

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

DATE: June 22, 1984  
TIME: 9:00 A.M.  
PLACE: Kalanimoku Building  
Room 132, Board Room  
1151 Punchbowl Street  
Honolulu, Hawaii

ROLL  
CALL

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

MEMBERS

Mr. Roland Higashi  
Mr. J. Douglas Ing  
Mr. Moses W. Kealoha  
Mr. Susumu Ono

Absent & Excused

Mr. Thomas Yagi  
Mr. Takeo Yamamoto

STAFF

Mr. Henry Sakuda  
Mr. Libert Landgraf  
Mr. Robert Chuck  
Mr. Ralston Nagata  
Mr. James Detor  
Mr. Gordon Soh  
Mr. John Corbin  
Mr. Melvin Young  
Mr. Noah Pekelo  
Mr. Roger Evans  
Mr. James Pavelle (Item E-1)  
Ms. Patty Edwards  
Mrs. LaVerne Tirrell

OTHERS

Mr. Edwin Watson, Deputy Atty. Gen.  
Mr. Peter Garcia, DOT  
Mr. Herman A. Zampetti (Item F-8)  
Mr. Hong (Item H-3)  
Mr. Mark Pernis (Item H-7)  
Mr. Kahele (Item F-2)

ADDED  
ITEMS

The board, upon motion by Mr. Ing and a second by Mr. Kealoha voted unanimously to add the following items to the agenda:

Aquatic Resources

Item B-3 -- Filling of Exempt Temporary Fishery Aid I Position No. 32692 in the Division of Aquatic Resources (Oahu).

Item B-4 -- Filling of Position No. 27074, Aquatic Biologist III, Oahu.

Water & Land Division

Item D-6 -- Appointment to Engineering Program Manager Position No. 09630 (Chief, Project Development Branch).

Administration

Item H-10 -- Permission to Contract with the Research Corporation of the University of Hawaii to Continue Research on the Screening of Foreign Sources of Penaeid Shrimp for Specific Virus-Free Stocks.

Item H-11 -- Consultant Services Contracts

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

ITEM J-12

CONSTRUCTION RIGHT-OF-ENTRY, HARBORS DIVISION, PIER 34, HONOLULU HARBOR, (PACIFIC RESOURCES TERMINALS, INC. (PRTI)).

ACTION

Unanimously approved as submitted. (Ing/Kealoha)

ITEM F-7

PIONEER MILL COMPANY, LIMITED APPLICATION FOR IRRIGATION WATER TRANSMISSION EASEMENT, LAHAINA, MAUI.

Mr. Detor stated that this is a recommendation for the direct sale of an easement to Pioneer Mill Co. covering a 40-ft. wide water transmission easement over government lands in Lahaina, Maui. This easement was formerly covered under a lease which expired June 1, 1984.

Mr. Detor asked that the following additions be made to the submittal:

1. Term of the lease to be thirty (30) years commencing June 2, 1984.
2. Consideration be established by an independent appraisal based on the annual payment of the lease rental.

Mr. Kealoha asked how long this appraisal was expected to take.

Mr. Detor said approximately a month.

ACTION

Finding that the subject scattered parcels when combined with the applicant's parcels constitute a unit of minimum size relative to its intended use and therefore can be considered as an economic unit, the board, upon motion by Mr. Kealoha and a second by Mr. Higashi, unanimously approved the direct sale of the subject easement to the applicant under the terms and conditions listed in the submittal, together with the addition of the two conditions listed above.

ITEM E-1

IOLANI PALACE AND BARRACKS - CONTRACT 16202, HONOLULU, OAHU.

Mr. Nagata said that staff is requesting that an additional \$15,000.00 be added to the Iolani Palace & Barracks Management Contract to repair the two etched glasses which were broken by vandalism earlier this year. Also, they would need an additional three months to do this work.

Mr. Ing asked what would happen when the new contract comes into existence.

Mr. Nagata said that because funds only become available in July, there is a need to ascertain the total department expenditure. The contract usually ends up being actually finalized about September but they are actually able to retroactively refund the Friends for the management service occurring as of July 1st.

ACTION

Mr. Ing moved to approve a \$15,000 increase on a 3-month extension to the current contract to allow for the replication of the etched glass panels. Mr. Kealoha seconded and motion carried unanimously.

Mr. Ono said that there will be a period when there will be almost identical contracts in existence at the same time. He asked Mr. Nagata whether this would create any problems. Can we assume that the only balance going into the extended period will be \$15,000.00.

Mr. Nagata said yes.

Mr. Ono asked Mr. Pavelle whether all of the funds which were allocated to this years contract had been expended. So, providing this item is approved, only \$15,000 will be going into this year's contract to be expended.

Mr. Pavelle answered yes.

ITEM F-8

STAFF RECOMMENDATIONS ON TERMS AND CONDITIONS GOVERNING VOLLEYBALL PLAY AT FORT DERUSSY BEACH, HONOLULU, OAHU.

At its May 25, 1984 meeting the board voted to allow volleyball play at Fort DeRussy to continue and directed staff to work with the players to formulate terms and conditions under which this play could continue.

Mr. Detor said that staff did meet with the players and have listed in the submittal staff's recommended terms and conditions.

Mr. Detor said that the conditions are basically the same as that of the old permit except for a couple of things. There is no review date listed so he asked that a new condition be added, making this permit subject to an annual review.

Another change is that Condition No. 4 with respect to the playing time, staff changed the time to sunset instead of 6:00 p.m.

Mr. Kealoha felt that Condition No. 4 is the same. The players at the last meeting had expressed interest in playing from 2:00 p.m. to sunset.

Mr. Detor said that when they met a request was made for this new time.

Mr. Ono asked what staff's feeling was about this.

Mr. Detor said that during that particular time of the day, play was not heavy anyway so staff went along with the request.

Mr. Kealoha said that also discussed was the difference between Mondays through Fridays, and Saturday and Sunday playing. It seemed that No. 4 included playing from Sunday to Saturday. There is no break. Mr. Kealoha said that is was his impression that there would be a schedule for weekdays and a separate schedule for weekends.

Mr. Ono said that he was also under the impression that the hours were going to be adjusted -- not to be expanded, but to be shortened. What is reflected in the submittal does not appear to be what was discussed at the meeting so he was opposing this recommendation.

Mr. Herman A. Zampetti, spokesman for the volleyball players, said that when he spoke to Mr. Detor it became apparent to those players in the area that there is not much difference between 10:00 a.m. and 2:00 p.m. He said that he took some pictures on Memorial Day of the beach area, which is probably the busiest time of the year. These pictures, which he showed to Mr. Detor, was taken at noon. It shows that the area is still very parsely populated. It was their feeling that the sooner they got the nets up the less problems they would have as far as inconveniencing other people by asking them to move out of the area.

In answer to Mr. Ing's question, Mr. Zampetti said that there are no signs in the area. This might help.

Another problem is that there is only one court, said Mr. Zampetti. The demand for the court is such that if we wait until 2:00 p.m. it would limit the play to about three games a day.

Mr. Ono said that he thought the compromise was to make some adjustments or no play at all.

Mr. Zampetti said that was probably what it was all about. He did not understand the compromise in the beginning. He didn't feel that the difference in time from 10:00 a.m. to 2:00 p.m. was the big issue.

Mr. Kealoha said that what was said at the last meeting and what is being said today are two different stories.

Mr. Ing asked whether discussion on weekend playing was to expand the playing hours.

Mr. Kealoha said that as he recalled the board's discussions at the last meeting, the players would play earlier on weekends because of the holidays and their days off. However, they would play later on weekdays because they worked.

After much discussion between the board and Mr. Zampetti it was proposed that play time Monday to Friday would be from 2:00 p.m. to sunset and on weekends and holidays from 11:00 a.m. to sunset.

ACTION

Mr. Ing moved for approval of the terms and conditions governing volleyball play at Fort DeRussy Beach as listed in the submittal with, however, an amendment to Condition No. 4 allowing play on weekdays from 2:00 p.m. to sunset and on weekends and holidays from 11:00 a.m. to sunset. Also, an added Condition No. 8, requiring an Annual Review of this permit. Motion carried unanimously with a second by Mr. Kealoha.

Mr. Ono asked what would happen if other organizations e.g. the Aloha Week canoes racing people need the same space.

Mr. Detor said that those special occasions take precedence.

Mr. Zampetti said that they're aware of this fact.

ITEM H-2

AMENDMENT TO ADMINISTRATIVE RULES, TITLE 13, CHAPTER 2 and CDUA FOR ESTABLISHMENT OF MILOLII VILLAGE SPECIAL SUBZONE, SUBZONE BOUNDARY AMENDMENT AND SUBDIVISION FOR RESIDENTIAL PURPOSES AT MILOLII-HOOPULOA, HAWAII.

Mr. Soh explained that the establishment of this special subzone will facilitate the pre-settlement of the area by people displaced by the lava flow which occurred in 1956. This subzone will provide about 62 residential lots and use of the beach area at Milolii for activities such as fishing, educational uses and cultural and recreational uses.

Staff has recommended approval subject to certain conditions listed in the submittal. Mr. Soh asked, however, that Condition No. 2 be deleted inasmuch as it is inapplicable in this instance inasmuch as the applicant is the Division of Land Management. Mr. Ono suggested another condition to read: "That the applicant shall only make lots available to persons qualifying under Act 62, SLH 1982." Act 62 is a law which enables the Department of Land and Natural Resources to provide areas for resettlement of displacees.

Referring to Condition No. 6, Mr. Higashi asked whether the activities of those fisherman in the area who use their homes for storage, etc. are considered commercial.

Mr. Soh said that he was not aware of the exact nature of their activities.

Mr. Higashi said that they do things like repair nets, etc.

Mr. Soh felt that some people might construe that as being commercial.

Mr. Ono asked whether it would be alright for the qualified families to use their dwellings as part of the commercial fishing activities.

Mr. Soh said that it is clear from the application that they have applied for fishing activities and in that respect the use is included within the meaning of the application. This condition applies only to the use of the single family dwelling.

Mr. Higashi asked whether this board superceded the county's rules and regulations.

Mr. Soh said that it does under the terms of Act 62.

When asked by Mr. Higashi whether there were any water requirements, etc. or whether a Special Management Permit was required for this area, Mr. Soh said that during the 1984 Legislative Session, an amendment to Act 62 was passed giving the Milolii Development exemption from "all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, the development and improvement of land, and the construction of units thereon." With respect to the SMA provision, Mr. Soh said that the County did advise that if they were to receive an application for an SMA permit they would recommend to the Planning Commission that it be denied pursuant to the rule.

Mr. Higashi said that his reason for asking is because he was confused. Staff's analysis says that following review and acceptance of the application for processing, the applicant, by letter dated January 19, 1984, was notified that, besides other conditions, a negative declaration pursuant to Section 1:30 of the EIS Regulations has been determined for the proposed use and written clearance from the County of Hawaii regarding SMA requirements has been obtained.

Mr. Ono explained that we are dealing with two separate acts. We started off the process using the original act. This past session there was an amendment to the original act that made it easier to process without going through the usual steps required for subdivision, including County approvals. So if you look at it chronologically, it will appear to be inconsistent.

Mr. Higashi did not want to go along and then find out that they are doing things illegally and have to start from the top again.

Mr. Ing thought that there was going to be some kind of provision relating to a Master Plan and that would somehow be incorporated into the approval. He remembered staff being asked at the public hearing to finalize the Master Plan but to be very careful about what they put into the Master Plan because what would happen is that when the approval went through it would, in effect, have to anticipate what the needs would be for the future and incorporate this into the Master Plan. This was to be developed through discussions with the Milolii residents themselves so that at the time this came before the board for action the board would have this Master Plan to fall back on.

Recapitulating the conditions of the submittal, Mr. Soh said that he understood that Condition No. 2 would be deleted and substitute therefore that the applicant shall only make lots available to persons qualifying under Act 62, SLH 1982 and that another condition be added to the effect

that the Master Plan be submitted by the time of disposition and include such matters as the heirs of the displacees. However, he was still unclear as to how Condition No. 6 should be handled.

When asked by Mr. Ono whether he had had a chance to review staff's recommendations, Mr. Kahele of Milolii said that he had just received the recommendations.

Mr. Higashi said that he had just one question about the commercial activities. Under Condition No. 6, single family dwellings may not be used for rental or any other commercial purposes. Sometime you sell fish from home -- a traditional thing you have been doing for years -- if somebody really comes down hard this is considered commercial activity. What other kinds of things do you traditionally do at home in servicing others?

Mr. Kahele said that in the Master Plan they have an area set aside for a Transfer Station and hopefully that will become a place for commercial activities. Someplace to sell and market their fish. Right now they don't have anyplace so people are doing things on an individual basis. He feels that commercial activities should be limited to fishing.

Mr. Higashi asked if it would be o.k. with Mr. Kahele if Condition No. 6 were to be amended by adding after "other commercial purposes" the words "except for the traditional fishing activities."

Mr. Kahele thought this would be o.k.

Mr. Kealoha felt that the intent of Condition No. 6 was that the dwelling would not be used as a rental unit. So he thought if a period was put after the word "rental" then the commercial aspect could be dealt with separately inasmuch as this area is in the General Subzone.

Mr. Ono suggested that a period be put after the word "rental" and then add another sentence "any commercial activity that may take place should be consistent with the intent of Act 62 with the approval of the Land Board." What the board is trying to avoid is having the 62 lots become too commercialized.

ACTION

Mr. Higashi moved for the adoption of the amended Administrative Rules, Title 13, Chapter 2, as submitted, and approval for the establishment of the Milolii Village Special Subzone and subdivision for residential purposes subject to the terms and conditions listed in the submittal as amended. Mr. Kealoha seconded and motion carried unanimously.

ITEM H-7

CDUA FOR CONSOLIDATION AND RESUBDIVISION USE AT KUA BAY, NO. KONA, HAWAII (MARK VAN PERNIS, ESQ.).

Mr. Soh said that a letter was received from Mr. Van Pernis asking that this matter be deferred.

Mr. Ing said that he was confused with Condition No. 11 and asked if the Attorney general's office had rendered an opinion.

Mr. Soh said that he understood that this was sent to the Attorney General's Office for review although he did not have the opinion with him.

Mr. Ing said that he would like to see the opinion.

Mr. Van Pernis said that the issue was raised at the public hearing which was held on May 10, 1984 in Hilo, as to whether the existing nonconformance use status would survive the application. It was suggested that an Attorney

General's opinion be obtained and that I, on behalf of the applicants, be notified as soon as possible as to what staff's position would be. By way of a telephone call about 10 days ago, Mr. Van Pernis said that Mr. Uchida informed him that staff's submittal was not yet prepared but their position was that the rights would be extinguished. I inquired at that time on what basis and Mr. Uchida indicated that an attorney general's opinion had been obtained so he inquired whether he could get a copy of the opinion. Mr. Uchida suggested he contact the AG's office which he did. On June 19 Mr. Van Pernis said that he received the board's submittal for today's meeting. He could not reach all of his client's in the three days. Two of them live in Kona and the other two live in the mainland. After talking to Mr. Soh he suggested that I present this letter requesting deferral.

Mr. Van Pernis said that he has not seen the attorney general's opinion. However the logic he finds in staff's recommendation to the board is that because the metes and bounds description changes in a reconfiguration or reconsolidation and resubdivision therefore it will be considered a subdivision and the nonconforming right would be lost.

Mr. Van Pernis asked whether the board would have the authority to change staff's recommendations. If so, he felt that if Condition No. 11 could either be deleted, clarified or modified to some extent then he could proceed today. Because this is in a Resource Subzone, use of these parcels for dwellings, even if reconfigured, would be a conditional use and would be allowed in all likelihood and would be granted. However, if one of the applicants does not build or use the property for the next ten or twenty years and then the laws and regulations change in that time, then of course there would be no availability to use the right for a dwelling. However, if the nonconforming use status continued after this application were to be granted then of course it would have that right even though the laws and regulations may change in the interim and that is why his clients are concerned on whether or not the nonconforming rights exist. If there can be some assurance or even a condition in the approval, if it were to be approved, that the properties can be used in the future for residential use -- one per lot -- then in essence they need not be concerned with what formulas the right would be because it would be a part of the approval. Mr. Van Pernis felt that the parcels as they exist now would have an absolute right because they are nonconforming use. But if the staff's position is adopted, they would lose that absolute right and it would be, in essence, a conditional use depending on whether or not the regulations and laws allowed for it at the time of application.

If the above matter cannot be resolved today, then Mr. Van Pernis requested deferral until all of his clients could be contacted and give him appropriate instructions.

Mr. Van Pernis said that perhaps Condition No. 8 could be added to indicate that the parcels could be used for single family dwelling use and that they could now follow this reconfiguration and consolidation and resubdivision process. Under those conditions then he wouldn't be too worried about Condition No. 11.

Mr. Ono saw no problem in letting Mr. Van Pernis have a copy of the Attorney General's opinion. He said that the board would not be able to render a decision on the points raised by Mr. Van Pernis and also staff recommendation. It would have to be pulled together so he would rather it be brought back to the board at the next meeting on July 13th.

ACTION

Deferred to the July 13, 1984 meeting.

ITEM B-1

REQUEST FOR AUTHORIZATION TO ALLOW THE UNIVERSITY OF HAWAII TO PURSUE PATENT APPLICATION ON "DIPSTICK" TEST TO MEASURE CIGUATERA FISH POISON.

Mr. Sakuda explained to the board that ciguatera poisoning is a form of human intoxication caused by eating certain fish containing ciguatoxin, originating from a dinoflagellate and accumulated through the food chain in certain tropical marine fishes. Consumption of the fish causes the symptoms of intoxication which may progress to even death. Inasmuch as the occurrence of ciguatera is sporadic and unpredictable, the detection of the toxin in fish suspected of being affected has been an important investigation by researchers at the University of Hawaii.

ACTION

Mr. Higashi moved to authorize the Chairman to provide written approval to the University of Hawaii to initiate patent application procedures for the "dipstick" test. Further, should any monetary proceeds emanate from patent use, the Board urges the University to consider the use of such proceed to fund project(s) that would benefit ciguatera research." Motion carried unanimously with a second by Mr. Kealoha.

ITEM B-2

REQUEST FOR APPROVAL TO AMEND THREE AGREEMENTS BETWEEN THE BOARD OF LAND AND NATURAL RESOURCES (BLNR) AND THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII TO CONTINUE THE DEVELOPMENT UNIT PROJECT, AND THE LEEWARD ISLANDS COMMERCIAL FISHING SURVEYS PROJECT; AND ONE AGREEMENT BETWEEN THE BLNR AND THE UNIVERSITY OF HAWAII TO CONTINUE THE DEVELOPMENT OF AN ENZYME-LINKED IMMUNOSORBENT ASSAY TEST FOR CIGUATERA FISH POISON.

ACTION

Mr. Higashi moved to approve execution of the aforementioned four (4) agreement amendments subject to the Governor's approval and approval as to form by the Department of the Attorney General. Mr. Kealoha seconded and motion carried unanimously.

ADDED  
ITEM B-3

FILLING OF EXEMPT TEMPORARY FISHERY AID I POSITION NO. 32692 IN THE DIVISION OF AQUATIC RESOURCES (OAHU).

ACTION

Mr. Ing moved to approve the appointment of Keith S. Oda to the exempt temporary Fishery Aid I, Position No. 32692. Mr. Kealoha seconded and motion carried unanimously.

ADDED  
ITEM B-4

FILLING OF POSITION NO. 27074, AQUATIC BIOLOGIST III, OAHU.

ACTION

Mr. Ing moved to approve the transfer of Mr. Frederick Ball to Position No. 27074, Aquatic Biologist III, Oahu, with no change in the pay rate of \$1,573 monthly. Mr. Higashi seconded and motion carried unanimously.

ITEM C-1

REQUEST FOR OUT-OF-STATE OFFICIAL DUTY AND PER DIEM STATUS FOR ROBERT A. MERRIAM, RESOURCE MANAGEMENT FORESTER.

ACTION

Mr. Ing moved to approve the official duty and per diem status of Robert A. Merriam from July 29-August 1, 1984, including travel time, to present a paper at the 8th North American Forest Biology Workshop at Logan, Utah. Mr. Higashi seconded and motion carried unanimously.

Mr. Ono asked that Mr. Merriam implement the State policy of using the lowest mode of ground transportation available.

ITEM C-2

FILLING OF VACANT WILDLIFE MANAGEMENT ASSISTANT II POSITION, ISLAND OF MOLOKAI.

ACTION

Mr. Higashi moved to approve the appointment of Paul Chang to Position No. 12044, Wildlife Management Assistant II, on the island of Molokai. Mr. Ing seconded and motion carried unanimously.



ITEM D-1 APPROVAL FOR AWARD OF CONTRACT - JOB NO. 1-OL-31, WAIKIKI SEAWALL, WALKWAY REHABILITATION, PHASE III, HONOLULU, OAHU.

ACTION The board voted unanimously to award the contract for the above project to Iwamoto Construction, Inc. for their low bid of \$51,229.00. Mr. Kealoha seconded and motion carried unanimously.

ITEM D-2 APPROVAL FOR AWARD OF CONTRACT - JOB NO. 4-OW-28, DRILLING MOKULEIA EXPLORATORY WELL, KAMANANUI, WAIALUA, OAHU.

ACTION The board voted unanimously to award the contract for the subject project to Roscoe Moss Company for their low bid of \$228,660.00, subject to release of funds by the Governor. (Ing/Kealoha)

ITEM D-3 SOIL AND WATER CONSERVATION DISTRICT DIRECTORS.

ACTION Upon motion by Mr. Higashi and a second by Mr. Kealoha the board voted unanimously to certify the appointed and elected persons for the term shown below to serve as Directors of the respective Soil and Water Conservation Districts:

<u>District</u>	<u>Name</u>	<u>Elected/Appointed</u>	<u>Term to End</u>
Kona	Kwong Sin Paik	Elected	6/30/87
West Maui	Charles F. Bonnet	Elected	6/30/87
	Martin Luna	Appointed	6/30/87

ITEM D-4 REQUEST TO PREPARE STATE RAINFALL ATLAS.

ACTION Mr. Ing moved to authorize the Chairperson to execute a contract with the Water Resources Research Center to prepare the state rainfall atlas. Mr. Kealoha seconded and motion carried unanimously.

ITEM D-5 MODIFY HONOLULU BOARD OF WATER SUPPLY WITHDRAWAL AND USE PERMIT APPLICATION FOR THE MANOA II WELL AND WAIALAE NUI WELL, HONOLULU GROUND WATER CONTROL AREA, OAHU.

ACTION Mr. Ing moved to approve the increase in water withdrawal to 0.7 mgd and pump capacity to 1.01 mgd for the Water Withdrawal and Use Permits issued to the Honolulu Board of Water Supply for the Manoa II Well (State Well No. 1948-01) and the Waialae Nui Well (State Well No. 1747-03). Motion carried unanimously with a second by Mr. Kealoha.

ADDED ITEM D-6 APPOINTMENT OF ENGINEERING PROGRAM MANAGER POSITION NO. 09630 (CHIEF, PROJECT DEVELOPMENT BRANCH).

ACTION Mr. Ing moved to approve the appointment of Harold M. Sakai to the Engineering Program Manager Position No. 09630 in the Development Branch in the Division of Water and Land Development effective July 1, 1984. Mr. Higashi seconded and motion carried unanimously.

ITEM E-1 IOLANI PALACE AND BARRACKS - CONTRACT 16202, HONOLULU, OAHU.

(See Page 2 for Action)

ITEM E-2 AWARD OF CONSTRUCTION CONTRACT, JOB NO. 49-MP-9, IAO VALLEY STATE PARK, MAUI.

ACTION Mr. Ing moved to award the construction contract for Job No. 5-OP-46, Park Improvements, Diamond Head State Monument to James L. K. Tom, Inc. for a cumulative bid total of \$133,068 (\$108,505 for the Basic and \$24,563 for the Additive). Motion carried unanimously with a second by Mr. Kealoha.

ITEM E-3      AWARD OF CONSTRUCTION CONTRACT, JOB NO. 49-MP-9, IAO VALLEY STATE PARK, MAUI.

Mr. Nagata asked that this item be withdrawn. Staff was not able to meet its schedule for bid opening.

ACTION      Withdrawn.

ITEM F-1      DOCUMENTS FOR CONSIDERATION.

Item F-1-a

CONSENT TO SUBLEASE. Honolulu Community Theatre request for consent to sublease, covering the Honolulu Community Theatre, Lessor and The Hiding Place, Lessee, por. of Block 56, Kaimuki Tract, Kapahulu, Honolulu, Oahu, being TMK: 3-2-30:01. G. L. No. S-4411.

Mr. Detor said that the Honolulu Community Theatre people have reached an agreement with The Hiding Place, a religious group providing for use of the Ruger Theatre for Sunday Church Services every Sunday as necessitated by HCT's needs. Mr. Detor said that there is a provision in the lease that, depending on what they charge the sublessee, the state has a right to raise the basic rental.

Mr. Kealoha asked for the time period of this sublease.

Mr. Detor said that it ends August 31, 1984 and begins on July 15, 1984. These dates, however, were inadvertently left out of the submittal.

With respect to the rental, Mr. Ono asked whether we had been receiving the percentage or the basic rental.

Mr. Detor said the percentage, so we have been getting more than \$1,800.00 per annum.

Mr. Detor said that the commencement date of G.L. No. S-4411 as shown in the submittal is incorrect. He would need to check the records for the correct date.

Mr. Ono asked that a request be made to audit the Lessor's books inasmuch as it has been a practice to perform audits when a percentage feature is listed in the lease.

Rather than consenting to the sublease, Mr. Ing asked whether a right-of-entry could be granted until staff could get answers to some of the questions raised by the board.

Mr. Ono said that he still was not clear on the sublease dates.

Mr. Detor said that this ends August 31, 1984. However, the dates are not completely set. The dates originally were May 27 and June 3, which time has already gone by.

Mr. Ono asked if there was ever any discussion for a new sublease which would extend beyond the August 31st period.

Mr. Detor said that they would be coming in with another request.

Mr. Ono suggested that the cut-off date be August 31, 1984 and before this board entertains any request for a new sublease all these questions would have to be resolved.

Mr. Detor said fine.

- ACTION Mr. Ing moved to approve this item on the condition that this approval be good for a term ending August 31, 1984 and any subsequent request for sub-lease has to be subsequent to clarification of lease terms as discussed today. Mr. Higashi seconded and motion carried unanimously.
- Item F-1-b MORTGAGE AND ESTOPPEL CERTIFICATE. William T. White III request for consent to mortgage to Bank of Hawaii, G. L. Nos. S-3601 and S-4359 covering Lot 33, Kanoelehua Industrial Lots and Lot 3, Hilo Industrial Development, Leilani Street Section, respectively, Waiakea, So. Hilo, Hawaii.
- Item F-1-c SUBLEASE. Hawaiian Fruit Flavors, Inc. request for consent to sublease to Hilo Hawaii Fruit Process, Inc., G. L. No. S-4333, Lot 2, Block 39, Waiakea Houselots, Waiakea, So. Hilo, Hawaii.
- Mr. Detor asked to amend this submittal by correcting the term of the lease from five years to ten years
- Item F-1-d MORTGAGE. Mitsuo Kitagawa and Yaeko Kitagawa request for consent to mortgage to First Hawaiian Bank, G. L. No. S-4225, Lot 27, Panaewa Farm Lots, 2nd Series, Waiakea, So. Hilo, Hawaii.
- Item F-1-e REVOCABLE PERMIT. Ernest Alfonso application for revocable permit, TMK: 4-4-10:13 at Heneheneula, Hamakua, Hawaii for pasture purposes commencing July 1, 1984. Rental: \$10.00 per mo.
- Item F-1-f SUBLEASES. Allan D. Starr request for consent to three (3) subleases to 1) Mid-Pac Electric, Inc.; 2) Neil Okumura; and 3) Garrett Sasaki, covering portions of G. L. S-4359, Lot 3, Hilo Industrial Development, Leilani St. Section, Waiakea, So. Hilo, Hawaii.
- ACTION Mr. Higashi moved for approval of Items F-1-b through F-1-f as submitted and/or as amended. Mr. Kealoha seconded and motion carried unanimously.
- ITEM F-2 JERRY NAGAKURA APPLICATION TO LEASE LOT 8, BLOCK 46, OF THE WAIAKEA HOUSE LOTS EXTENSION, WAIAKEA, SO. HILO, HAWAII.
- Mr. Detor asked that under "Rental" to be determined by appraisal, that a percentage clause also be included.
- Mr. Higashi asked that a condition also be included in the submittal that in the event that this application is denied by the County, the applicant shall bear all processing costs.
- ACTION Finding the subject area to be an economic unit in terms of the intended use, the board upon motion by Mr. Higashi and a second by Mr. Kealoha, voted unanimously to authorize the sale of a lease at public auction covering the parcel in question under the terms and conditions listed in the submittal and as amended above.
- ITEM F-3 JERRY CHOI APPLICATION TO PURCHASE PAPER ROAD RESERVE, SO. HILO, HAWAII.
- ACTION Finding the subject area to be physically unsuitable for development as a separate unit because of its size and shape and by definition is a remnant, the board upon motion by Mr. Higashi and a second by Mr. Kealoha voted unanimously to authorize the direct sale of the remnant to the applicant subject to the terms and conditions listed in the submittal. The board also authorized the issuance of an immediate right of entry to the applicant subject to the standard hold-harmless clause.

ITEM F-4

HAWAIIANA INVESTMENT COMPANY APPLICATION TO PURCHASE QUARRY SITES, KAIWIKI HOMESTEADS, 2nd SERIES, SO. HILO, HAWAII.

ITEM F-5

HAWAIIANA INVESTMENT COMPANY REQUEST FOR DELETION OF QUARRY RIGHTS RESERVED IN GRANTS 4960, 4851 and 4854, KAIWIKI HOMESTEADS, 2ND SERIES, SO. HILO, HAWAII.

Mr. Detor asked that Items F-4 and F-5 be considered together. He said that they both are essentially the same thing although they are covered under two different sections of the statute.

In both instances the land is owned by Mauna Kea Sugar Company. Within the lands there are quarry sites. Under Item F-4 there are a number of quarry sites that were actually conveyed to the government years ago and there the State has title.

Under Item F-5, when the lands were sold, there was a reservation to the government for the quarry sites.

In actual practice what will happen when this is approved is that they will pay for both submittals at the appraised price.

ACTION

Unanimously approved as submitted. (Higashi/Kealoha)

ITEM F-6

RESUBMITTAL -- HANA EQUIPMENT CO., LTD. APPLICATION FOR LAND LICENSE, KAWAIPAPA & WAKIU, HANA, MAUI.

Mr. Detor said that this was deferred earlier inasmuch as our Board member from Maui could not be present at that meeting.

ACTION

Determining that public interest will be best served by disposition of this land license by negotiation, without recourse to public auction, the board upon motion by Mr. Kealoha and a second by Mr. Higashi, voted unanimously to:

1. Authorize the publication of a Notice of Disposition as required by law.
2. Approve the direct sale of a land license to Hana Equipment Company, Ltd. covering the area described in the submittal for removal of landfill material under the terms and conditions listed in the submittal.

ITEM F-7

PIONEER MILL COMPANY, LIMITED APPLICATION FOR IRRIGATION WATER TRANSMISSION EASEMENT, LAHAINA, MAUI.

(See Page 2 for Action)

ITEM F-8

STAFF RECOMMENDATIONS ON TERMS AND CONDITIONS GOVERNING VOLLEYBALL PLAY AT FORT DERUSSY BEACH, HONOLULU, OAHU.

(See Page 4 for Action)

ITEM F-9

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT REQUEST FOR RIGHT OF ENTRY AND GRANT OF EASEMENT FOR SEWER LINE AT FOREIGN TRADE ZONE (PIER 2 AREA), KAAKAUKUKUI, HONOLULU, OAHU.

ACTION

Pursuant to the provisions of Chapter 171, HRS, the board upon motion by Mr. Ing and second by Mr. Kealoha voted unanimously to:

1. Authorize the granting of the above-described easement for sewerline purposes to DPED subject to the terms and conditions listed in the submittal.
2. Approve a right of entry to the subject area to the DPED for construction of sewerline subject to the conditions listed in the submittal.

ITEM F-10

RESUBMITTAL - STAFF RECOMMENDATION FOR CONVEYANCE OF LAND TO HAWAIIAN HOMES COMMISSION, WAIANA, OAHU.

Mr. Detor said at that its June 25, 1982 meeting the board approved in principle a three-party land exchange involving the Hawaii Housing Authority, the Hawaiian Homes Commission and the State of Hawaii. Included in the exchange was the 150-lot Waianae Kai residential subdivision developed by Hawaii Housing which has since been conveyed to the State and which is to be in turn conveyed to Hawaiian Homes.

At the May 25, 1984 meeting, the Board deferred action on a staff proposal to convey the Waianae Kai parcel to Hawaiian Homes in exchange for four parcels required for State purposes. The reason this was deferred is because just prior to the meeting a request was received from Hawaiian Homes to cancel a number of executive orders for forest reserves and other purposes and staff wanted to take a look at the entire spectrum of exchanges for Hawaiian Homes in terms of what should be taken into consideration in arriving at values on Hawaiian Homes lands in exchanges with the State.

Mr. Detor said that Hawaiian Homes has a commitment from the Farmers Home Administration for money and the deadline is pretty near so they want to go ahead with this subdivision.

ACTION

Upon motion by Mr. Ing and a second by Mr. Kealoha, the board voted unanimously to authorize conveyance of the following land to the Hawaiian Homes Commission with the agreement that lands of equal value will be conveyed by Hawaiian Homes to the State of Hawaii at such time as may be designated by the Chairperson:

Portion of Grant 5006 to Willard E. Brown; being Lots 1 to 150 of the Waianae Kai Subdivision, Unit I, File Plan No. 1368; being also all of the lands acquired by exchange with Hawaii Housing Authority, Quitclaim Deed, dated January 13, 1984, recorded at the Bureau of Conveyances, State of Hawaii in Liber 17625 page 125 and filed at the Land Management Division, Department of Land and Natural Resources under LOD No. S-27385, TMK: 8-6-23:1 to 150, inclusive at Waianae, Oahu.

Subject to: Mineral reservation in favor of State of Hawaii and covenants and easements of records.

ITEM F-11

BOARD OF WATER SUPPLY, CITY & COUNTY OF HONOLULU, REQUEST FOR EASEMENTS AT KAPALAMA, HONOLULU, OAHU.

ACTION

Mr. Ing moved to grant the City and County of Honolulu, Board of Water Supply a perpetual non-exclusive easement 60 feet wide for water pipelines, water meters and fire hydrants purposes, over, under and across the requested area, subject to the terms and conditions listed in the submittal. Motion carried unanimously with a second by Mr. Higashi.

ITEM F-12

HILTON HAWAIIAN VILLAGE HOTEL REQUEST FOR RIGHT OF ENTRY, FORT DERUSSY BEACH, HONOLULU, OAHU.

The Hawaiian Village Hotel is requesting use of the subject area for purposes of arranging such games as volleyball playing, tug-of-war, etc., in connection with the P. F. Collier's incentive program on September 13, 1984 between the hours of 7:00 a.m. - 1:00 p.m.

ACTION

Mr. Ing moved to approve the foregoing Hilton Hawaiian Village right of entry request subject to the terms and conditions listed in the submittal. Motion carried unanimously with a second by Mr. Kealoha.

Mr. Ono asked Mr. Detor to notify our Enforcement office to see that the beach is not only cleaned up after the above activity but also restored to its original condition.

DEPARTMENT OF SOCIAL SERVICES & HOUSING REQUEST FOR APPROVAL OF RENEWAL OF LEASE COVERING SUITES 101, 203 & 204, 23 SOUTH KAMEHAMEHA HIGHWAY, WAHIAWA OAHU.

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ITEM F-13

Mr. Ing felt that the rental was rather high for the Wahiawa area. Also, the request was late and Mr. Ing asked whether the applicant had indicated a reason for being late.

Mr. Detor said no. Instructions have been sent to the various departments and things have gotten better but there are still some problems. The hold-up could be at any of four different offices.

Mr. Ono said that hereafter if a request is late it would help the board if they could get a chronological list of what transpired so they could see where the hold-up was.

ACTION

Mr. Ing moved to approve the Department's request to lease subject to the review and approval of the lease agreement by the Office of the Attorney General. Mr. Kealoha seconded and motion carried unanimously.

ITEM H-1

CDUA FOR A NONCONFORMING SINGLE FAMILY RESIDENCE AT SOUTH KONA, HAWAII (GARY BRAND).

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Referring to Condition No. 12, Mr. Ing said that he would like to see included as a part of that condition that if they do not comply with said condition then the CDUA becomes null and void. This is so it will become clear to the applicant that if they do not meet the initial deadline they will have to reapply completely. This should become a standard wording of this condition.

ACTION

Unanimously approved as submitted and as amended above. (Higashi/Kealoha)

ITEM H-2

AMENDMENT TO ADMINISTRATIVE RULES, TITLE 13, CHAPTER 2, AND CDUA FOR ESTABLISHMENT OF MILOLII VILLAGE SPECIAL SUBZONE, SUBZONE BOUNDARY AMENDMENT AND SUBDIVISION FOR RESIDENTIAL PURPOSES AT MILOLII-HOOPULOA, HAWAII.

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(See Page 6 for Action)

ITEM H-3

CDUA FOR A SINGLE FAMILY RESIDENCE AND UTILITY IMPROVEMENT USE AT AHUIMANU, OAHU (GRAY, HONG & ASSOCIATES, INC. FOR BRIAN R. COOK).

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The purpose of the proposed project is to provide a graded area for a single-family residential dwelling and to provide water and sewer services.

Mr. Ono asked if the applicant had had a chance to review the conditions.

Mr. Hong said that he did review the application and conditions with the owner and he was agreeable with all the conditions listed.

ACTION

Mr. Ing moved to approve this application for a single family residence and utility improvement use on TMK: 4-7-51:4 at Ahuimanu, Oahu, subject to the terms and conditions listed in the submittal. Mr. Kealoha seconded and motion carried unanimously.

ITEM H-4

TEMPORARY VARIANCE FOR DRILLING TEST BORINGS IN KAHULUI HARBOR, MAUI.

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Mr. Ono said that he does not understand Condition No. 7, which calls for a temporary variance for one-year starting October 1, 1984 and ending September 30, 1985.

Mr. Soh was not sure, but he thought it was part of the meaning of Temporary Variance.

Mr. Evans said that the maximum time allowed for a temporary variance under the law is one year.

Mr. Ono then asked what would happen with the remainder of the 30-month right-of-entry.

Mr. Evans said that although they did make a proposal for a long period of time, after staff explained to them that the maximum time for a Temporary Variance was one-year, they did indicate that they would have the job done within that time.

Mr. Ono thought that we should tighten up on the 30-month right-of-entry period. It didn't seem to make much sense to approve a 30-month right-of-entry and then on the tail end you say that this is only good for twelve months.

In order to make staff's Recommendation A and Recommendation B.7 consistent, Recommendation A was amended for a 12-month right-of-entry instead of a 30-month right-of-entry.

ACTION

Mr. Kealoha moved to approve this request for a 30-month right-of-entry starting on October 1, 1984 and ending on September 30, 1985, for a survey and exploration on TMK: 3-7-01:22 & 23 in Kahului Harbor, Maui and also to approve this request for drilling test borings on TMK: 3-7-01:22 in the Kahului Harbor, Maui, subject to the terms and conditions listed in the submittal.

ITEM H-5

CDUA FOR A SUBDIVISION OF STATE-OWNED SUBMERGED LAND TO ESTABLISH A HARBOR USE IN HONOLULU HARBOR, OAHU (DEPARTMENT OF TRANSPORTATION).

ACTION

Mr. Ing moved for approval of this application for subdivision for State-owned submerged lands to establish a Harbor Use in Honolulu Harbor, Oahu, subject to the terms and conditions listed in the submittal. Mr. Higashi seconded and motion carried unanimously.

ITEM H-6

REQUEST FOR TIME EXTENSION FOR A PREVIOUSLY APPROVED CDUA FOR THE WAIANAE CORPORATION YARD, WAIANAE, OAHU.

ACTION

Mr. Ing moved to authorize the subject Time Extension for Conservation District Use Application OA-3/16/83-1524 with the following conditions:

1. That the extension shall be in effect as of June 9, 1984; and
2. That the extension shall be effective for a period of one (1) year.

Mr. Higashi seconded and motion carried unanimously.

ITEM H-7

CDUA FOR CONSOLIDATION AND RESUBDIVISION USE AT KUA BAY, NO. KONA, HAWAII.

(See Page 7 for Action)

ITEM H-8

REQUEST FOR PUBLIC HEARING.

ACTION

Mr. Ing moved to authorize and allow the Chairperson to schedule public hearings for the Conservation District Use Applications listed in the submittal and to prepare and forward the hearing notice to the applicant and other affected persons. Mr. Higashi seconded and motion carried unanimously.

- ITEM H-9      PERMISSION TO CONTRACT WITH THE OCEANIC INSTITUTE TO CARRY OUT A PROJECT ON THE EXAMINATION OF FACTORS INFLUENCING REPRODUCTION AND GROW-OUT OF THE MARINE SHRIMP, PENAEUS VANNAMEI.
- ACTION      Mr. Higashi moved to authorize the Chairperson to negotiate and, subject to the Governor's approval, enter into a contract with the Oceanic Institute for the subject project. Mr. Kealoha seconded and motion carried unanimously.
- ADDED  
ITEM H-10      PERMISSION TO CONTRACT WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII TO CONTINUE RESEARCH ON THE SCREENING OF FOREIGN SOURCES OF PENAEID SHRIMP FOR SPECIFIC VIRUS-FREE STOCKS.
- ACTION      Mr. Kealoha moved to authorize the Chairperson to negotiate and, subject to the Governor's approval, enter into a contract with the Research Corporation of the University of Hawaii for the subject project. Mr. Higashi seconded and motion carried unanimously.
- ADDED  
ITEM H-11      CONSULTANT SERVICES.
- ACTION      Upon motion by Mr. Higashi and a second by Mr. Kealoha, the board voted unanimously to authorize the Chairperson to negotiate and hire the consultants necessary to undertake the following projects:
1. Evaluation of reorganization proposals;
  2. Development of guidelines for incentive and service awards;
  3. Development of land exchange proposal for agricultural park in Kamuela, Hawaii; and
  4. Compiling of essential data toward resolving obstacles in increasing sales of Hawaiian billfish products to local and mainland markets.
- ITEM J-1      LEASE, HONOLULU INTERNATIONAL AIRPORT, OAHU (PAN AMERICAN WORLD AIRWAYS, INC.)
- ACTION      Unanimously approved as submitted. (Ing/Higashi)
- ITEM J-2      ISSUANCE OF A DIRECT LEASE, HARBORS DIVISION 476 SQ. FT. OF OFFICE SPACE AND 3,632 SQ. FT. OF WAREHOUSE SPACE IN THE PORT ALLEN PIER SHED, PORT ALLEN, KAUAI (U. S. NAVY).
- ITEM J-3      ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, 12,079 SQ. FT. OF WAREHOUSE SPACE, PORT ALLEN, KAUAI (U. S. NAVY).
- ACTION      Mr. Ing moved for approval of both Items J-2 and J-3 as submitted. Motion carried unanimously with a second by Mr. Kealoha.
- ITEM J-4      ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, 2,679 SQ. FT. OF WAREHOUSE SPACE, PORT ALLEN PIER SHED, PORT ALLEN, KAUAI (U. S. NAVY).
- ACTION      Unanimously approved as submitted. (Ing/Higashi)
- ITEM J-5      CONSTRUCTION RIGHT-OF-ENTRY, KAHULUI HARBOR, MAUI (CHEVRON U.S.A. INC.).
- ACTION      Unanimously approved as submitted. (Higashi/Kealoha)



ITEM J-6

ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEWALO BASIN, HONOLULU, OAHU (SPENCECLIFF CORPORATION, DBA FISHERMAN'S WHARF).

Mr. Garcia asked that corrections be made to the "Rental" as follows:

\$41,597.00 per month or percentage rental,  
8% of gross receipts less than \$250,000.00 (instead of \$25,000) per month; plus  
9% of gross receipts between \$250,000.00 (instead of \$25,000) to \$416,670.00 (instead of \$41,667.00) per month; plus  
10% of gross receipts of \$416,670.00 (instead of \$41,667.00) and over, whichever is greater.

ACTION

Mr. Ing moved for approval as submitted and as amended above. Motion carried unanimously with a second by Mr. Kealoha.

ITEM J-7

ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, MAALAEA SMALL BOAT HARBOR, MAUI (WILLIAM D. TABER).

ACTION

Unanimously approved as submitted. (Higashi/Kealoha)

ITEM J-8

ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 31A SHED, HONOLULU HARBOR, OAHU (KAUKINI DISTRIBUTORS, CORP.).

ACTION

Unanimously approved as submitted. (Ing/Kealoha)

ITEM J-9

ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NAWILIWILI HARBOR, KAUAI (AMERICAN WELDING, INC.).

ACTION

Unanimously approved as submitted. (Ing/Kealoha)

ITEM J-10

ISSUANCE OF REVOCABLE PERMITS, HARBORS DIVISION, NAWILIWILI HARBOR, KAUAI (JAMES L. K. TOM, INC.).

ACTION

Unanimously approved as submitted. (Higashi/Kealoha)

ITEM J-11

CONTINUANCE OF REVOCABLE PERMITS, HARBORS DIVISION.

ACTION

Upon motion by Mr. Kealoha and a second by Mr. Higashi, the board voted unanimously to approve all those permits listed in the submittal except the following which were listed on Pages 5 and 6 of 11 pages.

<u>Permit No.</u>	<u>Permittee</u>
H-80-837	Windjammer Cruises, Inc., Oahu
H-77-642	Young Brothers, Ltd., Oahu
H-79-777	Lihue Plantation Co., Ltd., Kauai
H-222	Young Brothers, Ltd., Maui
H-82-1001	Young Brothers, Ltd., Maui
H-82-1004	Young Brothers, Ltd., Hawaii

ITEM J-12

CONSTRUCTION OF RIGHT-OF-ENTRY, HARBORS DIVISION, PIER 34, HONOLULU HARBOR, OAHU (PACIFIC RESOURCES TERMINALS, INC. (PRTI)).

(See Page 2 for Action)

ITEM J-13

ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIERS 1, 2, 9, 10, 19, 32, 33, 40 and 51, HONOLULU HARBOR, OAHU (HAWAII STEVEDORES, INC.).

ITEM J-14

ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KALIHI-KAI, HONOLULU, OAHU (HAWAII STEVEDORES, INC.).

Mr. Garcia said that the reason for the submittal of Items J-13 and J-14 is that Castle & Cooke Terminals is out of the stevedoring business and

Hawaii Stevedores, Inc. has taken over. This is a group of employees from Castle & Cooke who have taken over the operations and the areas that were formerly with Castle & Cooke Terminals.

Mr. Ono felt that in the future it should be noted somewhere in the submittal when a particular permit has been cancelled and a new permit reissued. Otherwise, the board will have no way of knowing whether they are approving two permits with overlapping periods.

ACTION

Mr. Higashi moved for approval of Item Nos. J-13 and J-14 as submitted. Mr. Kealoha seconded and motion carried unanimously.

ITEM J-15

RIGHT-OF-ENTRY, LIHUE AIRPORT, KAUAI (CITIZENS UTILITIES CO.)

ACTION

Mr. Higashi moved to approve the right-of-entry for the installation of electrical poles and anchors. Mr. Kealoha seconded and motion carried unanimously.

RESOLUTIONS:

In appreciation for their many years of dedicated service to the State of Hawaii, the board at this meeting adopted resolutions honoring the following employees:

- . Mrs. Harriet Kikuchi - Division of State Parks
- . Mr. George O. Buta - Division of State Parks
- . Mr. Hiroshi Takenaka - Division of Conservation and Resources Enforcement
- . Mr. William R. Carreira, Jr., Division of Conservation and Resources Enforcement

ADJOURNMENT: The meeting adjourned at 12:10 P.M.

Respectfully submitted,



Mrs. LaVerne Tirrell  
Secretary

APPROVED:



SUSUMU ONO  
Chairperson

lt