

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

DATE: April 12, 1985
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 present:

MEMBERS

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

STAFF

Mr. Libert Landgraf
Mr. Manabu Tagomori
Mr. Ralston Nagata
Mr. James Detor
Mr. Gordon Soh
Mrs. Jane Yamamoto
Mrs. Anne Furuuchi
Mr. Maurice Matsuzaki
Mr. Kevin Kong
Mrs. LaVerne Tirrell

OTHERS

Mr. Bill Tam, Deputy A.G.
Mr. Peter Garcia, DOT
Mr. Charles Reppun (Item F-1-E)
Mr. Brian Tam (Item F-11)
Mr. Maurice Stanton (Item F-14)
Mr. and Mrs. Bonham and
Mr. Lloyd Tsuroda (Item H-2)
Mr. Hugh Ono (Item H-3)
Mr. Charles Ane (Item H-4)
Mr. Lee Dunlap (Item E-3)
Mr. Hiram Fong (Item H-7)
C. Brewer Representative (Item H-11)

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:

Item C-2 -- Filling of Position No. 12075, Wildlife Management Assistant V, Island of Hawaii.

Item D-3 -- Filling of Secretary III, Position No. 9680, Division of Water & Land Development, Oahu.

Item E-10 -- Filling of Park Caretaker III, Position No. 27055, Waimanalo Bay State Recreation Area, Oahu Park Section.

Item H-13 -- Filling of Position No. 15705, Account Clerk III, Administrative Services Office, Oahu.

ITEM F-1-E

HUI ULU MEA AI APPLICATION FOR REVOCABLE PERMIT COVERING LAND AT WAIHEE, KOOLAUPOKO, OAHU.

Mr. Detor said that the applicant, a registered non-profit organization, is requesting to use land at Waihee, being TMK 4-7-12:11 for the purpose of providing community gardening opportunities for the Kahaluu Senior Citizens Club. For the past five years the club has been utilizing a nearby private property for growing of their vegetables; however, because they have been asked to vacate said property, they would like to utilize the above State parcel to continue their gardening activity.

ACTION

Unanimously approved as submitted. (Ing/Yagi)

ITEM F-4

RESUBMITTAL - JOSEPH WHITHERS, ET AL, APPLICATION FOR ROAD AND UTILITY EASEMENT, WAIAKEA HOMESTEADS, 3RD SERIES, WAIAKEA, SO. HILO, HAWAII.

Mr. Detor said that this item had been deferred several times. The reason for the deferments was because of the apprehension that the development of a subdivision to which this easement would be a part of may cause some flooding problems of lands that are below the subdivision.

In connection with the above, the developers have agreed to enter into an Indemnity and Hold Harmless Agreement with respect to the problem of possible liability.

In answer to Mr. Ing's question, Mr. Detor said that the Agreement was sent to the Attorney General's Office for review.

Mr. Higashi said that this Agreement was submitted to Johnson Wong at the last meeting in Hilo and the applicants have had communication with the Attorney and the Agreement was acceptable to both parties. However, since there is no dollar amount in the agreement, Mr. Higashi asked that Condition No. 4 be amended to include a dollar amount that is acceptable to the Chairman.

Mr. Ing asked whether this clause would also be added to the easement document.

Mr. Detor was not sure. He felt that the Attorneys would have to work this out.

Mr. Higashi felt that staff should insist that the easement document be tied in to the sale of each lot in the subdivision. The intent was to make sure that the landowner, within his deed, have restrictions on the grading, etc.

ACTION

Mr. Higashi moved for approval subject to the conditions listed in the submittal and that Condition No. 4 be amended to include a dollar amount that is acceptable to the Chairperson. Mr. Kealoha seconded, motion carried unanimously.

ITEM F-11

RESUBMITTAL - STAFF RECOMMENDATION FOR CANCELLATION OF REVOCABLE PERMIT NO. S-4943, PUPUKEA, KOOLAUPOKO, OAHU.

Mr. Detor explained that the Board had deferred action on this item at the last meeting pending inspection of the property by members of the board. The board, along with staff, did inspect said property.

Mr. Detor said that this item is listed again today. However, Mr. Quintal has wrote and requested a deferment inasmuch as he will be on the mainland.

Mr. Brian Tam said that he was asked by Mr. Quintal to request deferral of this item until the next board meeting.

Mr. Ono informed Mr. Tam that the next board meeting will be on the island of Kauai.

Mr. Tam said that inasmuch as Mr. Quintal is requesting this deferment, he will fly to Kauai for the next meeting.

ACTION

Mr. Ing moved to defer this item to the next meeting of the Board. Motion carried unanimously with a second by Mr. Kealoha.

ITEM F-14

MAURICE STANTON REQUEST FOR ADJUSTMENT OF LEASE RENT, G. L. NO. S-4127, LOT 20, SHAFTER FLATS, HONOLULU, OAHU.

Mr. Detor explained that Mr. Stanton was a former sublessee of the property. At the time that he acquired the sublease, the rental for the lease was \$9,500 a year. Based on the rental charged to Mr. Stanton as sublessee, the lease rent was raised to \$17,000.00, which is the level that it is at today.

Mr. Ing said that as he understood it, the lease rent was \$9,000. As a result of the sublease the lease rent went up to \$17,000.00. Mr. Ing asked whether Mr. Stanton was subleasing the entire parcel.

Mr. Detor said yes. Since that time he has, by transfer, acquired the lease. He is requesting that the lease go back down to the \$9,000.00 level. Staff, however, rejected the request on the basis that the lease says that when you readjust rental that it can be the previous rental rate or the new rate as long as its higher. It cannot go lower. That applies to a regular reopening. Mr. Detor said that there was a question however as to whether this type of arrangement -- where you sublease and then you become the lessee -- you can go back.

Mr. Detor said that they are in receipt of an opinion from the Attorney General's office which does not bear directly on Mr. Stanton's case but it is the same kind of arrangement. The opinion concludes that this is an administrative decision and is really up to the board.

Mr. Ing asked whether the Board was limited to deciding on the \$9,500 or \$17,000 amount, or could this amount be readjusted.

Mr. Detor said that the opinion did not go into that. Reading very briefly from the opinion, Mr. Detor said that it says, "there exists two opposing view points as to whether lease rents should be subsequently revised upon the loss of a sublease. Both views can be legally justified. First one is to lower the lease to its original tenure as the profit motive behind the sublease has been eliminated. The second one entails the retention of a higher lease rent for the duration of the period. The rationale being that since the lessee is in the business of subleasing the land for profit it should be burdened with the responsibility of finding another tenant."

Should the rental be revised, Mr. Ing asked when would it then become effective.

Mr. Detor said that, unless specified otherwise by the board, it would go back to the date of the Assignment.

Mr. Stanton said that when he subleased the total property in 1978 from Sandwich Profit Taker, "Tropic Isle", they paid the rent. His sublease rent was \$6,300.00 a month.

Mr. Stanton said that he has been in business on the subject site since 1978 and have employed six local people. However, the increased land cost is now coming home to them which has never happened since 1978 and it is a terrible, hard burden. He pays \$1478.00 a month for bond and land lease costs. This was never ever charged to them before. They needed to acquire the building because they were told that when their lease was up that it would not be renewed so they were faced with either buying it or go out of business in 1987. So to perpetuate the business they acquired the building and asked for a transfer of the land lease.

In answer to Mr. Ing's question, Mr. Stanton said that his payment for the building is \$5500.00.

Mr. Ono asked Mr. Stanton if he was aware of the fact that the regular reopening will be coming up soon.

Mr. Stanton said that he was aware of this and was hoping that they could move into the new field of business files storage which would increase the capacity of the return on their operation. He said that right now it's a gamble whether they should shut down or not or can they turn the direction slightly to improve the business, which has not happened up to this moment. Mr. Stanton said that he takes no income out of this business -- there isn't any to take out of. He felt that any relief that the board can offer would be a help.

Mr. Detor said that staff has recommended that the rental remain at \$17,000 a month unless Mr. Stanton can show why it should be lessened.

Looking at the payments made before purchase of the lease and looking at what Mr. Stanton presently pays, Mr. Ing could not see much difference -- maybe about \$1,000.00.

Mr. Stanton admitted that was true. However, they did not have the land cost before and that makes a difference.

Mr. Detor said that an Attorney General's opinion concludes that whether the rental remains the same or goes back is an administrative matter which can be decided by the board.

ACTION

Mr. Ing moved that the annual lease rent for General Lease No. S-4127 be revised downward from \$17,000 to \$13,000. Mr. Higashi seconded, motion carried unanimously.

ITEM H-3

PETITION FOR A DECLARATORY RULING (COUNTY OF HAWAII).

Mr. Soh said that at the last meeting the County was asked to present information on the project scope. Since preparation of this submittal the County has submitted a letter stipulating that the work will be no greater than 12-feet from the existing edge of the pavement and that the work under this declaration shall be within the nine and eleven mile markers only. Also, that the equipment will be stored when not used at six specific locations which have already been cleared and that no additional clearings will be necessary. The County has also indicated that they have already reviewed Hilo Electric's environmental impact statement and that review indicates that the two mile strip involves the Resource Subzone which are in areas of low sensitivity and that portion of the area is ohia forest so work in this area will be of minimum width as possible.

Mr. Higashi asked that staff's recommendation be amended to read "12-feet from the pavement" instead of "50 feet of the center line."

Mr. Hugh Ono said that the average roadway is currently anywhere from 12 to 18-feet so the reason they chose the 12-foot width is because it is a standard working width on a bulldozer or grader blade. Mr. Ono said that in his research of the HELCO EIS for their transmission line, there is a small quarter mile section which is Protected Subzone which is within the 8.8 mile marker to the 9 mile post.

Mr. Ing asked whether it would be necessary for work to be done within the Protected Subzone.

Mr. Ono said that it would not and that he would make this a condition of the project.

ACTION

Mr. Higashi moved for approval with an amendment to staff's recommendation that the lanes not be extended beyond "12-feet from the pavement" instead of the "50 feet of the center-line" as shown in the submittal. Motion carried unanimously with a second by Mr. Kealoha.

ITEM H-7

REQUEST FOR TIME EXTENSION FOR PREVIOUSLY APPROVED APPLICATION FOR HORTICULTURAL AND BOTANICAL GARDEN FOR COMMERCIAL PURPOSES AT KAALAEA, KOOLAUPOKO, OAHU (MR. FONG).

Mr. Soh said that an extension of two years, to April 8, 1985, was granted by the Board on April 8, 1983 at the request of the father of the applicants Hiram L. Fong.

The City still has not issued building permits for the parking lot and administration building. Accordingly, Mr. Fong asks for an additional extension of two years.

Mr. Ing asked Mr. Fong what was causing the delay on the building permit.

Mr. Fong said that arrangements had to first be made to widen the road, which was a half million dollar job. Arrangements for this have been completed so they can now proceed and Mr. Fong said that they plan to proceed immediately. The City required that the road be fixed before any building permits could be issued.

ACTION

Mr. Ing moved for approval of the request for a two year extension. Mr. Yagi seconded, motion carried unanimously.

ITEM H-9

CDUA FOR THE CONSTRUCTION OF A SECOND SINGLE FAMILY RESIDENTIAL DWELLING / KALIHI, OAHU (HERBERT E. KIHOI).

Mr. Soh said that this was deferred at an earlier meeting of the board in order that additional research could be made into the status of the land involved.

Staff met with the applicant to discuss the history of the property and the applicant presented copies of old tax maps to indicate that initially there was only one 9.7 acre parcel. Subsequently there were subdivisions into three parcels of various acreages and these subdivisions occurred prior to the land being put in the conservation district. The applicant has a six-acre parcel which is one of the three parcels originally subdivided. Staff discussed two alternatives that the applicant should consider in the event this application is denied. First, the most logical approach would be for him to petition the Land Use Commission for a zoning change, which would allow him to develop his property. The second alternative would be for the applicant to request subdivision of the property for his children and he cautioned that the board's general policy tends to frown on subdivision of the conservation district except in certain situations where justified.

While staff feels that the applicant's desire to provide a house for his son and protect his property from trespassers are sincere, the long term implications of allowing this type of use to occur on conservation land will ultimately result in activities and densities similar to an urban use.

ACTION

Mr. Ing moved for approval with an amendment that Condition No. 2 be deleted. Mr. Yagi seconded, motion carried unanimously.

Mr. Ono suggested that Mr. Kihoi continue working with the DLNR staff for other alternatives.

ITEM H-11

CDUA FOR CONSOLIDATION AND RESUBDIVISION AT PAUKAA, SOUTH HILO, HAWAII (MAUNA KEA AGRIBUSINESS, INC.).

Mr. Soh said that this item was earlier denied because the board had questions regarding the reconsolidation of conservation lands.

Mr. Higashi asked what was meant by "free flowage in the stream", as mentioned in Condition No. 9. He does not remember seeing this condition before. As far as Mr. Higashi was concerned the water belongs to the State anyway.

Mr. Tam explained that the reason for the above condition was to make sure that the stream would not be blocked.

Mr. Ono was still concerned that Condition No. 9 is being added as a condition with this submittal and it never was included in the past. He felt that it might create more problems for both the applicant and the State.

Mr. Yagi said that this request is similar to the request made by Kaluakoi on the island of Molokai.

Mr. Soh said that in the case of Molokai, flat land was involved. In this case, the land is steep.

Nevertheless, Mr. Yagi said this is a subdivision within the conservation area and we have always disallowed this.

Mr. Higashi explained that this is a re-consolidation of a subdivision which is somewhat different from a straight out subdivision. In this case, it is not an approval for use but only to redesignate the boundaries. Staff's Condition No. 10 tries to address the problem of use and Mr. Higashi felt that we should be careful with that language. We should include in the deed and sales contract that this is conservation land and that no use of the conservation land or granting of any permission of use of conservation has been granted and the applicant must clearly understand that he is to come in before this board for any kind of use in the conservation land.

Mr. Higashi called to the attention of C. Brewer's representative that Condition No. 10 would clarify language that would make it clear to the buyer that there is a granting use within the conservation land and if contemplated use of conservation land is considered they must come to the Land Board for approval. He said that he would have the above included in Condition No. 10 and such language is to be included in the deed and sales contract.

ACTION

Mr. Higashi moved for approval with the following amendments:

1. Delete Condition No. 9.
2. Delete the first sentence in Condition No. 10 in its entirety.

3. Proper language, subject to the review of the Attorney General's Office, to be worked out for Condition No. 10 saying that no use of any kind in the conservation district has been granted and that just the boundaries have been redesignated. If any use is to occur, the landowner at the time will be required to apply for a Land Use Permit. It will be responsibility of the applicant to include the above in the deed covenants and the sales contract.

C. Brewer's representative asked if it is the board's intent to make this a perpetual restriction.

Mr. Higashi said that this would be handled on a case-by-case basis.

Mr. Ono said that he would like the action to show that just because the board acted the way the motion calls for, assuming the board does, that there is no guarantee that the buyer, coming in with the use application, would get favorable consideration.

Mr. Higashi asked that the language of the terms and conditions be checked by the Chairperson.

Mr. Ono asked if this was a part of the motion.

Mr. Higashi said yes.

Mr. Ono said then that this is a conditional motion subject to the Attorney General's approval.

Mr. Kealoha seconded. Motion carried.

Mr. Yagi voted no.

ITEM H-12

CDUA FOR CONSOLIDATION AND RESUBDIVISION USE AT PUUEO, SOUTH HILO, HAWAII.

ACTION

Mr. Higashi moved for approval, as amended in Item H-11 above. Mr. Kealoha seconded. Motion carried.

Mr. Yagi voted no.

ITEM E-3

REQUEST TO USE HAPUNA BEACH STATE RECREATION AREA FOR A MILITARY TRAINING EXERCISE.

Mr. Nagata said that forty members of the 5th Special Forces Battalion 19th SF Group of the Colorado National Guard will be on Hawaii for their annual active duty military training and will participate in the exercise at Hapuna. The exercises will be conducted from about 8:00 A.M. to 6:00 P.M. each day with a "night" training exercise to be done on one night till 9:00 P.M. Personnel will not stay at the park overnight.

Mr. Higashi asked, "why Hapuna Beach?"

Mr. Nagata said that the local military people did survey that side of the island to look for the most appropriate locations for this type of training and Hapuna Beach fit the bill. He did talk to the military and explained that this is during the summer and tried to get them to go elsewhere or possibly request alternate dates e.g. during the week.

Mr. Higashi could not understand why approval was being recommended when all other controversial uses in State Parks e.g. flying airplanes at Kona Airport, carnivals, etc. staff has recommended denial.

Mr. Ono asked what their reasons were for scheduling their exercises on a weekend.

Mr. Nagata said that they would be here only for a two week period and had a number of different kinds of training requirements and this particular exercise has to precede this training mission so they needed to utilize this particular time spot.

Mr. Nagata said that he had told them it would probably be easier for them to get approval if a weekday was requested and, in talking to them today, they did say that there is a possibility that this training could be held on a weekday. However, at the time the submittal was written they had no other alternative.

The board expressed concern about the use of one of Hawaii Island's only sandy beach which is heavily used by the local people. Mr. Ono felt that whoever planned this exercise couldn't have picked a worse time as far as impacting the users of that particular beach.

Mr. Lee Dunlap, representing U. S. Army Western Command of Fort Shafter, said that part of his position is to monitor land use of the military stationed in Hawaii. He said that one of the reasons they selected Hapuna Beach Park is because of its proximity to Kawaihae and the support element that is there and the next training area which is at Kahua Ranch. They would remain overnight either at Kawaihae or at the Ranch. That is the reason for selecting Hapuna Beach. They first looked at using Kawaihae but the problem was the shorebreak and the rocks there preclude safe training activity.

Mr. Higashi said that where they land will not necessarily always be safe.

Mr. Dunlap agreed. However, during peace time activities they do not add as much realism as they do under normal combat operations. The reason for the training is for Special Operations or Special Forces Personnel to become familiar with the type of terrain that they would expect to find in Asia. They are the reserve component element of the special operations that will augment and enhance the Pacific Reserve Forces' mission here and that is why the Colorado National Guard element is training on the island of Hawaii during this time.

Mr. Higashi suggested the military look into the use of the Kiholo Bay area, where the impact would be much less than Hapuna Beach.

Mr. Dunlap asked if this request could be deferred until they have had a chance to check out other areas.

Inasmuch as Kiholo Bay does not belong to the State, Mr. Nagata said that this item would need to be withdrawn instead of deferred.

ACTION

Withdrawn.

Mr. Ono asked that Mr. Dunlap work with the DLNR staff to make sure that this item is placed on the agenda of the next meeting of the Board.

ITEM E-2

PERMISSION TO NEGOTIATE WITH FRIENDS OF IOLANI PALACE, INC., AND EXECUTE DOCUMENT FOR A MANAGEMENT CONTRACT FOR IOLANI PALACE BARRACKS AND CORONATION HONOLULU, OAHU.

Mr. Nagata said that currently there are no funds appropriated for the contract. However, there is a request in to the Legislature for \$441,375.00 and staff is recommending that the board grant permission to negotiate a management contract with the Friends and authorize execution of the document subject to appropriation of funds, funding restrictions, and necessary approval from the Governor.

ACTION

Unanimously approved as submitted. (Ing/Kealoha)

ITEM H-2

LAND USE VIOLATION AND ENCROACHMENT ON STATE-OWNED LAND AT HAENA, KAUAI.

Mr. Soh said that the Board had approved CDUA KA-1493, filed by Mr. Donald Bonham on November 19, 1982 for a single family residential use subject to the applicant's compliance with twenty conditions.

On October 14, 1983, this Department accepted the applicant's archaeological report as required under Condition #19 of the Board approval. However, to date there has been no further correspondence from the applicant regarding compliance with the remaining nineteen conditions.

Mr. Lloyd Tsuroda, architect for the applicants, said that he had seen the conditions listed in the submittal and concurred.

Mr. Tsuroda asked whether it would be necessary for him to come back to the board for approval to move the boulders onto their property.

Mr. Ing said that their landscape plans would need to come back to the board for approval so if these boulders are shown in said plan and the board approves it then it's o.k.

Mr. Tsuroda said that the owners are here from Houston and they have gone into an agreement with the contractor so they should be starting construction soon. One of the greatest difficulties they encountered was getting the archaeological study which took almost a year to do. They have some other things which need to be done and which they are in the process of clearing up. Once that is cleared up, then they will apply for their building permits.

Mr. Higashi said that under the rules, construction should have been started within a year of approval and completed within three years. In this case, because of delays caused by the courts, this may have to be amended to extend the completion date.

Mr. Tsuroda asked if they would need to reapply.

Mr. Higashi did not think so.

ACTION

Mr. Zalopany moved for approval subject to the conditions listed in the submittal and also with an amendment that the new completion date is to be April 30, 1986. Mr. Ing seconded, motion carried unanimously.

ITEM F-3

THERMAL POWER CO. REQUEST FOR AMENDMENT OF G.M.L. R-4, KAPOHO & HALEKAMAHINA, PUNA, HAWAII.

ACTION

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

Mr. Ing was excused from voting on this matter.

ITEM E-5

SEA TREK HAWAII REQUEST FOR WAIVER OF CERTAIN CAMPING PERMIT APPLICATION REQUIREMENTS.

Mr. Doug Pendleton, in reply to Mr. Zalopany's question, said that this is a non-profit organization and they only collect fees to run the program.

Mr. Ono asked whether the proposed changes in the procedure would satisfy their end of the program.

Mr. Pendleton said yes.

ACTION

Unanimously approved as submitted. (Yagi/Ing)

ITEM H-4

PETITION FOR A DECLARATORY RULING (HECO).

HECO has asked for permission to repair a structure located in the Resource subzone of the Conservation District in the Waianae range above Makakilo.

An uncertainty exists whether removal of a deteriorating steel walkway and replacement of a deteriorating steel stairway constitutes repair. The uncertainty is exacerbated by the fact that no Conservation District permit was issued for the use when it was established in 1975.

Mr. Ing said he could not see how this could be a required or grandfathered use because at one time it was a NIKE site and it is now a microwave tower site. They did not get the lease on the land until 1975 which is after Regulation 4 came in so they should have, back in 1975, gotten a CDUA. He felt that they should come in for an after-the-fact CDUA.

Mr. Ono asked what past practices were where conservation lands existed on federally owned lands.

Deputy A.G. Bill Tam said that to his knowledge they have never had to face this issue.

Mr. Ing said that the only question right now is what was allowed prior to March, 1978 and only if our jurisdiction extended to federal lands at that time. In ruling on this matter, the board will decide the question as to whether we are going to extend from now on into the future, our jurisdiction to federal lands that are also in conservation. He asked that the matter be sent to the Attorney General's Office for an opinion. He felt that the cleanest way to handle this is to have HECO come in for a CDUA and have the whole thing covered. Otherwise, everytime they come in to expand the use then the same question will come up.

Mr. Ono told Mr. Soh that one of these days we're going to have to decide what to do with the legal question.

ACTION

Mr. Ing moved to deny staff's recommendation and suggested that HECO come in for an after-the-fact CDUA covering everything currently on the site and whatever else that might be contemplated. Mr. Yagi seconded, motion carried unanimously.

ITEM C-1

APPROVAL FOR AWARD OF CONTRACT FOR RUST REMOVAL AND PAINTING OF BUILDINGS AT THE KAUAI DLNR BASEYARD.

ACTION

Unanimously approved as submitted. (Zalopany/Yagi)

ADDED
ITEM C-2

FILLING OF POSITION NO. 12075, WILDLIFE MANAGEMENT ASSISTANT V, ISLAND OF HAWAII.

ACTION

Mr. Higashi moved to approve the appointment of Clyde Saragosa to Position No. 12075. Mr. Kealoha seconded, motion carried unanimously.

ITEM D-1

APPLICATION FOR STREAM CHANNEL ALTERATION PERMIT TO GRADE AND GRASS A PORTION OF A TRIBUTARY OF KEAAHALA STREAM, KANEOHE, KOOLAUPOKO, OAHU
TMK: 4-6-31:26, 27.

ACTION

Unanimously approved as submitted. (Yagi/Zalopany)

ITEM D-2

APPLICATION FOR STREAM CHANNEL ALTERATION PERMIT TO CLEAN AND MAINTAIN PUNALUU STREAM AND RESTORE AN ERODED STREAM BANK AT PUNALUU, KOOLAULO, OAHU
TMK: 5-2-03:01.

ACTION

Unanimously approved as submitted. (Yagi/Zalopany)

ADDED
ITEM D-3

FILLING OF SECRETARY III, POSITION NO. 9680, DIVISION OF WATER & LAND DEVELOPMENT, OAHU.

Mr. Tagomori asked that the Position No. be changed from 9680 to 9689.

ACTION

Mr. Kealoha moved to approve the appointment of Mrs. Jane Sato to Position No. 9689. Mr. Higashi seconded, motion

ITEM E-1

FILLING OF POSITION NO. 21599, GROUNDSKEEPER I, IOLANI PALACE GROUND, OAHU PARK SECTION.

ACTION

Mr. Kealoha moved to approve the appointment of Mr. Marcelino Ignacio to fill Position No. 21599. Mr. Zalopany seconded, motion carried unanimously.

ITEM E-2

PERMISSION TO NEGOTIATE WITH FRIENDS OF IOLANI PALACE, INC., AND EXECUTE DOCUMENT FOR A MANAGEMENT CONTRACT FOR IOLANI PALACE BARRACKS AND CORONATION PAVILION, HONOLULU, OAHU.

(See Page 8 for Action.)

ITEM E-3

REQUEST TO USE HAPUNA BEACH STATE RECREATION AREA FOR MILITARY TRAINING EXERCISE.

(See Page 8 for Action.)

ITEM E-4

REQUEST FOR USE OF NEW PAVILION AT OLD KONA AIRPORT STATE RECREATION AREA FOR A FUND RAISING EVENT.

The Kona Division of the Annual Muscular Dystrophy Telethon is requesting the use of the Events Pavilion at Old Kona Airport State Recreation Area, Kailua-Kona, Hawaii, over the Labor Day weekend.

Mr. Nagata said that under the interim rules governing rental and use of the Pavilion, the applicant is required to pay a refundable deposit of \$400 and a fee of \$500 in order to reserve and use the pavilion for the times specified. The applicant has made the required payment, but is requesting the Board's consideration for waiver of the fees inasmuch as they are a non-profit organization. Staff has recommended issuance of the permit, but that the request to waive the fee to use the pavilion be denied.

Mr. Ono asked whether the interim rules differentiate between non-profit type organizations in comparison to profit type organizations.

Mr. Nagata said that it did not but there was a provision for use by educational, recreational or cultural organizations.

Mr. Ono said that DOT, for use of Piers 9 and 10, do have different fee schedules for different types of organizations. They don't waive the amount but there is a differential.

ACTION

Unanimously approved as submitted. (Higashi/Kealoha)

(Motion for Item E-4 was rescinded by Mr. Higashi and new motion made. See Page 21 for new Action.)

ITEM E-5

SEA TREK HAWAII REQUEST FOR WAIVER OF CERTAIN CAMPING PERMIT APPLICATION REQUIREMENTS.

(See Page 9 for Action)

ITEM E-6

SPECIAL USE PERMIT FOR SAND ISLAND STATE RECREATION AREA, HONOLULU, OAHU.

The Exchange Club of Bishop Street has requested permission to utilize Sand Island State Recreation Area for their proposed 10 Kilometer Run on Sunday, June 23, 1985. The event is intended to raise monies for the Hawaii Child Abuse and is expected to attract 1,000 runners.

Mr. Nagata said that approval was given to this group last year for their run and, to his knowledge, no problems were reported.

Mr. Ono asked whether a police officer will be stationed at the entrance of the parking area before and after the race. If not, there may be a jam in that area.

Mr. Nagata said that an officer is supposed to be stationed at the entrance. He will make sure that they are there before and after the race.

Mr. Kealoha suggested that the promoters be required to post signs regarding the race the night before the event. Normally, experienced promoters of such races do this.

ACTION Unanimously approved as submitted. (Kealoha/Zalopany)

ITEM E-7 REVOCABLE PERMIT REQUEST BY THE WAIKIKI BEACH OPERATORS ASSOCIATION FOR CONCERT AT AINA MOANA STATE RECREATION AREA (MAGIC ISLAND) OR FORT DE RUSSY BEACH.

Mr. Nagata asked that this item be withdrawn. He understands that this event will be confined to the military lands at Fort DeRussy, so approval will come from the military.

ACTION Withdrawn.

ITEM E-8 AWARD OF CONSTRUCTION CONTRACT, JOB NO. 24-KP-22, ASPHALT CONCRETE PAVING, KOKEE STATE PARK, WAIMEA, KAUAI.

ACTION Mr. Zalopany moved to grant the Chairperson authority to negotiate a reduction in the scope of work and award the construction contract for Job No. 24-KP-22, to Hawaiian Bitumuls and Paving Company, Ltd. for a total sum not to exceed the bid submitted (\$75,066.50 for Basic and \$5,362.50 for Additive Alternative) and subject to the availability and release of funds by the Governor. Motion carried unanimously with a second by Mr. Kealoha.

ITEM E-9 AWARD OF CONSTRUCTION CONTRACT, JOB NO. 5-OP-49, ASPHALT CONCRETE PAVING, MALAEKAHANA STATE RECREATION AREA, LAIE, OAHU.

ACTION Mr. Kealoha moved to award the construction contract for Job No. 5-OP-49, to Grace Pacific for a total sum bid of \$28,198 subject to the release of funds by the Governor. Mr. Zalopany seconded, motion carried unanimously.

ADDED
ITEM E-10 FILLING OF PARK CARETAKER III, POSITION NO. 27055, WAIMANALO BAY STATE RECREATION AREA, OAHU PARK SECTION.

ACTION Mr. Kealoha moved to approve the appointment of Mr. Ernest Kala to Position No. 27055. Mr. Zalopany seconded, motion carried unanimously.

ITEM F-1 DOCUMENTS FOR CONSIDERATION.

Item F-1-a FREDERICK PACHECO APPLICATION FOR REVOCABLE PERMIT, HONOPOU-HOOLAWA, HAMAKUALOA, MAKAWAO, MAUI.

Mr. Kealoha noted that the applicants plan to utilize the subject parcel for pasture purposes. However, if they find the acreage too small for pasture use, applicants intend to grow bananas, ti leaves or other similar agricultural products on the land. As far as he was concerned, the applicants already know that the acreage is 5,000 acres, which could probably only accommodate one animal.

Mr. Ono asked why this area was not being put up for auction.

Mr. Detor requested that this item be deferred so he could look into this matter further.

<u>Item F-1-b</u>	AXEL PETERSON REQUEST FOR CONSENT TO ASSIGNMENT OF SUBAGREEMENT OF SALE, G. L. NO. S-4114 TO PATRICK HAMILTON, ET AL, SHAFTER FLATS, HONOLULU, OAHU.
<u>Item F-1-c</u>	WILLIAM K. MEDEIROS APPLICATION FOR REVOCABLE PERMIT, HANAMAULU, LIHUE, KAUAI. Deferred. Mr. Zalopany asked that staff look into the possibility of putting this area up for auction.
<u>Item F-1-d</u>	RESUBMITTAL - PLUMBING SPECIALTIES & SUPPLIES, INC. AND GEORGE OKA, INC. APPLICATION FOR REVOCABLE PERMIT, SAND ISLAND, OAHU, BEING TMK 1-5-07:75 FOR STORAGE YARD AND OFFICE PURPOSES. RENTAL: \$1,343.00 PER MO.
<u>Item F-1-e</u>	HUI ULU MEA AI APPLICATION FOR REVOCABLE PERMIT COVERING LAND AT WAIHEE, KOOLAUPOKO, OAHU. (See Page 2 for Action on Item F-1-e.)
ACTION	Mr. Kealoha moved to approve Items F-1-b and F-1-e. Motion carried unanimously with a second by Mr. Zalopany. Items F-1-A and F-1-C were deferred.
<u>ITEM F-2</u>	<u>ROBERT BEHRENS APPLICATION FOR EASEMENT, KALOKO, NO. KONA, HAWAII.</u>
ACTION	Unanimously approved as submitted. (Higashi/Zalopany)
<u>ITEM F-3</u>	<u>THERMAL POWER CO. REQUEST FOR AMENDMENT OF G.M.L. R-4, KAPOHO & HALEKAMAHINA, PUNA, HAWAII.</u> (See Page 9 for Action.)
<u>ITEM F-4</u>	<u>RESUBMITTAL - JOSEPH WHITERS, ET AL, APPLICATION FOR ROAD AND UTILITY EASEMENT, WAIAKEA HOMESTEADS, 3RD SERIES, WAIAKEA, SO. HILO, HAWAII.</u> (See Page 2 for Action.)
<u>ITEM F-5</u>	<u>HAWAII ELECTRIC LIGHT CO., INC. AND HAWAIIAN TELEPHONE CO. APPLICATION FOR EASEMENTS AT KALAPANA, PUNA, HAWAII.</u>
ACTION	Unanimously approved, subject to the conditions listed in the submittal. (Higashi/Zalopany)
<u>ITEM F-6</u>	<u>STAFF RECOMMENDATION FOR AMENDMENT (BY CORRECTION DEED) OF LOD NO. S-27402, HALEAKALA HOMESTEADS, MAKAWAO, MAUI.</u>
ACTION	Unanimously approved as submitted. (Yagi/Zalopany)
<u>ITEM F-7</u>	<u>THE LANDING AT LAHAINA APPLICATION TO PURCHASE ABANDONED TRIG STATION, PUU ALAEA, MAKAWAO, MAUI.</u>
ACTION	Unanimously approved, subject to the conditions listed in the submittal. (Yagi/Zalopany)
<u>ITEM F-8</u>	<u>STAFF RECOMMENDATION FOR BOUNDARY AND AREA REVISION TO LAND COURT APPLICATION 403, LOT D-1, MAP 3 (TCT #44,733), LAHAINA, MAUI.</u>
ACTION	Unanimously approved as submitted. (Yagi/Zalopany)

ITEM F-9

STAFF RECOMMENDATION FOR ISSUANCE OF EXECUTIVE ORDERS SETTING ASIDE LAND FOR THE PUU ALII AND OLOKUI NATURAL AREA RESERVES, MOLOKAI.

Mr. Ono said that at previous sessions there were discussions regarding the possible tunneling of the mountain side for water development purposes. He asked if there would be any problems.

Mr. Detor didn't think there would be any problem. A reservation could be included in the description of the property.

This item was deferred to the end of the calendar. Bob Lee to brief the board on same. (See Page 18 and 19.)

ITEM F-10

RESUBMITTAL - STAFF RECOMMENDATION FOR CANCELLATION OF R. P. NO. S-5424, WAIMANALO, OAHU.

Mr. Detor said that this was an item which was deferred earlier by the board. The land involved is close to the Olomana Golf Course. The permit was issued for pasture purposes but the permittee has constructed two dwellings on the property and this is not permitted under the terms of the permit.

Mr. Kealoha said that he made an on-site inspection and the applicant did say that he built the house. However, he said that this was necessary because of the many fire caused by either the military or golfers and he has had to return from time to time to remove the animals because of this. The reason he built the house is so he could have a 24-hour surveillance of his property. Mr. Kealoha said that he could understand why Mr. Noa would want to stay on the property and felt that Land Management should reconsider their recommendation. Instead of cancelling, maybe staff could fine Mr. Noa and set a new rent back to the time that the dwellings were built.

Mr. Ono said that if this was Mr. Noa's only residence then he had some concerns. Mr. Ono asked Mr. Noa how long he had been on the property.

Mr. Noa said that he has been on the property for about two years. Also, he stated that both houses were on the property when he got the permit. All he did was extend the building.

Mr. Ono asked whether the two houses were up to standard. Otherwise the State would be negligent for allowing Mr. Noa to be there.

Mr. Detor was not sure.

Mr. Ono said that, regardless of what the final decision is, assessment of some kind of fine should be made. If there is a violation, he would like to see the fine separate from the rent. However, in any case, staff would need to get more information from Mr. Noa.

ACTION

Deferred to the next Oahu meeting.

Mr. Ono asked that Mr. Noa notify Mr. Detor should the military again encroach onto his property.

ITEM F-11

RESUBMITTAL - STAFF RECOMMENDATION FOR CANCELLATION OF R. P. NO. S-4943, PUPUKEA, KOOLAUPOKO, OAHU.

(See Page 3 for Action.)

ITEM F-12	RESUBMITTAL - STAFF RECOMMENDATION FOR CANCELLATION OF R. P. NO. S-5639, KALIHI-KAI, HONOLULU, OAHU.
	Mr. Detor said that as part of the annual inspection of State lands, it was found that the permittees were using the property for parking and roadway purposes, plus sub-renting a portion of the area to a termite company and using the rest of the area as a storage yard.
	Mr. Kealoha felt that the applicants were victims of their own generosity. There is no question that a second building was put up. However, the applicant was under the impression that an application was submitted to DLNR for that space which the termite company occupied and in the interim he has not collected any money for the permit part. However, he constructed the building and the permittee was paying him back only for the building, but not for the permit area. In the meantime, the owner of the termite company died so they went into reorganization and, as time went on, the potential new owner meanwhile had applied for that portion which that termite company is occupying and who, also in the meantime, had claimed bankruptcy. So now we're back to the original guy who has been waiting all the time -- one way or the other -- to try and get his permit. Mr. Kealoha felt that the permit should be reassessed in a manner where we can find out exactly what occurred. If necessary, fine the permittee for his violation. However, Mr. Kealoha felt that it was a little too harsh to just cancel his permit.
	Mr. Ono said that if we do reconsider, if there is a violation, then we will have to fine the permittees otherwise we will never cancel the revocable permit.
ACTION	Deferred. Mr. Kealoha asked that staff get the facts and reconsider this matter. He felt that once we got the facts staff would find that this matter is much different then what it appears to be.
ITEM F-13	STAFF RECOMMENDATION FOR DELETION OF SEWER RESERVATION, HONOLULU, OAHU.
ACTION	Unanimously approved as submitted. (Kealoha/Higashi)
ITEM F-14	MAURICE STANTON REQUEST FOR ADJUSTMENT OF LEASE RENT, G. L. NO. S-4127, LOT 20, SHAFTER FLATS, HONOLULU, OAHU.
	(See Page 4 for Action.)
ITEM F-15	DEPARTMENT OF TRANSPORTATION REQUEST FOR EXECUTIVE ORDER SETTING ASIDE LAND AT WAHIAWA, OAHU.
ACTION	Unanimously approved as submitted. (Kealoha/Higashi)
ITEM F-16	DEPARTMENT OF TRANSPORTATION REQUEST FOR AUTHORIZATION TO DISPOSE OF HIGHWAY PARCELS, HONOLULU, OAHU.
ACTION	Unanimously approved as submitted. (Kealoha/Higashi)
ITEM F-17	MARIA KAKALIA APPLICATION TO PURCHASE ROAD AND UTILITY EASEMENT, WAIKALUA-WAHO, KANEOHE, OAHU.
ACTION	Unanimously approved as submitted. (Kealoha/Higashi)
ITEM F-18	W. JOHN S. TAYLOR & CO., LTD. APPLICATION FOR ACCESS AND UTILITY EASEMENTS, KAPAA, KAUAI.
ACTION	Unanimously approved as submitted. (Yagi/Kealoha)

- ITEM F-19 RESUBMITTAL - STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF A LEASE COVERING LAND AT KAPAA, KAUAI.
- ACTION Unanimously approved as submitted. (Yagi/Kealoha)
- ITEM F-20 EAST KAUAI SOIL & WATER CONSERVATION DISTRICT REQUEST FOR RIGHT OF ENTRY TO STATE LAND AT KAPAA, KAUAI.
- ACTON Unanimously approved as submitted. (Kealoha/Yagi)
- ITEM F-21 DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS FOR APPROVAL OF AMENDMENT OF LEASE COVERING OFFICE SPACE AT 180 KINOOLE STREET, HILO, HAWAII.
- ACTION Unanimously approved as submitted. (Higashi/Kealoha)
- ITEM F-22 DSSH REQUEST FOR ACQUISITION OF LEASE COVERING THE 2ND FLOOR OF THE SEABOARD BUILDING, HONOLULU, OAHU.
- ITEM F-23 DSSH REQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE AT 233 SO. VINEYARD STREET, HONOLULU, OAHU.
- ITEM F-24 GOVERNOR'S AGRICULTURAL COORDINATING COMMITTEE REQUEST FOR APPROVAL OF LEASE COVERING ROOMS 205 AND 206 OF THE LAWYERS BUILDING, HONOLULU, OAHU.
- ITEM F-25 DSSH REQUEST FOR APPROVAL OF LEASE COVERING OFFICE SPACE AT 847 MOOWAA STREET, HONOLULU, OAHU.
- ACTION Mr. Kealoha moved for approval of Items F-22, F-23, F-24 and F-25 as submitted. Mr. Yagi seconded motion, motion carried unanimously.
- ITEM F-26 OFFICE OF THE PUBLIC DEFENDER REQUEST FOR APPROVAL OF LEASE COVERING ROOMS 102 AND 103 OF THE CENTRAL BUILDING, HILO, HAWAII.
- ACTION Unanimously approved, subject to the review and approval of the lease agreement by the Office of the Attorney General. Mr. Kealoha seconded, motion carried unanimously.
- ITEM H-1 UNAUTHORIZED CONSTRUCTION OF SEAWALL WITHIN CONSERVATION DISTRICT AT KANEOHE, OAHU, TMK: 4-6-1:19.
- ACTION Mr. Soh said that he had called the applicant, Mr. Richard Gessler, and his mother said that he has been out of town for two weeks. He is a pilot with Hawaiian Airlines. Mr. Soh said that he talked to Mr. Gessler's mother and she thought it would be best if this item could be deferred until he returned. She was not sure when he would be back in town.
- Deferred.
- Mr. Ono suggested to Mr. Soh that he try to get this item back on the Agenda for the next Oahu meeting. If Mr. Gessler is unable to attend the next meeting, then he should designate someone to represent him.
- ITEM H-2 LAND USE VIOLATION AND ENCROACHMENT ON STATE-OWNED LAND AT HAENA, KAUAI.
- (See Page 9 for Action.)
- ITEM H-3 PETITION FOR A DECLARATORY RULING (COUNTY OF HAWAII).
- (See Page 5 for Action.)

- ITEM H-4 PETITION FOR A DECLARATORY RULING (HECO).
 (See Page 10 for Action.)
- ITEM H-5 CDUA FOR HELICOPTER LANDING ON BEACH AT HALAWA VALLEY, MOLOKAI (BARNETT AND JOHNSON).
 The applicants plan to be married on November 2 1985 in Halawa Valley Church. Following the ceremony, the wedding party will depart by Kenai Helicopter to Sheraton Hotel on Molokai.
 Mr. Ono asked Mr. Soh whether he would continue to ask for variance should other similar requests come in.
 Mr. Soh said he would have to reassess the matter.
 Mr. Ono asked in what way.
 Mr. Soh said that he doubts that there will be very many more similar requests.
- ACTION Mr. Yagi moved to deny staff's request for approval. Mr. Higashi seconded, motion carried unanimously.
- ITEM H-6 CDUA FOR HELICOPTER LANDING ON BEACH AT WAILAU VALLEY, MOLOKAI (JEFF HOLLAND).
 Unanimously approved, subject to review and approval of Recommendation B. by the Division of Forestry and Wildlife. (Yagi/Kealoha)
- ITEM H-7 REQUEST FOR TIME EXTENSION FOR PREVIOUSLY APPROVED APPLICATION FOR HORTICULTURAL AND BOTANICAL GARDEN FOR COMMERCIAL PURPOSES AT KAALAEA, KOOLAUPOKO, OAHU (MR. FONG).
 (See Page 5 for Action.)
- ITEM H-8 CDUA FOR DREDGING AND CONSTRUCTION OF A BOAT DOCK AND RAMP ON STATE SUBMERGED LANDS ADJACENT TO TMK: 4-4-037:021 IN KANEOHE, OAHU (PARK ENGINEERING, INC.).
 Mr. Ono asked whether the applicants had had a chance to review the submittal.
 Mr. Soh that it is standard practice to send the applicants a copy of the submittal. They did not have any feedback from the applicants.
- ACTION Unanimously approved, subject to the conditions listed in the submittal. (Yagi/Kealoha)
- ITEM H-9 CDUA FOR THE CONSTRUCTION OF A SECOND SINGLE FAMILY RESIDENTIAL DWELLING AT KALIHI, OAHU (HERBERT E. KIHOI).
 (See Page 6 for Action.)
- ITEM H-10 CDUA FOR INSTALLATION, USE, AND MAINTENANCE OF MICROWAVE AND TELEPHONE TOWERS AND SYSTEM HOUSING AT HALE POHAKU, NORTH HILO, HAMAKUA, HAWAII TMK: 3-8-01:01 AND 4-4-15:01 (DAGS).
 Unanimously approved, subject to the conditions listed in the submittal. (Higashi/Kealoha)

- ITEM H-11 CDUA FOR CONSOLIDATION AND RESUBDIVISION AT PAUKAA, SOUTH HILO, HAWAII (MAUNA KEA AGRIBUSINESS, INC.).
(See Pages 6 and 7 for Action.)
- ITEM H-12 CDUA FOR CONSOLIDATION AND RESUBDIVISION USE AT PUUEO, SOUTH HILO, HAWAII.
(See Page 7 for Action.)
- ADDED
ITEM H-13 FILLING OF POSITION NO. 15705, ACCOUNT CLERK III, ADMINISTRATIVE SERVICES OFFICE, OAHU.
- ACTION Mr. Kealoha moved to approve the appointment of Mrs. Man Yee Akiyama to Position No. 15705. Mr. Yagi seconded, motion carried unanimously.
- ITEM I-1 FILLING OF POSITION NO. 33271, CLERK TYPIST II, OAHU BRANCH.
- ACTION Mr. Yagi moved to approve the appointment of Ms. Carla Fujikura to Position No. 33271. Mr. Higashi seconded, motion carried unanimously.
- Mr. Kealoha moved to reconsider Item F-9. Mr. Higashi seconded, motion carried unanimously.
- ITEM F-9 STAFF RECOMMENDATION FOR ISSUANCE OF EXECUTIVE ORDERS SETTING ASIDE LAND FOR THE PUU ALII AND OLOKUI NATURAL AREA RESERVES, MOLOKAI.
(See also Page 4.)
- Mr. Detor said that the question came up on the possible development of water underneath the lands and how to best take care of that. The submittal itself does not refer to this.
- Mr. Ono referred this question to Mr. Bob Lee of the Natural Area Reserves Office. He said that we needed to know how to address this question and it also needed to be a part of the Board's action. The board needed clarification from Mr. Lee as to how this should be worded.
- Mr. Lee said that the proposed tunnel is 2000 feet below the surface, from valley wall to valley wall. As far as the wording, he was not sure on how to do this for the easement.
- Mr. Ono asked what he thought about us saying, "should there be any water development calling for a tunnel, the fact that we have set up this natural area reserve, it will not be affected."
- Mr. Lee asked whether the executive order also went below the ground.
- Mr. Kealoha asked what if we need to go from the top down as well as from the side? He said that he expressed his concerns at the Molokai Hearing about what happens when it is put in the natural reserve area and we have some other projects.
- Mr. Lee suggested the wording that "if for some reason the development of the tunnel has to proceed from the top that would be the easement."
- Mr. Kealoha said that he was not concerned about the easement. His concern was if for any reason we need to go below the surface line on any portion of the natural reserve -- and your remark at that time was "no problem."
- Mr. Lee said he recalled the discussion but did not recall saying that there would be problem.

Mr. Lee felt that a Special Use Permit should be issued should it be necessary to dig from the top.

Mr. Detor said that any necessary language could be included in the executive order.

Mr. Yagi moved for approval as amended. Mr. Higashi seconded, motion carried unanimously.

- ACTION
- ITEM J-1 GIFT AND APPAREL CONCESSION, NEW TERMINAL BUILDING, LIHUE AIRPORT, KAUAI.
ACTION Unanimously approved as submitted. (Yagi/Kealoha)
- ITEM J-2 FLORIST CONCESSION, NEW TERMINAL BUILDING, LIHUE AIRPORT, KAUAI.
ACTION Unanimously approved as submitted. (Yagi/Kealoha)
- ITEM J-3 RESUBMITTAL - REVOCABLE PERMIT, AIRPORTS DIVISION, LIHUE AIRPORT, KAUAI (KENAI AIR OF HAWAII, INC.).
ACTION Unanimously approved as submitted. (Higashi/Kealoha)
- ITEM J-4 RENEWAL OF REVOCABLE PERMITS 1305, ETC., CONFORMING USE, AIRPORTS DIVISION.
ACTION Unanimously approved as submitted. (Yagi/Higashi)
- ITEM J-5 SECOND AMENDMENT TO RESTATED AND AMENDED HARBOR LEASE AND SPECIAL FACILITY LEASE AGREEMENT (HARBOR LEASE NO. H-79-5), SAND ISLAND CONTAINER FACILITY, OAHU (MATSON TERMINALS, INC.).
ACTION Unanimously approved as submitted. (Yagi/Higashi)
- ITEM J-6 CONTINUANCE OF REVOCABLE PERMITS H-83-1077, ETC., HARBORS DIVISIONS.
ACTION Unanimously approved as submitted. (Higashi/Kealoha)
- ITEM J-7 CONSENT TO SUBLEASE, HONOLULU INTERNATIONAL AIRPORT, OAHU (PAN AMERICAN WORLD AIRWAYS, INC. - AIR NEW ZEALAND, LTD.).
ACTION Unanimously approved as submitted. (Higashi/Kealoha)
- ITEM J-8 ADDENDUM NO. 7 TO LEASE NO. DOT-A-78-2, HONOLULU INTERNATIONAL AIRPORT, OAHU (MARRIOTT CORP.).
ACTION Unanimously approved as submitted. (Yagi/Higashi)
- ITEM J-9 ADDENDUM NO. 2 TO LEASE NO. DOT-A-80-19 (DUTY FREE SHOPPERS, LTD.).
- ITEM J-10 MODIFICATION NO. 3 TO LEASE NO. DOT-A-80-22 (DUTY FREE SHOPPERS, LTD.).
- ITEM J-11 MODIFICATION NO. 2 TO LEASE NO. DOT-A-80-21 (DUTY FREE SHOPPERS, LTD.).

Mr. Garcia asked that Items J-9, J-10 and J-11 be considered together.

Mr. Garcia said that some time back a complaint was filed with the United States Government, Department of Transportation saying that the minority business never had a chance to bid on the contract and that the State Department of Transportation and Duty Free Shoppers violated certain sections of the minority business enterprises.

Both the State and the Federal Transportation Departments did enter into an agreement whereby the State does not agree to the allegations but they will go into an agreement that would satisfy the minority business enterprise requirement of their regulations. What will happen is that Duty Free Shoppers has agreed to enter into this arrangement also. Duty Free presently have an In-Bond concession and they also have the packaged foods and the gift and sundries at the airport. With the gift and sundries concession and the packaged foods it is located just adjacent to their In-Bond concession right now and they will give up the space under their contract and the space that they give up under that contract will be re-leased to Duty Free Shoppers. They, in turn, will consent to sublease to a minority business enterprise. As a result of their losing this space, DOT will reduce their minimum annual guarantee. However, any amount made by the minority business enterprise will figure into the total gross that is being collected by Duty Free Shoppers and of which they pay 20% to the Department of Transportation.

Mr. Higashi asked who qualified for applying as minority business.

Mr. Garcia said that there is a method for applying for certification. What will happen is that Duty Free Shoppers will recommend a minority business enterprise to the Department of Transportation for certification.

Mr. Yagi wondered whether or not the Department of Transportation would have another suit on their hands for accepting a recommendation from Duty Free Shoppers.

Mr. Garcia did not feel that they would be sued inasmuch as the U. S. Department of Transportation has agreed in principal to that concept. If there is suit, it will be the U. S. Department of Transportation that will be sued.

Mr. Garcia said Items J-10 and J-11 are the instruments by which they will give up the space and Item J-9 is the method by which they will pick up the space for the Duty Free Shop.

ACTION

Mr. Higashi moved for approval of Items J-9, J-10 and J-11 as submitted. Mr. Kealoha seconded, motion carried unanimously.

Mr. Yagi voiced reservations to Duty Free making the selection of tenants. He felt that the Department should make this selection.

ITEM J-12

APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT, AIRPORTS DIVISION, GENERAL LYMAN FIELD, HILO, HAWAII (HILO BAY AIR).

ACTION

Unanimously approved as submitted. (Higashi/Kealoha)

Mr. Higashi moved to reconsider Item E-4. Mr. Kealoha seconded, motion carried unanimously.

ITEM E-4

REQUEST FOR USE OF NEW PAVILION AT OLD KONA AIRPORT STATE RECREATION AREA FOR A FUND RAISING EVENT.

Mr. Higashi asked that Item E-4 be reconsidered by the Board. (See also Page 11.)

He proposed a new fee schedule. Where it is not addressed from the 12:00 to morning period, not charge them rental for that period. He would like to charge for 3/4 of the time, which comes to \$375.00 instead of \$500.00. He would like to amend the motion by saying that instead of \$500.00 the rental, which is not refundable, be set at \$375.00.

Mr. Kealoha asked about the deposit.

Mr. Higashi said that the deposit is refundable so they will pay that.

Mr. Ono asked whether this approach might pose a problem in the future when you talk about utility costs.

Mr. Nagata said that what Mr. Higashi is saying that the interim rules are silent for the period from 12 o'clock midnight to 8 a.m. inasmuch as they had not anticipated this kind of overnight use.

ACTION

Mr. Higashi moved to rescind the board's earlier motion and moved instead that we charge them a refundable deposit of \$400.00 plus a fee of \$400.00 to reserve and use the pavilion for the time specified in the submittal. Mr. Kealoha seconded, motion carried unanimously.

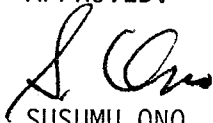
ADJOURNMENT: There being no further business, the meeting was adjourned at 1:15 P.M.

Respectfully submitted,



Mrs. LaVerne Tirrell
Secretary

APPROVED:



SUSUMU ONO
Chairperson

It