.

ACTION

Unanimously approved as submitted. (Yamamoto/Higashi)

ITEM H-2

CDUA FOR EXTENSION OF EXISTING BREAKWATER AT PORTLOCK, OAHU.

(See Page 1 for Action)

ITEM H-3

CDUA FOR DRILLING TEST BORINGS AT KAHANA BAY, OAHU.(U.S. ARMY ENGINEERS)

Mr. Evans said that the only thing involved here is the test borings. However, at a later time there may be a refuge harbor built as a future development and these test borings will lead to how the refuge harbor will be constructed in the future. While this does not reflect that proposed use, there is a tie between this and that future use.

ACTION

Unanimously approved as submitted. (Kealoha/Higashi)

ITEM H-4

CDUA FOR RECREATION CENTER FOR THE WAIALAE PINNACLE DEVELOPMENT AT WAIALAE-NUI, OAHU (LIBBIE KAMISUGI)

(See Page 4 for Action)

- ITEM J-1 SALE OF LEASE BY PUBLIC AUCTION, HARBORS DIVISION, PIER 38, HONOLULU HARBOR, OAHU.
- ACTION Unanimously approved as submitted. (Yagi/Yamamoto)
- ITEM J-2 CONSENT TO SUBLEASE A PORTION OF THE PREMISES OF HARBOR LEASE NO. H-75-7, KEWALO BASIN, HONOLULU, OAHU (GRG ENTERPRISE, INC.).
- ACTION Unanimously approved as submitted. (Yagi/Yamamoto)
- ITEM J-3 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, MAALAEA BOAT HARBOR, WAIKAPU, WAILUKU, MAUI (U. S. COAST GUARD).
- ACTION Unanimously approved as submitted. (Yagi/Higashi)
- ITEM J-4 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 40 SHED, HONOLULU HARBOR, OAHU (LYNN A. WIGEN, DBA L. A. MARINE & SUPPLY).
- ACTION Unanimously approved as submitted. (Higashi/Yamamoto)
- ITEM J-5 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 40 SHED, HONOLULU HARBOR, OAHU (FRANK RICE DBA PACIFIC SPORT DIVING).
- ACTION Unanimously approved as submitted. (Higashi/Yamamoto)
- ITEM J-6 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NEAR KEEHI LAGOON, HONOLULU, OAHU (THE RMT CORP.).
- ACTION Unanimously approved as submitted. (Yagi/Yamamoto)
- ITEM J-7 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NAWILIWILI HARBOR, KAUAI (AMFAC DISTRIBUTION CO., LTD.).
- ACTION Unanimously approved as submitted. (Yamamoto/Yagi)
- ITEM J-8 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, HONOKOHAU BOAT HARBOR, HAWAII (KONA SAILING CLUB).
- ACTION Unanimously approved as submitted. (Higashi/Yamamoto)
- Mr. Ono asked Mr. Garcia why is it that we continue to issue permits knowing that the permittee is planning to build a structure.
- Mr. Garcia explained that in this particular case, Kona Sailing Club would like to have a permanent place that they could lease. However, they are not in a position at this time to take on a larger parcel of land where they can put up a permanent building.
- Mr. Ono asked that his concern regarding the above be expressed to the Director of the Department of Transportation.
- ITEM J-9 ISSUANCE OF REVOCABLE PERMIT HY-83-705, HIGHWAYS DIVISION, AIRSPACE UNDER H-1 FREEWAY, MAUKA OF SALT LAKE BLVD., OAHU (STADIUM PARTNERS).
- ITEM J-10 ISSUANCE OF REVOCABLE PERMIT HY-82-691, HIGHWAYS DIVISION, AIRSPACE UNDER H-1 FREEWAY, MAUKA OF SALT LAKE BLVD., OAHU (STADIUM PARTNERS).

(See Page 5 for Action)

ITEM J-11

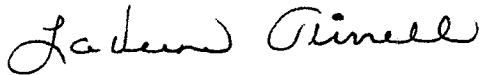
ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 8 SHED, HONOLULU HARBOR, OAHU (VIP CRUISES, INC.).

ACTION

Unanimously approved as submitted. (Kealoha/Yagi)

ADJOURNMENT: There being no further business, the meeting adjourned at 11:50 A.M.

Respectfully submitted.



Mrs. LaVerne Tirrell
Secretary

APPROVED:



SUSUMU ONO
Chairperson

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