

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

DATE: May 11, 1984
TIME: 9:00 A.M.
PLACE: Conference Room
State Office Building
75 Aupuni Street
Hilo, Hawaii

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

STAFF Mr. Henry Sakuda
Mr. James Detor
Mr. Ralston Nagata
Mr. Roger Evans
Mr. Mark Gushiken
Mrs. LaVerne Tirrell

OTHERS Deputy Atty. Gen. Johnson Wong
Mr. Peter Garcia
Mr. John Duey (Item H-8)
Dr. Quentin Tomich (Item E-4)

ADDED
ITEM

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

Land Management

Item F-14 -- Bethany Gardens Request for Quitclaim State's Interest in Auwai, Kaneohe, Hawaii.

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

ITEM H-8

AFTER-THE-FACT CDUA FOR GROWING INDIGENOUS PLANTS AND TROPICAL FLOWERS FOR COMMERCIAL USE AT IAO VALLEY, WAILUKU, MAUI (JOHN V. DUEY).

Mr. Evans explained that this is private land within the Resource Subzone. The applicant occupies 8930 sq. ft. of property and would like to expand the area for cultivation to encompass approximately 2.5 acres of TMK: 3-5-03:1. The property in question is owned by Wailuku Sugar Co.

Mr. Evans said that the public hearing held by the board raised a number of concerns which are listed on pages 5, 6 and 7 of the submittal. Staff, in its analysis, has attempted to answer the questions and concerns raised by the board. However, said Mr. Evans, staff was unable to answer specifically the questions as they relate to pesticide use and, because they were unable to satisfy themselves on these questions, recommended denial.

In the process of reviewing this application, staff found the following activities to be violations of Title 13, Chapter 2, Administrative Rules, as amended:

1. Use of the 8930 sq. ft. area for the growing of indigenous plants and tropical flowers for commercial purposes; and,
2. The construction of a 12 foot by 16 foot toolshed within this 8930 sq. ft. area.

Mr. Ono asked if the basis for recommending denial was only because certain questions could not be answered.

Mr. Evans said yes. If the questions could have been answered to staff's satisfaction it's possible that staff's recommendation would have been for approval.

Mr. Ono asked if attempts were made to contact the applicant after the public hearing was held.

Mr. Evans said that staff did try to contact the applicant originally. However, the applicant was not available but his son was. The applicant, himself, was on the mainland at the time of the public hearing and staff tried to communicate their concerns in answering these questions. However, the applicant came back from the mainland earlier than scheduled such that he could be in attendance at this meeting.

Mr. Yagi said that the submittal was just received by the board so he wondered if the applicant had had a chance to review the questions.

Mr. Evans said that the applicant did have a chance to review the submittal.

Mr. Yagi asked if staff's recommendation would have been that of approval instead of denial if the applicant had been able to answer the questions satisfactory to staff regarding use of the pesticides Isotox and Malathion.

Mr. Evans said that if the applicant had been able to answer questions satisfactorily, staff would be prepared to change their recommendation from denial to approval. However, staff would keep their Recommendation B, which pertains to the violations.

Mr. Yagi asked why staff had not approached the applicant for answers to these questions before this meeting.

Mr. Evans felt that there was a time constraint.

Assuming the board receives satisfactory responses from the applicant pertaining to the chemicals being used, Mr. Ono asked if staff would be able to recommend conditions relating to the application of pesticides or herbicides.

Specifically relating to the pesticides or the herbicides, Mr. Evans said no, inasmuch as he had not heard anything relating to the pesticides.

Because the concern was from within the department, Mr. Ono asked if there was some indication as to what kinds of conditions would be adequate to protect the environment.

The concerns that were raised by the Division of Aquatic Resources were to the effect that preventive measures be taken so that the herbicides and pesticides don't get into the stream, said Mr. Evans. Therefore, staff would be prepared to follow up on that recommendation from Aquatic Resources as a condition of approval.

Mr. Duey, in answer to Mr. Ono's question, said that he did have a chance to review staff's recommendations and had no comments but was prepared to answer any questions that the board may have.

Mr. Ono said that certain questions were raised at the public hearing on this application which only Mr. Duey could answer in order for staff to adequately analyze the request. The area of concern was primarily the use of the pesticides Isotox and Malathion. Mr. Ono asked that Mr. Duey explain to the board what his current practice is and, as he starts to expand his operation what his thoughts would be on the application of the chemicals, especially as they relate to the possibility of contaminating the streams and the other domestic water sources.

Mr. Duey explained that there is an intermittent stream near the gulch land that he is hoping to get. This stream, said Mr. Duey, did not run at all during the period 1971 to 1980. In 1981 water flowed at thirteen different days. In 1982 water flowed at five different days. In 1983 water flowed at three different days. The difference from the proposed area to the Iao Stream itself is approximately 1000 feet. Approximately one-half mile below this area where the water would run into Iao Stream there is an intake. Below that intake there is no water flowing except in flood conditions.

Mr. Duey said that he has lived in the valley for fifteen years and oopu fish is the only one he knows that lives between where the water flows into the stream and the last intake. The water does flow in that area all year round -- at a minimal amount during the summer.

Mr. Duey stated that he sprays about every two weeks -- alternating Isotox and Malathion. When he does spray he uses a mixture of about two tablespoons of chemical per gallon of water. A two gallon spray is used and the most he would be spraying would be about four gallons for the the one acre usable area. He said that he does not spray when it is raining. He said that the main thing he sprays is a variety of ginger called "jungle queen". He said that ants get up on the flower, bite it, and it turns brown and becomes unusable. If the State should deny use of the spray, then this particular ginger could be moved onto their own property.

After you harvest your plants, do you wash them on site, asked Mr. Ono?
How do you process them after you cut them?

Mr. Duey said that the plants are dipped in a solution of Malathion and rinsed in water before they go to the wholesaler.

What happens to the solution itself, asked Mr. Ono?

Mr. Duey said that it is dumped on the ground of their property. He said that the solution is approximately two tablespoons of Malathion for 30 gallons of water and he uses that solution for about a one month period of time before it is thrown away.

Mr. Ono asked about how much volume was dumped on the ground during a one month's time.

Mr. Duey said about 20 gallons.

Mr. Ing asked whether Mr. Duey had done investigation at the county level as to what requirements are necessary?

Mr. Duey said that the only thing he has done at the county level is that during the application he had another request for an environmental impact statement.

Mr. Ing said that, according to the submittal, the Maui County, Department of Public Works also required that Mr. Duey get a building permit for the storage toolshed and have three paved parking spaces with appropriate landscaping for the commercial activity.

Mr. Duey said that he had not been contacted by the County and could not understand why the parking space would be required because there is no commercial activity in the area. The flowers are delivered to the wholesaler. No one comes to the residence to buy flowers.

In answer to Mr. Ono's question, Mr. Evans said that a summary of the public hearing was not sent to the applicant.

Mr. Yagi said that he would not like to see Mr. Duey lose his business. In order to prevent this, he would like to give Mr. Duey an opportunity to come back to the board with some satisfactory answers for use of the pesticides in order that it would not jeopardize the general public and wildlife in the area.

Mr. Evans said that if staff were to recommend approval of the application there are a couple of conditions other than the standard conditions that staff would incorporate. First of all, the Chairman did express a concern relating to aquatic resources so there would be a condition for that. Insofar as there has been concern expressed as to the disposition of the solution, staff would feel that a condition something to the effect that the Department of Agriculture, for example, be consulted as to the appropriate method of disposition of the solution and ask the applicant to come back to the board with a report.

Based upon conversation with the applicant, Mr. Evans said that his Recommendation A. would now be for approval, instead of denial, of the application, subject to the standard conditions, plus two other conditions as follows:

1. Precautionary measures as expressed by the Division of Aquatic Resources be undertaken; and
2. That the applicant consult with the Department of Agriculture as to the appropriate method of the disposition of the solution and that the applicant report back to staff the result of this.

Reporting back to us would do what, asked Mr. Ono? We're not just seeking information, we would like to prevent the contamination.

If the applicant goes in to the Department of Agriculture and they tell him o.k. this is what you have to do and the applicant is aware of that and does it, then the board will have undertook that responsibility by insuring that it gets done, said Mr. Evans.

What about the water quality, asked Mr. Ono? The Department of Agriculture does not certify the quality of the water.

Mr. Ono was concerned that Mr. Evan's recommendation may have some loop-holes.

Mr. Yagi felt that the recommendation should require the applicant to go to the Board of Health, the Board of Agriculture and have a consultation with the County of Maui. If the report and recommendation is followed satisfactorily by the applicant, then approval should be given.

Mr. Evans said that staff's first condition, and every board approved application, is that the applicant must comply with any federal, state or county statute.

Mr. Kealoha said that specific concerns were expressed at the public hearing and he did not feel that staff has carried out their responsibilities with respect to contacting the board of health and the board of agriculture as to the acceptable level of the pesticides.

Mr. Kealoha said that the Division of Aquatic Resources has commented on this but they have not set a standard. Therefore, somebody should have gotten the information as to what is the acceptable standard and relay that to the applicant so that at today's meeting we would know what is acceptable and what is not acceptable with respect to the water quality. We now say that this is the responsibility of the applicant but where does he go from here, asked Mr. Kealoha? Comments listed on page 5 of the submittal from the various county and state agencies say that they have no objections so therefore the use of the pesticides appear to be o.k.

Mr. Ing said that Mr. Yagi preferred to act on this application as it is, which is for denial. This would give Mr. Duey the opportunity to clear up some of the questions and then also give staff some additional time to work on the areas of concern, rather than try to put together a set of conditions that might not be acceptable at this time.

Mr. Duey asked if that meant that he would have to submit the application again.

Mr. Ing stated that it would probably be a better solution than trying to create a set of conditions that would be acceptable at this point.

Are you saying that I would have to submit the application again, asked Mr. Duey?

I'm saying that that is probably a better solution than trying to create a set of conditions that would be acceptable at this point, said Mr. Ing.

ACTION

Mr. Yagi moved for approval of staff's recommendation to deny, with the amendment that the board delete Recommendation C. which reads: "That the applicant cease and desist from conducting further unauthorized activities within the Conservation District and restore the area to its natural state, which includes the removal of the 12 foot by 16 foot toolshed." However, if the applicant does not reapply for a CDUA within a period of sixty days, then Recommendation C. will be invoked.

Assuming Mr. Duey reapplies almost immediately and because most of the basic information has already been accumulated other than the very technical, specific kinds of data, Mr. Ono asked how much time would be required to bring this back to the board.

Mr. Evans said that a great deal of time would be required because as a part of the process the second application would be treated as a new and separate action.

What if you were instructed by the board to continue this as one application just for processing purposes, asked Mr. Ono?

Mr. Evans said that if they were directed accordingly by the board, it would make a major difference in the processing time because staff would not need to have a second public hearing on the application. However, Mr. Evans said that this might not be legal.

When asked by Mr. Ono why he thought it might not be legal, Mr. Evans said that the law does require a public hearing for a commercial use.

Mr. Ono thought that in the past, previous public hearings have satisfied the requirement.

Motion carried with a second by Mr. Higashi.

Mr. Kealoha voted no for the reason that in the recommendation the question was asked about the pesticides Isotox and Malathion -- in what quantity and frequency would these pesticides be used? Mr. Kealoha stated that the applicant answered these questions and there were no remarks from the Division of Aquatic Resources nor anybody else whether this was sufficient.

ITEM E-4

REQUEST FOR PERMISSION TO SOLICIT PUBLIC USER SUPPORT OF ON-GOING INTERPRETIVE LITERATURE PROGRAMS AT KALOPA STATE RECREATION AREA, HILO, HAWAII.

Mr. Nagata explained that the Forest Park Committee of the Hamakua District Development Council has maintained and provided cost free an interpretive self-guide program for Kalopa State Recreation Area since 1980 and that two booklets have been prepared and distributed to park visitors.

1. An 8-page TRAIL GUIDE, DIRECTORY AND BOTANICAL SURVEY has been supplied in racks at the campground, pavilion and recreational hall since 1980. To date, 7,000 copies have been printed.
2. A 12-page guide to the NATIVE FOREST NATURE TRAIL was produced in 1981 and supplied from a shelter box at the start of the native trail. More than a 1,000 copies have been distributed.

At present, the literature project is operating at a deficit and the HDDC is requesting permission to solicit visitor contributions for upkeep and expansion of the park guide program. Mr. Nagata said that the initial printing costs of \$750 for the booklets were shared jointly by Hawaii County Department of Research and Development, Hawaii County 4-H Federation, and HDDC. No state funds have been allocated to the program.

Mr. Nagata said that in checking with the Department of Budget & Finance they said that the monies collected need not go into the State General Funds inasmuch as this is not a fee or an admission charge as contrasted to a voluntary donation.

Mr. Nagata said that he also touched bases verbally with the Attorney General's office and there didn't appear to be any legal problems.

Mr. Higashi asked who would be paying for this upfront cost.

Mr. Nagata said that they have not run out of booklets completely. With the supply they have, they anticipate bringing in enough money to keep this thing going.

ACTION

Mr. Higashi moved that the Board grant permission to the Forest Park Committee of the Hamakua District Development Council (HDDC) to post a notice soliciting contributions for use of guide booklets prepared by HDDC for the Kalopa State Recreation Area, with the provision that the contributions are on a voluntary basis and not as a requirement for use of the booklets.

Mr. Yagi asked that staff make it clear to the public that a private organization and not the State, is soliciting this voluntary donation.

Mr. Nagata said that it was his understanding that the HDDC was not expecting to make money from this project and suggested that use of the funds be limited to production of the literature. Should the \$.25 collection far exceed expectations, then there will be two options:

1. Reduce the donation request; or
2. Possibly allow the HDDC to use the funds for other programs that would benefit the park.

Motion carried unanimously with a second by Mr. Yamamoto.

ITEM H-3

CDUA FOR SINGLE FAMILY DWELLING AT HAWAIIAN PARKS SUBDIVISION AT WAIAKAHIULA, PUNA HAWAII (PHYLLIS L. MITCHELL & ANNETTA C. MITCHELL)

ACTION

Mr. Higashi moved for approval as recommended by staff. Motion carried unanimously with a second by Mr. Yagi.

ITEM F-4

BENJAMIN F. KONG APPLICATION FOR ROAD AND UTILITY EASEMENTS, OLAA RESERVATION LOTS, PUNA, HAWAII.

Mr. Detor explained that within the property owned by the applicant are government-owned rights-of-way that have not been developed. The roads are not physically developed on the ground. The applicant is going into a subdivision of their property and they have asked that these road reservations be made available to them. So staff has suggested that they purchase these easements from the state.

Mr. Detor said that, normally, if the roads were going to be developed to county standards and the roads dedicated to the county, then a right-of-entry would suffice. But in this particular case, the roads are not going to be developed to county standards and they will not be dedicated so staff does not want to go the right of entry route inasmuch as the State does not want to be responsible for any maintenance.

Mr. Higashi noticed that Condition 7 required the applicant to post a \$10,000 bond to insure faithful compliance with the terms and conditions of the grant of easement. He felt that a performance bond created a hardship.

Mr. Detor said that the suggestion for Condition No. 7 came from the Hilo office but that he had no objection to having this condition deleted.

ACTION

Mr. Higashi moved that the board authorize the sale of the easements to the applicant subject to the conditions listed in the submittal, with the exception of Condition No. 7 which is to be deleted and also grant immediate right of entry for engineering studies and construction purposes to the applicant or its assigns to the rights-of-way in question subject to those conditions listed in the submittal. Motion carried unanimously with a second by Mr. Yagi.

ITEM B-1

ADOPTION OF CHAPTER 13-52, ADMINISTRATIVE RULES OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES, REGULATING FISHING ACTIVITIES AT KAILUA BAY, HAWAII.

ACTION

Mr. Ing moved that the board adopt Chapter 13-52, as proposed. Mr. Yagi seconded and motion carried unanimously.

ITEM B-2

ADOPTION OF AMENDMENTS TO ADMINISTRATIVE RULES OF THE DEPARTMENT OF LAND AND NATURAL RESOURCES, TITLE 13, SUBTITLE 4, CHAPTERS 13-89 (SPINY LOBSTER OR ULA), 13-46 (NORTHWESTERN HAWAIIAN ISLANDS) AND 13-72 (LICENSE REQUIREMENTS FOR CERTAIN BAITFISHES).

With reference to Chapter 13-89, Mr. Ono asked why reference to Kure Atoll was being deleted.

Mr. Sakuda said that this was discussed with the Coast Guard people and there doesn't appear to be a problem now that everything has wound down.

Mr. Sakuda said that a problem existed when there were a lot of construction people going in and out of Kure Atoll -- particularly civilians. However, the great amount of lobster taken from the area is not that great a problem right now.

ACTION Mr. Ing moved to adopt the amendments to Chapters 13-89, 13-46, and 13-72, as proposed. Motion carried unanimously with a second by Mr. Kealoha.

ITEM D-1 PERMISSION TO ADVERTISE FOR BIDS - JOB NO. 3-9W-48, IMPROVEMENTS TO KUALAPUU RESERVOIR, PHASE III, MOLOKAI IRRIGATION PROJECT, MOLOKAI.

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM D-2 PERMISSION TO ADVERTISE FOR BIDS - JOB NO. 35-MW-39, DRILLING HAMOA (HANA) (HANA) EXPLORATORY WELL (4300-02), HANA, MAUI.

ACTION Unanimously approved as submitted. (Higashi/Yamamoto)

ITEM D-3 ELECTRICAL SERVICE AGREEMENTS FOR JOB NO. 41-OL-31, WAIMANALO AGRICULTURAL PARK, PHASE I, WAIMANALO, OAHU.

Mr. Detor said that a letter attached to the submittal states that Hawaiian Electric will install and maintain an overhead electrical distribution system at the revised amount of \$62,088.00. Initially they had come in at \$48,074.00 but there was an increase due to a delay in the project so the amount has gone up.

Mr. Detor explained that should there be sufficient electrical use within the subdivision, the State will get their money back over a period of years.

ACTION Mr. Ing moved that the board authorize the Chairperson to accept and execute the Hawaiian Electric Company, Inc.'s proposal letter dated April 18, 1984 for the installation of an overhead distribution system and pole relocation for the Waimanalo Agricultural Park Subdivision. Mr. Kealoha seconded and motion carried unanimously.

Mr. Ono asked that Mr. Detor have Mr. Chuck check into the percentage of increase caused by this delay.

ITEM E-1 PERMISSION TO ADVERTISE FOR BIDS, JOB NO. 49-MP-9, PARK IMPROVEMENTS, IAO VALLEY STATE PARK, WAILUKU, MAUI.

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

ITEM E-2 PERMISSION TO ADVERTISE FOR BIDS, JOB NO. 36-MP-26, PARK IMPROVEMENTS, MAKENA-LA PEROUSE STATE PARK, MAKENA, MAUI.

Mr. Yagi expressed concern that this development did not call for any toilet facilities. He felt that this type of a project, without any kind of toilet facility, whether portable or otherwise, would probably create questions in the future.

Because there are no pipelines in the area, Mr. Nagata said that they could probably consider portable toilet facilities as the development occurs. The money for this improvement would come from the Operating and not the CIP funds.

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

ITEM E-3

PERMISSION TO ADVERTISE FOR BIDS, JOB NO. 57-HP-18, RECONSTRUCTION OF OF PARK FACILITIES, WAILOA RIVER STATE RECREATION AREA, HILO, HAWAII.

Mr. Nagata said that this job consists of the reconstruction of park facilities to include 2 comfort stations, 2 pavilions and the luau pavilion to make them accessible and useable by the physically handicapped.

ACTION

Unanimously approved as submitted, subject to approval of the Governor. (Higashi/Yagi)

ITEM E-4

REQUEST FOR PERMISSION TO SOLICIT PUBLIC USER SUPPORT OF ON-GOING INTERPRETIVE LITERATURE PROGRAMS AT KALOPA STATE RECREATION AREA, HILO, HAWAII.

(See Pages 6 & 7 for Action)

ITEM E-5

APPROVAL OF GRANT-IN-AID FOR HAWAIIAN RAILWAY SOCIETY, INC., OAHU.

ACTION

Mr. Ing moved that the board approve a grant-in-aid of \$60,000 to the Hawaiian Railway Society, Inc., subject to the Governor's release of funds. Motion carried unanimously with a second by Mr. Kealoha.

ITEM E-6

RIGHT-OF-ENTRY TO THE HAWAII CHRISTIAN CAMP AND CONFERENCE ASSOCIATION TO SECURE EXISTING DWELLINGS AND PROVIDE MAINTENANCE AT MALAEKAHANA STATE RECREATION AREA, KAHUKU, UNTIL THE PARK IS OPENED TO THE PUBLIC.

Mr. Nagata said that this item was before the board at it's April 13, 1983 meeting and at that time approval was granted with the condition that no Right-of-Entry Permit or Lease will be granted until the Attorney General checks the legal aspects of the request and the applicant receives their IRS non-profit status.

Mr. Nagata explained that this is before the board again without an IRS approval primarily because staff felt that in order to have good security in the area it would be to the benefit of the office to have the right of entry approved while waiting for the IRS clearance. Mr. Nagata said that the Attorney General's office saw no problems with this.

Mr. Ono said that this is a huge undertaking but the recommendation seems to be kind of casual -- e.g. we'll take care of that particular problem as we go along. Because there was a question from the beginning as to the new approach, he hated to see something like this fall by the wayside because we didn't do things properly. If they say that they were going to get the IRS exemption and they haven't gotten it yet, then there must be some problems.

Regarding the IRS, said Mr. Nagata, it has been our experience, even with the other groups, that it does take a while to process an IRS exemption through the Internal Revenue Service.

Mr. Higashi thought that we should find out what the average time is to get an IRS exemption. If they say the average time is two months and the applicants take a longer time, then they might be having problems.

ACTION

Deferred for further study.

ITEM E-7 RIGHT-OF-ENTRY FOR ARCHAEOLOGICAL CONSULTANTS OF HAWAII TO STATE LAND AT WAIANAPANAPA, MAUI.

When asked by Mr. Higashi, Mr. Nagata said that he did not know whether the area involved was conservation land or not.

ACTION Deferred. Mr. Nagata to find out whether or not the subject area is in the conservation district.

ITEM E-8 AWARD OF CONSTRUCTION CONTRACT, JOB NO. 54-KP-13-RECONSTRUCTION OF WAIMEA PIER, KAUAI.

ACTION Mr. Yamamoto moved to award the construction contract for Job No. 54-KP-13, reconstruction of Waimea Pier, to Healy Tibbitts Construction Company for a bid of \$153,280.00. Motion carried unanimously with a second by Mr. Yagi.

USE OF HAPUNA BEACH PARK (VERBAL)

Mr. Higashi said that a request had been made for the use of Hapuna Beach Park in connection with a convention that is going on in Kona. According to the applicants they had gotten in touch with Mr. Roy Sue verbally, but wrote instead to the wrong agencies for use of the park and all of a sudden the convention is here.

Mr. Higashi said that this is an insurance convention with approximately 800 people participating this week and about 895 people coming in next week. A part of their program is to take in the natural areas for beach activities and according to the rules, you will need a permit. Mr. Higashi said that they would like to use the Hapuna State Park pavilion for six days and, if possible, he would like to resolve this problem today.

Mr. Ono asked if this was for exclusive use of the pavilion.

Mr. Higashi said yes but there would be no serving of liquor -- just hot dogs, hamburgers, salads and juice.

Mr. Higashi said that they are requesting use of the area starting today (May 11, 1984) and also on May 12, 13, 15, 16 and 17 and wondered if a permit could be issued administratively.

Mr. Ono said that if this is for commercial purposes we're going to run counter to what we've been doing. We had the same problem at Hanauma Bay but that got cleared up. However, if we start issuing commercial permits for the use of state parks, we're going to have to be careful.

In this case, said Mr. Higashi, it will be specific that it will be only for those six times.

What's to prevent others to come in and request exclusive use of the beach or pavilion for commercial purposes. Mr. Ono said that he could understand the predicament this group is in but at the same time it will run counter to what the board has been adhering to as far as beach properties are concerned.

Mr. Higashi said he understood this. However, in our total promotion of tourism, he had no objection to these people using our public facilities.

Mr. Ono said that they can use the area, however, when it comes to exclusive use it's pretty hard to do.

Mr. Higashi did not feel that the use was exclusive inasmuch as others would not be barred from coming in.

Mr. Nagata explained that use of the pavilion has been on a first come first served basis. No permits have been issued for its use. As far as picnicking permits, Mr. Higashi is correct, the State Park Rules call for a permit when the group exceeds 25 persons. In this particular instance there is an additional concern and that has to do with the fact that this undertaking is being sponsored by a commercial facility -- one of the hotels. Mr. Nagata understood that this is one of their sales package to this particular group, who had been enticed over to use Hapuna Beach. He did not know whether use of the pavilion had been promised them. Mr. Nagata said that the group should have gone to the Hilo Office, or at least called them from Kona.

Mr. Higashi asked if they would be in violation if they would just picnic on the beach.

Mr. Nagata felt that they would be inasmuch as the group is way in excess of 25 people.

Mr. Higashi asked what would happen if a permit were issued for 200 people for six days for non-exclusive use of anything--any park--just a permit.

Mr. Nagata said that this was possible but he foresaw the potential for other commercial facilities, especially hotel facilities that do not have adjacent beach areas, to start to farm their people out and advertise the opportunity to have beach picnicking and request permits. However, with the board's concurrence, State Parks would have to issue a permit.

You are probably second guessing what would happen. However, only for this case, would it be that much of an inconvenience to the public, asked Mr. Higashi? I would like to look at it from a positive light.

Mr. Nagata said that he could foresee problems with such a large group -- especially on the weekends.

Mr. Higashi explained that there would be 180 people at a time -- not all 800 at one time.

Mr. Ono asked if we were sure that they would not be serving any kind of alcoholic beverages.

Mr. Nagata said he was pretty sure.

Mr. Higashi said that the representation made was only for hot dogs, hamburgers, salads and juice to be served.

Mr. Ono asked if we were reasonably satisfied that there are no "commercial activities" taking place at Hapuna Beach right now. He was referring mostly to hotels or vans carrying passengers there for lunch, etc.

Mr. Nagata said that he hasn't seen it himself but said that he could reasonably assume that the vans do come into Hapuna Beach Park, as well as other parks, and informally have lunch, etc.

In answer to Mr. Ono's question, Mr. Nagata said that technically that would be considered a violation.

Having discussed this before the board, Mr. Nagata said that State Parks would be willing to issue a permit for non-exclusive use with a condition that the pavilion not be used.

Mr. Kealoha asked if this was an added item.

Mr. Ono said that this is strictly for discussion and that no action is required.

Mr. Higashi said that he would like to accommodate the group providing that they can make accommodations other than use the pavilion. Perhaps give them a non-exclusive area where they can provide lunches to their group.

Mr. Ono, to conclude this discussion, suggested that a permit be issued for non exclusive use for 200 people for the six-day period providing they don't use the pavilion and walk around to use whatever area is available like everyone else. However, if they want an area for themselves, excluding the pavilion, they pay for it.

Mr. Kealoha had a question for the A.G. When you have a request for a permit such as this, is that considered a disposition item? And, if it is, should it not be placed on the agenda for public viewing? Mr. Kealoha wondered whether this could be handled administratively.

Deputy A.G. Wong said that whenever a permit or license is issued, it certainly is a disposition.

Even on a non exclusive basis, asked Mr. Higashi?

Mr. Wong said that you're still disposing of something.

Mr. Ono said that the right to issue permits was delegated to staff so it could be done administratively. So it looks like the only way this problem can be handled is administratively -- within the flexibility delegated to staff.

Mr. Nagata said that if this is considered a commercial venture, then this authority has not been delegated to staff. But if they go on the standpoint that this has been historically the kind of activity that normally take place at the parks -- like picnicking at the beach in smaller groups -- then the interpretation of the board's delegation of authority can be extended to include something like this.

Mr. Kealoha felt that if this is for a commercial purpose then there should be a fee. Mr. Kealoha asked if State Park's regulation had any kind of fees listed.

Mr. Nagata said that the fee would have to be more from an interim basis. He said that fees have been charged for use of the pavilion and comparable rates could be used for this use. The \$100 a day rate seems reasonable. There is no permanent fee schedule for this kind of use -- just for lodging facilities and use of pavilions under their jurisdiction.

Mr. Ono said that if there was any objection on the part of the hotel then we'll just forget the whole thing inasmuch as there is no time for negotiating.

ITEM F-1

DOCUMENTS FOR CONSIDERATION

Item F-1-a

ASSIGNMENT OF LEASE - Dorothy May Saxby request to assign to Puna Certified Nursery, Inc., por. of Govt. land at Keonepoko-Nui, Puna, Hawaii - TMK: 1-5-08:05, containing 5 acres - G. L. No. S-5005.

Item F-1-b

SUBLEASE - Larry T. Kimura and Yoshiko Kimura request to sublease to Donald J. Hunter and Carolyn Hunter, Lot 23, Panaewa Farm Lots, 2nd Series, Waiakea, So. Hilo, Hawaii, TMK 2-4-49:7, containing 10.008 acres - G.L. No. S-4447.

Item F-1-c

ASSIGNMENT OF LEASE - Hiroshi Matsuyama request to assign to Julio Resurreccion, Keopu 2, No. Kona, Hawaii, TMK 7-5-01:22, containing 17.49 acres - G. L. No. S-4202.

- Item F-1-d ASSIGNMENT OF LEASE - Maurice Payne and John J. Ushijima, etal to Madeleine Krusche and Benjamin Jack Krusche, Lot 34, Ocean View Lease Lots, 2nd Series, Waiakea, So. Hilo, Hawaii, TMK 2-1-07:33, containing 8,205 sq. ft. - G. L. No. 3167
- Item F-1-e ESTOPPEL CERTIFICATE ON MORTGAGE - Pacific Consolidated Investments, Mortgagor and GECC Financial Corp., Mortgagee, G.L. Nos. S-4331 & S-4332, Lots 6 & 7, Respectively, Hilo Industrial Development, Leilani Street Section, Waiakea, So. Hilo, Hawaii - Loan Amount: \$655,000.00
- Item F-1-f ASSIGNMENT - Lucy C. Arruda to Clarence Arruda and Joaquin Arruda, Lot 71, Puu Ka Pele Park Lots, Waimea, Kauai, TMK: 1-4-02:68, containing 1.12 acres - G. L. No. S-4046.
- Item F-1-g REVOCABLE PERMIT - Antone DeCosta appcln. for R.P. covering land at Hoolawa-Mokupapa, Hamakualoa, Makawao, Maui, TMK 2-9-02:12, containing 3.200 acres for pasture purposes. Rental: \$10.00 per mo.
- Item F-1-h ASSIGNMENT OF GRANT OF EASEMENT - Ben D. Kosa and Douglas M. Wedemeyer to Richard E. Armsby and Judith Ann Armsby, roadway and utility easement over lands at Anahola, Kawaihau, Kauai, TMK: 4-8-06:42 and 58, containing 2,682 sq. ft. - L.O.D. No. S-27,387.
- Item F-1-i REVOCABLE PERMIT - Roy Burgess appcln. for R.P. for Unit 4A, Former Waialea Training School Grounds, Waialea, Oahu for residence Purposes. Rental: \$60.00 per mo.
- ACTION Mr. Yagi moved for approval of Items F-1-a through F-1-i as submitted. Motion carried unanimously with a second by Mr. Higashi.
- ITEM F-2 YASUO KUWAYE REQUEST FOR WAIVER OF PERFORMANCE BOND REQUIREMENT, G. L. NO. S-4668, LOTS 14-B & 15-B, BLOCK 48, WAIAKEA INDUSTRIAL LOTS, WAIAKEA, SO. HILO, HAWAII.
- ACTION Mr. Higashi moved to waive the performance bond requirement contained in General Lease No. S-4668 with the understanding that such bond may be reimposed at any time during the lease term. Mr. Yagi seconded and motion carried unanimously.
- ITEM F-3 COUNTY OF HAWAII REQUEST FOR CONVEYANCE OF OHEA STREET, WAIAKEA HOMESTEADS, WAIAKEA, SO. HILO, HAWAII.
- ACTION The board, upon motion by Mr. Higashi and a second by Mr. Yamamoto, voted unanimously to authorize conveyance by land patent grant of Ohea Street, as described in the submittal for pedestrian-access purposes, subject to the conditions listed in the submittal and also granted an immediate right of entry to the County of Hawaii for the construction of a pedestrian walkway over and across this Ohea Street portion subject also to those conditions listed in the submittal.
- ITEM F-4 BENJAMIN F. KONG APPLICATION FOR ROAD AND UTILITY EASEMENTS, OLAA RESERVATION LOTS, PUNA, HAWAII.
- (See Page 7 for Action)
- ITEM F-5 DEPARTMENT OF TRANSPORTATION REQUEST FOR ISSUANCE OF EXECUTIVE ORDER SETTING ASIDE LAND AT WAIAKEA, SO. HILO, HAWAII.
- ACTION The board, upon motion by Mr. Higashi and a second by Mr. Kealoha, voted unanimously to:

1. Approve and recommend to the Governor issuance of an executive order covering 55,125 sq. ft., more or less, to the control and management of the DOT, Harbors Division, for purposes of providing a backup area for the Wailoa River Small Boat Landing Site;
2. Authorize the DOT to proceed on behalf of the DLNR to satisfy zoning and subdivision requirements of the County of Hawaii;
3. Authorize the removal of the proposed backup area from the maintenance right of entry agreement with the County of Hawaii;
4. Grant immediate right of entry to the DOT to the proposed backup area for purposes of controlling and managing parking of boats and trailers and maintenance of the area.

STAFF RECOMMENDATION FOR CONVEYANCE OF ROADWAYS TO THE COUNTY OF HAWAII ALII KAI SUBDIVISION, NO. KONA AND KAWAILANI TRACT SUBDIVISION, WAIAKEA, SO. HILO, HAWAII.

ITEM F-6

ACTION

Mr. Higashi moved to approve of and authorize the staff to proceed with conveyances of the subject roadways to the County of Hawaii on a gratis basis, or in the alternative; approve and recommend to the Governor of Hawaii issuance of an executive order turning over the subject roadways to the County of Hawaii in fee simple. Motion carried unanimously with a second by Mr. Yamamoto.

ITEM F-7

RESUBMITTAL - EDWARD D. SULTAN, JR. REQUEST FOR HOLDOVER TENANCY, G. L. NO. S-3765, LOT 25, WAIMANALO AGRICULTURAL SUBDIVISION, WAIMANALO, OAHU.

ITEM F-8

RESUBMITTAL - JAMES KUROIWA, JR. REQUEST FOR HOLDOVER TENANCY, G. L. NO. S-3765, LOT 25, WAIMANALO AGRICULTURAL SUBDIVISION, WAIMANALO, OAHU.

Mr. Detor said that Item Nos. F-7 and F-8 were deferred at the last board meeting to check to see if the applicants were up to date on their payments. Staff has checked and they are up to date.

ACTION

Mr. Ing moved for approval of a one (1) year holdover of General Lease Nos. S-3784 and S-3765 at the new lease rentals described in the submittals. Motion carried unanimously with a second by Mr. Kealoha.

ITEM F-9

PRIDE COMPANY, INC. REQUEST FOR AMENDMENT OF PREVIOUS BOARD ACTION (7/22/83, AGENDA ITEM F-16) AUTHORIZING PUBLIC AUCTION SALE OF A LEASE AT KEKAHA, KAUAI.

ACTION

Mr. Yamamoto moved for the board to amend its action of July 22, 1983 under agenda Item F-16 by changing the dollar amount for the clearing and improvement cost from \$150,000.00 to \$100,000.00. Motion carried unanimously with a second by Mr. Yagi.

As mentioned before, Mr. Ono said that he had some concerns to having the applicant, who may not be the successful bidder, call the shots as to how the specifications should be drafted. Even the auditors have raised that point. We are almost letting the applicant draft the specs. He asked that staff be careful about letting applicants draft up specs to conform to what the applicant wants. He asked that staff take a look at it, keeping the overall benefits of the public in mind.

ITEM F-10

KANICHI TANIGAWA REQUEST FOR EXTENSION OF LEASE TERM, G. L. NO. S-3883, LOT 58-A, HANAPEPE TOWN LOTS, 1ST SERIES, HANAPEPE, WAIMEA, KAUAI.

ACTION

Mr. Yamamoto moved to authorize, pursuant to the provisions of Section 171-92, HRS, extension of the term of General Lease No. S-3883 under the terms and conditions listed in the submittal. Motion carried unanimously with a second by Mr. Yagi.

ITEM F-11

STAFF RECOMMENDATION TO AUTHORIZE DEPARTMENT OF TRANSPORTATION TO DISPOSE OF SURPLUS HIGHWAY PARCELS ON OAHU AND HAWAII.

ACTION

Mr. Ing moved to authorize the DOT to dispose of those highway parcels listed in the submittal on a direct basis in accordance with Section 171-52, HRS, subject to the conditions listed in the submittal. Mr. Kealoha seconded and motion carried unanimously.

ITEM F-12

STAFF RECOMMENDATION FOR DELETION OF UNCOLLECTIBLE ACCOUNTS FROM THE ACCOUNTS RECEIVABLE RECORDS, HAWAII-MAUI-OAHU.

Mr. Yagi asked why the State can't collect these monies. He noticed that some of these delinquencies dated back to 1971.

Mr. Detor said that there are various reasons. A lot of these people cannot be located.

ACTION

Deferred for further check on some of the accounts.

Mr. Ono asked if there was anyway in our collection procedure where we automatically check this, as well as other lists which have been waived, to make sure that we are not issuing permits, leases or any kinds of dispositions to anyone on the uncollectible list. Mr. Ono felt that no one on the list should get anything from the State until their debts are cleared up.

Mr. Detor said that he would look into this.

ITEM F-13

MARK A. ALEXANDER APPLICATION TO LEASE PORTION OF THE GOVERNMENT LAND OF AAPUEO 3, KULA, MAKAWAO, MAUI.

Mr. Detor said that the reason the submittal reads "Lease by Negotiation or by Public Auction" is because they are not sure whether this particular activity falls within the purview of agricultural processing. The question has been referred to the Attorney General's office. If it turns out that this does not constitute agricultural processing as spelled out in that particular section then we say go to public auction.

Mr. Higashi asked if there is some criteria as to what should be negotiated such as the public interest could be served.

Mr. Detor said that the criteria for that particular section of the law is "does it encourage competition within the agricultural processing industry." The rationale for this is that the addition of this slaughterhouse, which is the fourth on the island of Maui, is expected to encourage competition between the existing slaughterhouse operators thereby resulting in lower prices and greater benefits to the public.

Mr. Ono asked whether this fourth slaughterhouse would definitely encourage competition.

Mr. Detor said that the representation made to him from the Maui Office was that this would be a fourth slaughterhouse. The applicant is presently operating one of the three slaughterhouses on Maui and he is now asking for this. The uncertainty now is whether the one he is operating now is going out of business or whether they are going to continue under someone else. Mr. Detor said that he did not know the answer.

Mr. Ono said that if this particular slaughterhouse should drive the other slaughterhouses out of business, then the purpose of the law is defeated. Mr. Ono's concern with anything having to do with ag use is that we have an understanding with the Department of Agriculture and they let us know

whether there is a need for additional and specific types of properties in certain locations and in this case Mr. Ono said that he would really like to rely on the DOA to see if additional slaughterhouses would be required on Maui inasmuch as we're not really familiar on the ag side to call the shots and then cause more damage to the other slaughterhouses.

Mr. Detor said that he did check, by phone, with the DOA but they were not able to give him an answer immediately.

ACTION

Deferred to the next meeting of the board.

ADDED
ITEM F-14

REQUEST FOR DELETION OF ABANDONED AUWAIS. MAPS 1 and 4, LAND COURT APPLICATION 373, KANEOHE, KOOLAUPOKO, OAHU. TAX MAP KEY: 4-5-25:20.

This is a request for the State to enter into a petition to the Land Court to delete certain abandoned auwais that run through private properties. This particular property is owned by the catholic church in Kaneohe and Bethany Gardens will be developing a subdivision there. There are auwais running through the property and the State has no ownership interest in these auwais. The reason the State is being asked to join in the Land Court petition is because the water that formerly ran through these auwais originated on State land. The auwais are no longer in use. Mr. Detor said that no water goes through there, they go through another channel.

Since the CDUA hearing for Bethany Gardens Subdivision was held, Mr. Kealoha said that he walked around the area about four or five times and did not see one auwai.

Mr. Detor said that you can't see it on the ground, it's just shown on the map.

ACTION

Finding the auwais as depicted on Map 1 and Map 4 (Lot B-1) Land Court Application 373 abandoned and unnecessary, Mr. Ing moved to approve and consent to join in a petition to the Land Court of Hawaii for the deletion of the abandoned auwais as depicted on Map 1 and Map 4 (Lot B-1) Land Court Application 373. Mr. Kealoha seconded and motion carried unanimously.

ITEM H-1

REQUEST FOR TIME EXTENSION FOR A PREVIOUSLY APPROVED CDUA FOR A SINGLE FAMILY RESIDENCE AT KIHOLLO BAY, NORTH KONA, HAWAII (CONRAD LEHMANN).

ITEM H-2

REQUEST FOR TIME EXTENSION FOR A PREVIOUSLY APPROVED CDUA FOR A SINGLE FAMILY RESIDENCE AT KIHOLLO BAY, NORTH KONA, HAWAII (BERNARD LEHMANN)

Mr. Ono asked when the request for extension was submitted. He felt this date to be crucial inasmuch as construction on the subject area was to have been started by March 24, 1984.

Mr. Evans said he wasn't sure so maybe this item could be deferred until he could get the date.

Mr. Ing asked if knowing the date would make any difference.

Mr. Evans said that the difference would be that if for example the letter comes in before the one year expires then staff feels very comfortable coming to the board. On the other hand, if the letter came in after the March 24th deadline, then the CDUA is no longer in effect.

ACTION

Deferred to the next meeting.

Mr. Evans to report back to the board the date request for extension was received by staff.

ITEM H-3 CDUA FOR SINGLE FAMILY DWELLING AT HAWAIIAN PARKS SUBDIVISION AT WAIAKAHIULA, PUNA, HAWAII (PHYLLIS L. MITCHELL & ANNETTA C. MITCHELL).

(See Page 7 for Action)

ITEM H-4 CDUA FOR ADDITION TO A HOLDING AND SECURITY AREA AT KULANI, SOUTH HILO, HAWAII AT KULANI CORRECTIONAL FACILITY (DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES.)

ACTION Mr. Higashi moved for approval of DAGS application for a 1,600 sq. ft. addition to the Administration Building of the Kulani Correctional Facility situated on TMK: 2-4-08:9 and Kulani, South Hilo, Hawaii, subject to the conditions listed in the submittal. Mr. Yamamoto seconded and motion carried unanimously.

ITEM H-5 CUDA FOR CONSOLIDATION AND RESUBDIVISION USE AT TANTALUS, OAHU (MR. & MRS. WILL KYSELKA).

Mr. Evans explained that there are two houses on a set of lots. One of the landowners built his house with the proper approvals from DLNR but nevertheless too close to the lot line thus incurring concerns by the City & County of Honolulu as to their ordinances and regulations. In response to those kinds of concerns, the two landowners have gotten together and they felt that they could reconfigure their lot through a consolidation and resubdivision.

ACTION Unanimously approved as submitted, subject to the conditions listed in the submittal. (Kealoha/Ing)

Mr. Ono asked if, in the future, there might be a possibility of an increase in density because of this resubdivision.

Mr. Evans said not without the approval of the board.

ITEM H-6 CDUA FOR AN 800 SQUARE FOOT STORAGE STRUCTURE AT KAHALUU, KOOLAUPOKO, OAHU (RAYMOND NYLEN).

Mr. Evans said that he did receive a request from the applicant that this item be deferred. Mr. Evans said that a copy of the submittal was sent to the applicant and the applicant, while recognizing that the recommendation is for approval, is upset with the conditions set forth. As such, he feels that it would be unfair for the board to act without him and he would be available at the next Oahu meeting.

Mr. Ing asked what, specifically, was the applicant opposed to.

Mr. Evans said that the applicant was just unhappy about the conditions but did not elaborate.

ACTION Deferred to the May 25, 1984 meeting.

ITEM H-7 REQUEST FOR PUBLIC HEARING (MCBRYDE SUGAR, WAINIHA BEACH, KAUAI).

ACTION Unanimously approved as submitted. (Yamamoto/Higashi)

ITEM H-8 AFTER-THE-FACT CDUA FOR GROWING INDIGENOUS PLANTS AND TROPICAL FLOWERS FOR COMMERCIAL USE AT IAO VALLEY, WAILUKU, MAUI.

(See Pages 5 & 6 for Action)

ITEM J-1 RESUBMITTAL OF MODIFICATION NO. 10 TO LEASE NO. A-62-32, HONOLULU INTERNATIONAL AIRPORT, OAHU (HAWAIIAN AIRLINES, INC.).

Mr. Garcia explained that the original submittal was approved by the board on January 13, 1984. Since that submittal was made, the DOT has found other areas which need to be deleted from the Lease. The total area to be deleted to accommodate Mid Pacific Airlines is 9,266 instead of 6,874 as originally submitted.

ACTION Unanimously approved as submitted. (Ing/Kealoha)

ITEM J-2 APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT'S 3860 & 3862, AIRPORTS DIVISION.

ACTION Unanimously approved as submitted. (Yamamoto/Higashi)

ITEM J-3 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, OFF SAND ISLAND ACCESS ROAD NEAR KEEHI LAGOON, HONOLULU, OAHU (A & D PAINTING AND SANDBLASTING, INC.)

ACTION Unanimously approved as submitted. (Kealoha/Ing)

Mr. Ono asked whether the City and County had been issuing building permits for this area.

Mr. Garcia said he didn't think so since this construction is just temporary.

Mr. Ono called to Mr. Garcia's attention that DLNR had gotten into a lot of flak on the Sand Island situation where the City had not issued building permits and technically these structures are all in violation.

Mr. Ing asked if the tenants weren't required to get a clearance from the City.

Mr. Garcia said that one of the problems is that if you go to the City for clearance for building permit -- as far as the building is concerned there are no utilities. The area is strictly for temporary baseyard purposes. There are no utilities to qualify it for a subdivision. The applicant's are aware that the use of the area is a temporary nature.

Mr. Ing asked if language to that effect was shown in the submittal.

Mr. Garcia could not say for sure whether there was specific language in the permits to this effect. However, Mr. Garcia said that there would no problem in adding any specific language.

ITEM J-4 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 39, SHED, HONOLULU OAHU (PACIFIC CONCRETE & ROCK CO., LTD.).

ACTION Mr. Kealoha moved for approval as submitted. Motion carried with a second by Mr. Yagi.

Mr. Ing was disqualified from voting on this item.

ITEM J-5 CONTINUANCE OF REVOCABLE PERMITS, HARBORS DIVISION.

ACTION Mr. Higashi moved for approval as submitted. Motion carried with a second by Mr. Yamamoto.

Messrs. Ing and Kealoha were disqualified from voting on this item.

MIAMI MARINE TEST STATION, NAWILIWILI HARBORS (INFORMATION ONLY).

Mr. Garica said that this was taken up at the last board meeting. The requirement was that the Miami Marine Test Station submit their plan of operation for approval by DLNR and he did have a copy of their proposed operation and will be sending it to the Chairman.

Basically, they are not mixing any toxic chemicals on site and they will be constructing a dock at that location. Mr. Garica said that he had indicated at the last meeting that there would be no construction. DOT will resubmit this item to the board for consideration.

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

Respectfully submitted,



LaVerne Tirrell
Secretary

APPROVED:



SUSUMU ONO
Chairperson

lt