

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

DATE: January 25, 1985
TIME: 9:00 A.M.
PLACE: State Building
Conference Room, Second Floor
3060 Eiwa Street
Lihue, kauai

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

Absent & Excused

Mr. Thomas Yagi

STAFF

Mr. Libert Landgraf
Mr. Ralston Nagata
Mr. James Detor
Mr. Sam Lee
Mr. Gordon Soh
Mrs. LaVerne Tirrell

OTHERS

Mr. Johnson Wong, Deputy Atty. Gen.
Mr. Peter Garcia, DOT
Mr. Sanford Achi (Item E-2)
Mr. David Liberman (Item E-3)
Messrs. Hee, Sakai & Hoddick (Item F-10)
Mr. Mark Collins (Item H-2)

MINUTES:

Mr. Ing moved for approval of the November 16, 1984 minutes as circulated. Mr. Kealoha seconded, motion carried unanimously.

ADDED
ITEMS

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

Division of Water & Land Development

Item D-1 -- Filling of General Laborer I Position, Waimanalo Irrigation System, Oahu.

Item D-2 -- Authorize the Chairperson to Execute an Agreement for the South Kohala Water Supply Feasibility Study, Hawaii.

Division of State Parks

Item E-4 -- Filling of a Part-Time Project Coordinator Position for the Kahana Valley Advisory Board, Oahu.

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

ITEM E-2

SPECIAL USE PERMIT FOR KAUAI COASTERS, INC. USE OF KOKEE PARK, KAUAI.

Mr. Nagata stated that the Kauai Coasters, Inc. were requesting permission to operate a supervised bicycle touring business which would use the paved park road to travel downward beginning at Kokee Lodge through Kokee and Waimea Canyon State Parks.

Mr. Nagata reported that the Department's Planning Office had advised the applicant that no CDUA would be required provided the operations were restricted to the public roads. State Park's, however, believed that bicycle tours on the main park road would be allowed only through a Special Use Permit as it will initiate a potentially dangerous and regular mix of motor vehicle and bicycle use.

Mr. Nagata explained that a similar tour is in operation in Haleakala National Park on Maui. The National Park Service staff at Haleakala have indicated that six tour companies now provide this service resulting in about a dozen tours of 10-12 bikers daily down Haleakala. Although spills resulting in minor abrasions have occurred, no major accidents have resulted in the approximately one year of such service. However, they have received a number of complaints regarding traffic slow downs because of this activity.

Mr. Higashi asked if the proposal was for four groups of ten people per day.

Mr. Nagata understood that this request would start with a single group per day and, as the demand builds up, they would expand for more tours. However, he felt that if such activity were allowed the Board would find itself in a position to allow other such requests. Over the last few months, staff has received three additional requests for similar activities.

Mr. Zalopany opposed this activity for the reason that the roads at Kokee are very narrow and dangerous.

Mr. Ono informed the audience that this was a regular meeting of the board and not a public hearing so the board would probably not be able to accommodate all of those persons wishing to testify. However, the board has, as a practice, allowed the applicant to come up and summarize their position and also present new and/or correct previous information that may not have been correct. This is the extent that the board would allow the applicant, or a representative of the applicant, to participate. For the record, Mr. Ono also mentioned that he was in receipt of a letter from Mayor Kunimura supporting the request for a Special Use Permit.

Mr. Achi said that on November 7, 1984, his attorney received a letter from Mr. Gordon Soh of DLNR advising them that no permit was necessary if Kauai Coasters sticks to the public roads. Subsequently, upon being given the green light, they went out and invested \$9,000.00 on new equipment.

Mr. Achi stated that on December 4, 1984 they were informed by Mr. Nagata that they needed to have a Special Use Permit which they are now applying for.

Mr. Achi asked that they be given at least a year to start this thing and if they do it well and the roads need to be fixed then they can fix it. If they don't do this, the road will never be fixed.

ACTION

Mr. Kealoha moved to deny the Kauai Coasters, Inc.'s request to operate a supervised bicycle touring business that would use the paved park road at Kokee and Waimea Canyon State Parks as it will initiate a potentially dangerous, hazardous, regular mix of motor vehicle and bicycle use.

Mr. Zalopany seconded, motion carried unanimously.

RESUBMITTAL - STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF RECREATION-RESIDENCE LEASES COVERING LOTS AT KOKEE AND PUU KA PELE, WAIMEA, KAUAI.

Because of a conflict situation, Mr. Zalopany asked to be excused from participating in this particular item.

Mr. Detor said that discussions were held, and the board had reviewed this item so he would not go into detail but would answer questions as they arise. He said that four communications were received before the submittal was written up so they are not reflected in the submittal.

Correspondence from the law firm of Kelso and Battista on behalf of Mr. Timothy Cole Porter asked that this particular lot be offered for lease along with the others and not be withheld.

The second correspondence from the law firm of Hoddick, Reinwald, O'Connor & Marrack, on behalf of Mr. Carlo Panfiglio, requested that there be a provision in the new lease offering that the successful bidder, if he be other than the current lessee, be required to purchase the improvements from the former lessee.

Communication from a non-profit organization called Ka'imi Na'Auao O Hawaii Nei deals with a lease to Ritchie and Mary Gentry and they have indicated that they want to donate their Kokee Cabin to this organization and are requesting that this be withdrawn from the sale and then leased directly to this non-profit organization.

The last communication was from the Kokee Leaseholder's Association raising a number of points in respect to this morning's submittal. Needless to say, Mr. Detor said that they do differ with some of the recommendations. Principally, with the Attorney General's opinion to the effect that we cannot directly negotiate leases with the present lessees.

Mr. Detor said that we are talking about 120 residential leases covering lots at Kokee and Puu Ka Pele all of which will expire on December 31, 1985. The proposal is to offer 111 of the lots -- withholding some 10 lots for other purposes. Four of the ones being withheld will be leased directly to eleemosynary or non-profit organizations and the other six will be withheld for State Park purposes.

One of the things being recommended, explained Mr. Detor, is that well before the expiration of the current leases that the auction take place so that the people presently holding the leases will know ahead of time. Hopefully, the auction can be conducted in June 1985 -- July at the latest.

Mr. Detor pointed out that the present leases have a provision with respect to the improvements. The improvements belong to the lessee in all cases but two. Those two leases say that the improvements revert to the State. The condition in the lease says that they have a period of ninety days after expiration of the lease to remove the improvements. If they are not removed the State then has the option of having them removed at the lessee's expense, or taking ownership. That would take them up to the end of March, 1986.

Mr. Kealoha asked whether there was any communication between the Land Management Division and the present lessees within the last six months with respect to the disposition of the lease.

Mr. Detor said that the Board itself met informally with the lessees some months ago on Kauai. Staff then met with representatives of the community association at a later date so there has been communication, even though both views have not been reconciled.

Regarding the six lots being reserved for the Division of State Parks, Mr. Kealoha asked for what purpose would they be used.

Mr. Nagata said that two of the leases are within the natural forest area and they would like to have the leases removed from that area. The other three are along the Waimea Canyon Rim Road and are in the general area being partially developed for picnicking, so staff would like to expand that area for picnicking and lookout purposes.

Mr. Kealoha asked whether the area would be used for the general public, to attract tourists or exclusively for certain groups e.g. boy scouts.

Mr. Nagata said that they had not intended to discriminate against any one group. The purpose would be for the general public.

Mr. Kealoha asked whether a permit would be required to use any one of those lots.

Mr. Nagata said that if there are more than 25 people in a single group, a permit would be required.

Mr. Ono said that there would be one spokesperson for the Leaseholders and, as he understood it, Mr. Hee would be speaking for everyone.

A Mr. Wayne Sakai said that rather than placing a written submission on the record he flew from Honolulu to Kauai this morning so he asked that he also be given the opportunity to speak.

Mr. Ono asked who he would be representing.

Mr. Sakai said that he would be representing himself and a Mrs. S. Nakamura of Honolulu.

Mr. Howard Hoddick, representing Mr. and Mrs. Panfiglio, asked also to speak.

Mr. Hee said that while he is representing the Kokee Leaseholder's Association, he could not represent each leaseholder on an individual basis. He explained that the Association has been working with DLNR for sometime to try and come to some agreement. However, they have not been successful so far.

Essentially, Mr. Hee said that they disagree with the Attorney General's opinion. They still feel that direct negotiation is feasible.

Mr. Hee presented, on behalf of the Association, the following comments and proposed changes to our January 25, 1985 submittal:

1. Remarks: Page 3, third and fourth paragraphs:

The description of the surrender clause of current leases is misleading. The surrender clause of the current leases does not require that the lessee elect to remove his/her improvements prior to December 31, 1985. It simply states that improvements owned by the lessee must be removed within 90 days after the termination of the lease (December 31, 1985) or within such additional time as allowed by the lessor. Any improvements remaining after the 90 days or such additional time allowed by lessor becomes the property of the lessor providing that the lessor may remove such improvements at the cost of the lessee.

2. Remarks: Page 5, First Paragraph:

This states that Lots 8, 26 and 27 of the Puu Ka Pele Park Lots will be withheld from leasing in order that lots 26 and 27 may be made into a public picnic area. We do not feel that these lots necessarily detract

from the scenic value of Waimea Canyon nor do we feel that entrances to these lots cause traffic problems. The need for additional picnic facilities in that location is not well studied, we therefore recommend that lots 8, 26 and 27 be again offered for lease.

4. Attention was called to the fact that there are several vacant lots in both the Kokee and the Puu Ka Pele areas and they recommended that some of these lots be offered for lease.
5. Recommendation: Pages 6 and 7, C.2., First Paragraph, line 11:

Current construction costs, combined with the remote location of the Kokee lots, necessitate that new construction values be higher to ensure the new structures will be consistent with the Kokee atmosphere. We therefore recommend the value of \$20,000 be changed to \$40,000.

6. Recommendation: Page 8, C.9. Assignments:

We propose that this be amended to be consistent with Section 171-36(5) Hawaii Revised Statutes as follows:

9. Assignments: The lessee shall not transfer or assign this lease or any interest therein except by way of devise, bequest, or intestate succession; provided, that with the written approval of the Board of Land and Natural Resources, the assignment and transfer of a lease may be made if the lessee becomes mentally or physically disabled; or extreme economic hardship is demonstrated to the satisfaction of the Board; or it is to the corporate successor of the lessee, and for reasons other than that cited above or for security purposes, this lease may be assigned only to a member or members of the lessee's family whose relationship by blood or marriage shall be evidenced by a duly notarized affidavit, the original of which must accompany the request for transfer and/or assignment of the lease.

7. Recommendation: Page 9, C.12. Surrender:

This section does not adequately address the rights of the lessee with regard to the removal of his or her improvements. We propose that this clause be revised to read the same as that on pages 18 and 19 of the current General Lease, shown in the first two pages of Exhibit B of the January 25, 1985 resubmittal. The section shall read as follows:

12. Surrender. That the Lessee shall, at the end of said term or other sooner termination of this lease, peaceably deliver unto the Lessor possession of the demised premises, together with all boundary fences, sewers, drains, roads, bridges and trees on the same; it being understood that if the Lessee shall have faithfully observed and performed all of the terms, covenants and conditions herein including but not limited to the payment of all sums owing the Lessor, the Lessee shall have the right to remove from the demised land all other improvements thereon erected or placed by or belonging to the lessee, within ninety days after the expiration of the term or sooner termination of the lease, and the lessee shall, at Lessee's own expense, prior to the end of said term or other sooner termination thereof, or within such additional period after the expiration of said term or other sooner termination thereof as the lessor may allow, remove the same, together with all the debris therefrom and restore said premises to good order and condition satisfactory to the lessor. Such improvements remaining on the demised premises after ninety days following the expiration of the term hereof or other sooner termination thereof or after the elapse of such additional time as the Lessor may allow for their removal,

shall become the property of the Lessor; provided, however, that the lessor, at its option, may require the Lessee to remove such improvements and restore the premises as provided herein.

8. Recommendation: I.

Objection is made on this item on the basis that any change in use for the Kokee area should be brought before the public. We ask that this item not be approved.

Mr. Wayne Sakai, an attorney speaking on both his own behalf as an owner of a lot in the Puu Ka Pele area as well as on that of Mrs. S. Nakamura of Honolulu.

Mr. Sakai said that he believed that the board and the staff did not consider direct negotiations because they did not feel that it was an option. His question: "If the court rules that the board may proceed by direct negotiation or by auction, will DLNR's staff recommend direct negotiation?"

Mr. Ono said that staff did not have to answer that question.

Mr. Sakai said that his family has been in the Kokee area since 1920 and, since that time, there was no game plan for the Kokee Wilderness area.

Mr. Sakai went on to convey his concerns to the Board e.g. filing of an environmental impact statement, etc. He also felt that staff did not communicate with the lessees as to what they should or should not do.

Mr. Sakai suggested new legislation, a task force or a court determination. If the case is such that the board votes to put the new leases up for auction, Mr. Sakai said that he would be filing an appropriate lawsuit to enjoin that type of action.

Mr. Hoddick agreed with both Messrs. Hee and Sakai that the board has very broad powers under the statute and could renegotiate leases. Beyond that, the board certainly has the power to condition the terms of the leases and he felt that they could at least afford some relief to the present lessees who have residences on their particular leaseholds by requiring that the successful bidder pay for the improvements to the present lessee. He stated that this has been done by the board in the past on other leases which have been terminated and put up for auction.

Mr. Higashi asked whether Mr. Hoddick's concern was a part of today's action.

Mr. Detor said no.

With regard to Recommendation C., which authorizes public auction sale, Mr. Ing asked whether this would include the option to award leases by drawing as worded.

Mr. Detor said that the recommendation is that these leases be exposed to public auction. It is technically possible to go the drawing route rather than auction but staff's recommendation is public auction. The Association, also, although they prefer direct negotiation which is not possible, would prefer an auction rather than a drawing.

Mr. Ing asked what staff's reaction would be should the board decide to amend Recommendation C. to allow the option to consider part of the leases to be awarded by drawing.

Mr. Detor said that he wouldn't recommend it. There would be a mixed up situation trying to auction and award lots at the same time. He just didn't feel that everyone would have an equal opportunity to acquire their leases.

Following up on Mr. Ing's question, Mr. Ono said that assuming that there are no bidders on certain lots, would you consider those lots to be awarded by drawing? This way you are not discriminating against any of the current lessees.

Mr. Detor said that they really have not looked into that possibility.

ACTION

Mr. Higashi moved for approval as recommended by staff with the understanding that some of the things in the gray area that were brought up today should be looked at in drawing up the new leases. Mr. Kealoha seconded, motion carried.

Mr. Zalopany was excused from voting on this item.

Mr. Ono asked that staff consider Mr. Hoddick's recommendation to have the successful bidder, if it is not the current lessee, pay for the improvements.

Mr. Detor asked whether it was the board's desire that staff take a look at these recommendations and come back to the board.

Mr. Ono said that if that is the case then today's action would be a conditional one with final action coming after staff has had a chance to look at all of the items the Association presented, Messrs. Sakai's and Hoddick's presentation and then come back to the board with a final package, but only with regard to the items that are to be changed. He asked also that staff continue to work with the Association so that the motion that was made on the conditional basis on certain aspects can be clarified and staff can come back with the final recommendation after further consultation with the Attorney General's Office and the parties that have made specific suggestions.

RECESS: 10:15

RECONVENE: 10:20

ITEM E-3

REQUEST TO CONDUCT INTERNATIONAL SOCIETY FOR KRISHNA CONSCIOUSNESS, INC. (ISKCON) RELIGIOUS ACTIVITIES AT NUUANU PALI STATE WAYSIDE, OAHU.

Mr. Nagata said that this request would enable ISKCON members to distribute religious literature and sanctified foods, solicit contributions for their religious movement, chant the names of god, and encourage members of the public to participate in Krishna conscious activities through festivals and proselytization. These activities known as "Sankirtan" will be conducted on a daily basis between the hours of 8:00 A.M. to 5:30 P.M.

Mr. Nagata said that while he would prefer not to have the State Parks utilized on a regular basis to promote any particular religious activity, staff is recommending that this activity be allowed at the Nuuanu Pali State Wayside subject to certain conditions which are listed in the submittal.

Mr. Kealoha asked whether this group had a permit for this same type of activity at the Honolulu International Airport.

Mr. Nagata said yes. In answer to Mr. Kealoha's question he said that he also had a chance to review those rules set by the Department of Transportation, Airports Division.

Mr. Kealoha asked about their conduct at the Airport.

Mr. Nagata said that DOT said that their activity has been satisfactorily conducted but they did indicate also that there are certain areas which they feel might be misleading to the public so DLNR was cautioned on these points.

Mr. Kealoha asked whether a particular area had been designated for the applicants.

Mr. Nagata said that no area has yet been recommended but he does have an area in mind for their use. This area, however, has not yet been discussed with the applicants.

Should a request come in from another religious group, Mr. Ono asked where this group would be placed.

Mr. Nagata said that in his coordination with the Office of the Attorney General he understood that staff would be obligated to provide for another group. The problem would arise if a multitude of groups came to request the same kind of opportunity. If this were the case, then further restrictions would need to be imposed e.g. each group coming in on alternating days.

Mr. Ono asked whether the fact that there might be a limit is based on fact or law.

Mr. Nagata said that the reason there would be a limit is because of the size of the park.

Mr. Ono said that he was trying to get an assessment as to what extent we are obligated to provide State facilities to accommodate religious organizations. He is not for or against -- he just wanted an understanding of what obligations we are faced with should we have other requests.

Mr. Nagata felt that by having too much religious activity in the area, we would lose the primary focus of recreation intent.

Mr. Kealoha pointed out the condition saying that this activity be limited to one year. He asked what would happen if the activity was satisfactory after one year.

Mr. Nagata assumed that if the operation is successful then the group would be coming back for a renewal or extension of their permit. However, if their efforts are not successful they might not even stay in the area for the whole year.

Mr. Ono asked whether the fact that this activity will be taking place in a historically significant site have any bearing.

Mr. Nagata said that it may. Certain segments of the public may vehemently oppose this kind of activity at certain historical sites.

Mr. Higashi said that inasmuch as Mr. Nagata is not able to provide the Board with any maps or plans as to exactly where this group is to be situated he preferred to have this matter deferred until such maps were made available to the board. Also, maybe prior to the next meeting Mr. Nagata could visit the proposed site with the applicant as well as some of the members of the board.

Mr. Ono said that, as a rule, it was preferred not to have these types of activities take place in State Parks and thus asked Mr. Nagata to elaborate.

Mr. Nagata said that the park is there basically for the general recreational use of the public. He always felt that there was a separation between church and recreation activities. He felt also that church activities should be held on their own properties and they should not use the public parks on a regular basis.

Mr. David Lieberman, Attorney for ISKCON from Los Angeles, was hoping that the board would have some definitive action at least in general principles which could be fine tuned later on. Based upon the factual situation out at the park he felt that there is just a question of logistics and negotiation. The critical question right now is where this is to be located wherein it would not interfere with the activities at the park. However, this area must be in an area where, without difficulty, the people who are going to be out there will be able to contact people, invite them to come over and look at a display which will be set up upon a table of religious literature and religious foodstuffs. The Krishna conscious religion imposed upon its members the religious requirement that they have go out into the public in order to deliver religious literature and food. They believe that the people will be spiritually purified by eating these foods that are produced in conjunction with religious practices and sanctified according to the rituals of the religion. They will only be distributed in exchange for a donation. They will not be sold. However, Mr. Lieberman pointed out that the food will be packaged in such a way that is certified sanitary. The point is not to make money for profit. It is believed that those drinking these juices will be spiritually benefitted.

As far as a sign, Mr. Lieberman said that he would have no objections to a neutrally worded, non-prejudicial and non-inflammatory statement of fact e.g. "We do not sponsor these activities under the First Amendment. Religious organizations have the right to proselytize and carry out their activities in State property but the State of Hawaii does not endorse these activities nor is anyone obligated to make a donation if they choose not to." They would have no objection to any sign along those lines.

Mr. Lieberman said that this is an experimental thing for them. It is a program which they are trying in order to make it attractive for people to come to them and view the materials at their leisure and take off the pressure of approaching people and putting a hard-sell on them or being very aggressive. This is a new program which they hope will eliminate many problems that people have heard about in the past. That is why the location is very important. If it's a good location where people walk by a certain area and the table is located five to ten feet from that area they can come off the walkway, go over to the side and look, browse, talk without getting in the way of traffic -- that is really what they are looking for. If this doesn't work then they won't go out there. Their goal is to give out these products so if people in that area don't want it then they are going to go some place else where people would be interested.

Responding to Mr. Nagata's concern about the historical significance of the area, Mr. Lieberman said that the public property at Washington, D.C. is a classic example of this. The Lincoln Memorial, the White House, etc. all of these places are of profound historical influence and significance and yet these areas have been specifically set aside quite effectively by the National Park Service for the exercise of First Amendment activities of the type even more extensive demonstrations than we are talking about here.

Mr. Higashi asked whether the one year trial was satisfactory.

Mr. Lieberman said yes.

Mr. Higashi asked whether ISKCON had ever been assessed a rental fee.

Mr. Lieberman said no. The courts have denied this. Taxing religious organizations or non-profit organizations is something that has been historically frowned upon by the courts. However, processing fees, etc. would be acceptable.

Mr. Ono asked how they felt about the possibility of paying a parking fee.

Mr. Lieberman said that it would depend upon the amount of the fee. One alternative they might consider in this case, however, is to have their people dropped off in the area.

ACTION

Deferred. The board requested that staff work out the site specifics with the applicant and that a map, and photographs if possible, also be submitted to the board for review.

Mr. Lieberman said that he would not be able to attend the next meeting of the board. However, he felt that Mr. Narahari could make the decision as to where the display table should be.

Mr. Ono expressed his personal opinion regarding this request. He stated that he would prefer that this type of activity not take place in a park setting such as Nuuanu Pali Wayside. At the same time, however, he said that he does respect the provisions of the personnel and advice by the State attorneys.

CDUA FOR A BIRDWATCHER'S SERVICE GUIDE & TOURS AT PUU OO & PUU LAU TRAILS, KAOHE GAME MANAGEMENT AREA, SOUTH KOHALA, SOUTH HILO, HAWAII (HAWAIIAN SUNRISE EXCURSIONS).

ITEM H-2

Mr. Soh asked to amend Condition No. 11 as follows:

11. Applicant shall obtain group entry permit from the Hawaii District Office of the Division of Forestry and Wildlife; and

Mr. Higashi asked about the hold harmless clause. He felt that the liability insurance requirement should be a part of the conditions.

When asked, the applicant said that the amount of the liability insurance agreement agreed upon was \$300,000.00.

Mr. Soh suggested the following condition be added:

13. Present insurance shall be kept in force \$300,000/occurrence/individual.

Mr. Ono asked for clarification of the four tours a month. He wanted to know the maximum number of vehicles that would be used. The reason he asked was because Condition No. 5 says that the tours will be limited to four a month and than Condition No. 7 says that no more than 3 vehicles shall be permitted to enter the tour sites on any given visit. He asked whether we were talking about twelve vehicles a month.

Mr. Soh said that it is not specifically stated anywhere that each tour includes a visit to each of the two sites. He stated that what we are talking about is four tours a month x 3 vehicles = 12 vehicles.

Mr. Ono asked about the disposition portion.

Mr. Soh said that the applicant would need to get a group entry permit from the Hawaii District Office of DOFAW inasmuch as this is the current practice as far as having a visit to these areas for the purpose of bird-watching. This, however, may be the first known case of a commercial use. Up until now no charges have been made.

Mr. Ono asked whether this was also the position of the Division of Land Management -- go over State land without paying a fee.

Mr. Detor said that individually, people are free to go over these lands. However, there should be some kind of charge for commercial purposes.

Mr. Kealoha said that this was mentioned at the public hearing.

Mr. Ono asked that staff get together and work out the fee problem.

In answer to Mr. Ono's question, Mr. Collins said that he did have a chance to review the submittal and was in agreement with staff's recommendations. However, he would have problems with some of the points that were brought up at this morning's meeting.

One of these concerns is the fee. What he is proposing is the potential of taking individuals or the potential of taking small groups. In order for a fee to be reasonable, it would have to be tied to the number of people that are being taken up there. In other words, I would rather see a per head fee.

Mr. Collins stated further that at the public hearing the Chairperson had concerns about a commercial venture on lands that are in the protective subzone. He pointed out that the activities that he proposes do fit within the type of activities that are allowed in the "P" subzone, which are major hikes and recreation which are of a non-destructive nature.

Mr. Ono asked for clarification of the number of trips per month. The recommendation says four tours per month. He asked also about the number of vehicles that would be used.

Mr. Collins said that when considering the number of tours, the four tours in his request would be to be able to visit Puu Oo & Puu Laau and that would be considered one visit. Also, insofar as the number of vehicles, the way it was written in the recommendation was fine with him. There are situations where you can use a 12-passenger van and get twelve people to the site. In certain situations, however, you may not be able to use that vehicle so you may require as many as three vehicles. That is why three vehicles would be allowed on a trip or a vehicle with a maximum capacity of twelve.

Mr. Higashi felt that it should be clarified in the application that the number of people should be limited to twelve. As far as the vehicles, this could be extended to accommodate the number of people on the tour. Therefore, Condition no. 7 would be amended as follows:

7. No more than twelve (12) people shall be permitted to enter the tour sites on any given tour.

ACTION

Mr. Higashi moved for approval with the amendment of Conditions 11 and 7 and the addition of Condition 13 as shown above and also that consideration be taken for a per head fee. Mr. Kealoha seconded, motion carried unanimously.

ITEM H-4

RESUBMITTAL - CDUA FOR AN AFTER-THE-FACT CONSTRUCTION OF A 12-FOOT BY 12-FOOT TWO-STORY ADDITION TO A RECREATIONAL CABIN USE & UTILITY EASEMENT AT KOKEE, KAUAI.

ACTION

Deferred to the February 8, 1985 meeting at the request of the applicant inasmuch as his attorney could not be present at this morning's meeting.

ITEM F-13

HUI O LAKA APPLICATION TO LEASE LAND AT KOKEE & PUU KA PELE, WAIMEA, KAUAI.

Mr. Detor said that what staff is proposing here is to issue a lease to Hui O Laka for a museum at Kokee under the provisions of Section 171-43.1 which allows direct issuance of leases for educational purposes. One thing, however, not included in this particular submittal is a permit area which the organization presently holds covering one of the Kokee cottages in which the caretaker stays. Staff's initial thought was to separate it out but looking at it again, Mr. Detor said that he would now like to include this area.

Mr. Ono asked whether Mr. Detor was planning to merge both permits held by Hui O Laka.

Mr. Detor said yes. In the event a lease is issued, both the house and the museum will be together.

Mr. Ono asked who would be eligible to live in the house should the two be combined.

Mr. Detor remarked that it would be the caretaker designated by the museum.

Mr. Ono asked what kind of rental would be charged for the house.

Mr. Detor said that he understood that the museum operates on a very limited budget so he would be inclined at this point to put it together with the suggested rental.

Mr. Ono said that if there were two separate leases, then the State would have a rental of \$264.00.

Mr. Detor said that they would probably run into technical difficulties should they have a separate arrangement. He would have to check this out.

Mr. Ono asked the museum representatives whether they would have any objections to paying \$264.00 a year for both the museum and the house. He felt this to be a nominal rental for both units.

The representatives stated that they had no objections.

ACTION

Mr. Zalopany moved to authorize the direct lease of both the museum and the house covered by another permit, including appurtenant ground areas, to Hui O Laka subject to the terms and conditions listed in the submittal with the added condition that the Annual Lease Rental be changed from \$132.00 per annum to \$264.00 per annum. Mr. Higashi seconded, motion carried unanimously.

ITEM B-1

REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT WITH THE PACIFIC FISHERIES DEVELOPMENT FOUNDATION (PFD) TO CONDUCT A TOPMINNOW AND BAITFISH TEST FISHING PROJECT DURING FISCAL YEAR 1984-85.

ACTION

Unanimously approved as submitted. (Higashi/Zalopany)

ITEM C-1

TIMBER (LAND) LICENSE IN THE OLAA, WAIAKEA, AND UPPER WAIAKEA FOREST RESERVES, ISLAND OF HAWAII.

ACTION

Unanimously approved as submitted. (Higashi/Kealoha)

ITEM C-2

MASTER'S REPORT ON PUBLIC HEARING TO WITHDRAW STATE-OWNED LAND FROM THE NANAWALE FOREST RESERVE FOR COUNTY ROAD IMPROVEMENT.

ITEM F-16

COUNTY OF HAWAII REQUEST FOR CONVEYANCE OF LAND REQUIRED FOR ROAD WIDENING, NANAWALE FOREST RESERVE, KANIAHIKU, PUNA, HAWAII.

ACTION

Mr. Higashi moved to accept the Master's Report attached to Item C-2 and also to approve Item F-16 as submitted, subject to the terms and conditions listed in the submittal. Mr. Kealoha seconded, motion carried unanimously.

ITEM C-3 FILLING OF AUTOMOTIVE MECHANIC II POSITION NO. 35878 BY ROY S. K. SANTOS, HAWAII.

ITEM C-4 FILLING OF FORESTER IV POSITION NO. 11447 BY ROGER H. IMOTO, HAWAII.

ITEM C-5 FILLING OF FORESTRY WORKER II POSITION NO. 21440 BY EUSIBIO PANTOHAN, JR., HAWAII.

ACTION Mr. Higashi moved to approve Items C-3, C-4 and C-5 as submitted. Mr. Zalopany seconded, motion carried unanimously.

ADDED
ITEM D-1 FILLING OF GENERAL LABORER I POSITION, WAIMANALO IRRIGATION SYSTEM, OAHU.

ACTION Mr. Kealoha moved to approve the appointment of Mr. Lincoln K. Kaehu to fill the above position. Mr. Zalopany seconded, motion carried unanimously.

ADDED
ITEM D-2 AUTHORIZE THE CHAIRPERSON TO EXECUTE AN AGREEMENT FOR THE SOUTH KOHALA WATER SUPPLY FEASIBILITY STUDY, HAWAII.

ACTION Unanimously approved subject to the approval of the Governor and the availability of the State's share of the funding. (Higashi/Zalopany)

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

ACTION Unanimously approved subject to the availability of federal funds and matching funds of the participating recreation agency, and to authorize the Chairperson to enter into a contract with the agency which includes adjustment of cost estimates for the project. (Kealoha/Higashi)

ITEM E-2 SPECIAL USE PERMIT FOR KAUAI COASTERS, INC. USE OF KOKEE PARK, KAUAI.

(See Page 2 for Action.)

ITEM E-3 REQUEST TO CONDUCT INTERNATIONAL SOCIETY FOR KRISHNA CONSCIOUSNESS, INC. (ISKCON) RELIGIOUS ACTIVITIES AT NUUANU PALI STATE WAYSIDE, OAHU.

(See Page 10 for Action.)

ADDED
ITEM E-4 FILLING OF A PART-TIME PROJECT COORDINATOR POSITION FOR THE KAHANA VALLEY ADVISORY BOARD, OAHU.

ACTION The board unanimously approved the appointment of Mr. Bob Stauffer to fill the Kahana Valley Advisory Board Project Coordinator position, No. 22667E, for a period not to exceed one year for part-time work not to exceed an average of 20 hours per week and allow the Chairperson to upgrade the position to temporary-fulltime status as the workload may require. (Kealoha/Higashi)

Regarding the Kahana Valley Coordinator's position, Mr. Ono asked about the number of applicants that were considered and how selection was made.

Mr. Nagata said that staff had asked the Kahana Valley Advisory Committee to supply them with at least three names. They were provided with four names instead. When called by staff's secretary, all four candidates indicated interest and were interviewed. The first person interviewed said that she was no longer seeking the position. Two indicated interest but the fourth did not even show up for an interview. Both applicants staff felt were very qualified. One of them, however, he met on the mall of the State Capitol who indicated that another opportunity came up recently so said that he

wanted to withdraw his application. However, there was no official withdrawal. Mr. Nagata said that staff had to move on so could not wait to see whether this other opportunity would materialize. In talking to the applicant he seemed to indicate that if the opportunity full materialized, even if he had been appointed, he would have accepted the other position.

Mr. Ono asked whether this applicant was still wanting to be considered.

Mr. Nagata said that he wasn't sure. There was no definite indication.

ITEM F-1

DOCUMENTS FOR CONSIDERATION.

Item F-1-A

ARATA KANSAKO REQUEST FOR CONSENT TO ASSIGN G. L. NO. S-4541 TO KANSAKO FARMS, INC. BEING TMK 2-9-02:47 CONTAINING 6.793 ACRES, HAKALAU-IKI, SO. HILO, HAWAII.

Mr. Higashi moved for approval as submitted. Mr. Kealoha seconded, motion carried unanimously.

ITEM F-2

PALEKOKOI RANCH, INC. REQUEST FOR HOLDOVER TENANCY, G. L. NO. S-3886, WAIMEA, SO. KOHALA, HAWAII.

ACTION

Unanimously approved as submitted. Holdover to commence January 20, 1985, and expire January 19, 1986. (Higashi/Zalopany)

ITEM F-3

WARBIRDS SALVORS, INC. REQUEST FOR RIGHT OF ENTRY FOR REMOVAL OF PRE-WORLD WAR II AIRCRAFT, KOHALA FOREST RESERVE, HAWAII.

ACTION

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

ITEM F-4

CITY & COUNTY OF HONOLULU REQUEST FOR APPROVAL OF ISSUANCE OF FOOD CONCESSION RIGHTS, KAPIOLANI ZOO, EXECUTIVE ORDER NO. 22, WAIKIKI, HONOLULU, OAHU.

Mr. Detor asked that the title of Item F-4 be corrected to read "Kapiolani Zoo" instead of "Kapiolani Park Bandstand" as shown in the title of the submittal.

Mr. Ono asked why it was that the State could not realize some of the revenues.

Mr. Detor said that this question had come up before. An opinion from the Attorney General's Office at that time said that we could not. He was not sure of the exact reason.

Mr. Kealoha said that if there was no time problem with the City then maybe this item should be deferred.

Mr. Detor said that this would give him time to get a copy of the opinion circulated to the board.

ACTION

Deferred to the next meeting of the Board.

ITEM F-5

CORMAX CORP. REQUEST FOR CONSENT TO SUBLEASE PORTION OF G. L. NO. S-4644, KALAUAO, EWA, OAHU.

ACTION

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

<u>ITEM F-6</u>	GASCO, INC. APPLICATION FOR GAS LINE EASEMENT, ALOHA STADIUM, HALAWA, EWA, OAHU.)
ACTION	<p>The board, upon motion by Mr. Kealoha and a second by Mr. Higashi, voted unanimously to:</p> <ol style="list-style-type: none"> 1. Grant GASCO, Inc. a perpetual non-exclusive gas line easement covering the subject area under the terms and conditions listed in the submittal. 2. Grant GASCO, Inc. a construction right-of-entry to the easement area for installation of the gas line subject to the conditions listed in the submittal. 3. Authorize petition to the Land Court of Hawaii for the designation of the sewerline easement over, under and across Lot 179-A-1-B-1, Map 47, Land Court Application No. 966.
<u>ITEM F-7</u>	<u>OLAF THRONAS REQUEST FOR HOLDOVER TENANCY, G. L. NO. S-3880, WAILUA, KAUAI.</u>
ACTION	<p>The board unanimously authorized issuance of a one (1)-year holdover of General Lease No. S-3880 from January 11, 1985 through January 10, 1986, subject to any terms and conditions which the Chairperson may prescribe. (Zalopany/Higashi)</p>
<u>ITEM F-8</u>	<u>STAFF RECOMMENDATION FOR CANCELLATION OF G. L. NO. S-4498, LOT 84, PUU KA PELE PARK LOTS, WAIMEA, KAUAI.</u>
	<p>Mr. Detor said that the default period had expired on December 15, 1984. However, the applicant did come in with the policy since the submittal was written. Therefore, if the board sees fit to let them continue inasmuch as they have come in with the policy, then any technical difficulties could be satisfied if the cure period could be extended from December 15, 1984 up to January 23, 1985.</p>
	<p>In answer to Mr. Ono's question, Mr. Detor said that the board can legally do this.</p>
ACTION	<p>Unanimously approved as amended, which is to extend the cure period from December 15, 1984 up to January 23, 1985. (Zalopany/Kealoha)</p>
<u>ITEM F-9</u>	<u>CITIZENS UTILITIES CO. REQUEST FOR AMENDMENT OF PREVIOUS BOARD ACTION (6/24/83, AGENDA ITEM F-11) AUTHORIZING AWARD OF EASEMENT, KAPAA, KAUAI.</u>
ACTION	<p>Mr. Zalopany moved to amend agenda Item F-11 dated June 24, 1983, as amended, by waiving the relocation clause of said grant of easement with no changes to the remaining terms and conditions. Mr. Higashi seconded, motion carried unanimously.</p>
<u>ITEM F-10</u>	<p><u>RESUBMITTAL - STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF RECREATION-RESIDENCE LEASES COVERING LOTS AT KOKEE AND PUU KA PELE, WAIMEA, KAUAI.</u></p> <p>(See Page 7 for Action)</p>
<u>ITEM F-11</u>	<u>RESUBMITTAL - HAWAII METHODIST UNION & HAWAIIAN ASSOCIATION OF SEVENTH DAY ADVENTISTS APPLICATION TO LEASE LAND AT PUU KA PELE, WAIMEA, KAUAI.</u>
<u>ITEM F-12</u>	<u>RESUBMITTAL - HAWAII CONFERENCE OF THE UNITED CHURCH OF CHRIST APPLICATION TO LEASE LAND AT KOKEE, WAIMEA, KAUAI.</u>
	<p>Mr. Detor asked that rentals shown in Items F-11 and F-12 be changed from \$120.00 per annum to \$132.00 per annum.</p>
ACTION	<p>Items F-11 and F-12 were unanimously approved as amended. (Zalopany/Higashi)</p>

ITEM F-13	<u>HUI O LAKA APPLICATION TO LEASE LAND AT KOKEE & PUU KA PELE, WAIMEA, KAUAI.</u>
	(See Page 12 for Action)
ITEM F-14	<u>RESUBMITTAL - DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS REQUEST FOR ACQUISITION OF LEASE COVERING UNIT H-4, LAHAINA SQUARE, LAHAINA, MAUI.</u>
	Mr. Detor said that this was deferred at the last meeting inasmuch as there was a question on the rental. Staff expected someone from DLIR to answer any questions the board may have, but no one was in attendance.
ACTION	Deferred, inasmuch as there was no representative from DLIR.
ITEM F-15	<u>HAWAII HOUSING AUTHORITY REQUEST FOR CONVEYANCE OF LAND FOR LOW-MODERATE INCOME HOUSING PROJECT, KALUAAHA, MOLOKAI.</u>
ACTION	Upon motion by Mr. Higashi and a second by Mr. Zalopany, the board voted unanimously to:
	<ol style="list-style-type: none"> 1. Approve of and authorize the conveyance in fee of the subject 5.063-acre site to HHA for development of a low-moderate income housing project for a consideration of \$152,000 subject to the terms listed in the submittal. 2. Authorize cancellation of Revocable Permit No. S-4738 issued to Harold Hustace; effective date of cancellation to be determined by the Chairperson.
ITEM F-16	<u>COUNTY OF HAWAII REQUEST FOR CONVEYANCE OF LAND REQUIRED FOR ROAD WIDENING, NANAWALE FOREST RESERVE, KANIAHIKU, PUNA, HAWAII.</u>
ACTION	Unanimously approved as submitted. (Higashi/Kealoha) See also Action on Item C-2 on page 12.
ITEM H-1	<u>REQUEST FOR TIME EXTENSION ON CDUA FOR THE KAUMANA-KEAMUKU 138 KV TRANSMISSION LINE, SOUTH & NORTH HILO, HAMAKUA, SOUTH KOHALA, HAWAII.</u>
ACTION	Mr. Higashi moved to approve this request for a one-year time extension to the Board-approved commencement date of February 10, 1985 subject to the following:
	<ol style="list-style-type: none"> 1. That the new commencement date for this project is February 10, 1986 with a completion date of February 10, 1988; and 2. That the applicant comply with all of the conditions of approval imposed by the Board on February 10, 1984.
	Mr. Zalopany seconded, motion carried unanimously.
ITEM H-2	<u>CDUA FOR A BIRDWATCHER'S SERVICE GUIDE & TOURS AT PUU OO & PUU LAU TRAILS, KAOHE GAME MANAGEMENT AREA, SOUTH KOHALA, SOUTH HILO, HAWAII.</u>
	(See Page 12 for Action.)
ITEM H-3	<u>RESUBMITTAL - CDUA FOR A ROAD EASEMENT AT PUNA, HAWAII.</u>
ACTION	Unanimously approved subject to the terms and conditions listed in the submittal. (Higashi/Zalopany)
ITEM H-4	<u>RESUBMITTAL - CDUA FOR AN AFTER-THE-FACT CONSTRUCTION OF A 12-FOOT BY 12-FOOT TWO-STORY ADDITION TO A RECREATIONAL CABIN USE & UTILITY EASEMENT AT KOKEE, KAUAI.</u>
	(See Page 11 for Action)

REQUEST FOR PUBLIC HEARING FOR RULES TO DESIGNATE HEARING OFFICERS AND AMENDMENT TO SECTION 13-1-31(D), ADMINISTRATIVE RULES, AND UPDATE CONSERVATION DISTRICT SUBZONE MAPS TO REFLECT LAND USE COMMISSION BOUNDARY AMENDMENTS SINCE JUNE, 1978.

ITEM H-5

ACTION Unanimously approved as submitted. (Higashi/Zalopany)

ITEM J-1

APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 3908, ETC., AIRPORTS DIVISION.

ACTION Unanimously approved as submitted. (Higashi/Kealoha)

ITEM J-2

RESUBMITTAL - REVOCABLE PERMIT NO. 3924, AIRPORTS DIVISION, KAHULUI AIRPORT, MAUI (ALOHA AIRLINES, INC.).

ACTION Unanimously approved as submitted. (Higashi/Kealoha)

ITEM J-3

RENEWAL OF REVOCABLE PERMITS 3819, ETC., CONFORMING USE, AIRPORTS DIVISION.

ACTION Unanimously approved as submitted. (Kealoha/Zalopany)

ITEM J-4

ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEWALO BASIN, HONOLULU, OAHU (CATHERINE S. ENTERPRISES, LTD.).

ACTION Unanimously approved as submitted. (Kealoha/Higashi)

ITEM J-5

CONTINUANCE OF REVOCABLE PERMITS H-84-1136, ETC., HARBORS DIVISION.

ACTION Unanimously approved as submitted. (Kealoha/Zalopany)

ITEM J-6

APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT 2963, AIRPORTS DIVISION, HONOLULU INTERNATIONAL AIRPORT, OAHU (G. D. FAIRHURST).

ACTION Unanimously approved as submitted. (Kealoha/Higashi)

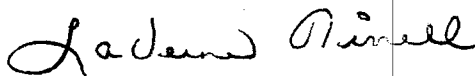
ITEM J-7

LEASE, KAHULUI AIRPORT, MAUI (FAA).

ACTION Unanimously approved as submitted.

ADJOURNMENT: There being no further business, the meeting was adjourned at 12:15 p.m.

Respectfully submitted,



Mrs. LaVerne Tirrell
Secretary

APPROVED:



SUSUMU ONO
Chairperson

lt