

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

DATE: May 10, 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 9:10 A.M. The following were in attendance:

MEMBERS

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

Absent and Excused

Mr. Leonard Zalopany

STAFF

Mr. Manabu Tagomori  
Mr. James Detor  
Mr. Libert Landgraf  
Mr. Ralston Nagata  
Mr. Gordon Soh  
Mrs. Ann Lo-Shimazu  
Mr. Kevin Kong  
Mrs. LaVerne Tirrell

OTHERS

Mr. Edwin Watson, Deputy A.G.  
Mr. Peter Garcia, DOT  
Mr. Will Chee (Item F-8)  
Mr. Clyde Aikau (Item F-9)  
Mr. David George (Item H-5)  
Mr. Bob Rostrown (Item H-6)  
Messrs. Robert Triantos and  
Vladimar Ossipoff (Item H-8)

MINUTES

The minutes of January 11, 1985 were unanimously approved as submitted. (Ing/Higashi)

Items on the Agenda were considered as follows in order to accommodate those applicants present at the meeting:

ITEM E-2

REQUEST TO USE A PORTION OF THE WAHIAWA FRESHWATER STATE RECREATION AREA FOR A MILITARY APPRECIATION WEEK PICNIC, WAHIAWA, OAHU.

The Wahiawa Community and Business Ass'n. Inc. is requesting a permit to hold a family picnic at the Wahiawa Freshwater State Recreation Area on Sunday afternoon, July 14 from 1:00 P.M. to 6:00 P.M. The program will include performance by the Royal Hawaiian Band, the Wahiawa Halau (Hula), an ensemble by the Schofield Division Band and a military chorus.

Mr. Nagata said that this event will be open to military personnel and to the general public, and a crowd of about 300 persons is anticipated. Picnic lunches will be served at no cost. Cooking of food will be done outside the park premises.

The applicant will arrange for security personnel and they will provide a certificate of liability insurance covering the State of Hawaii.

Mr. Ono asked whether the request was for use of the whole park.

Mr. Nagata said that the request was just for use of the park -- not necessarily any particular area. So the general public would still have access to the park.

ACTION

Mr. Ing moved to authorize the issuance of a permit to the Wahiawa Community and Business Association, Inc. to hold their Military Appreciation Week picnic at the Wahiawa Freshwater State Recreation Area on July 14, 1985. Mr. Yagi seconded, motion carried unanimously.

Mr. Ono suggested that State Parks work with the DOCARE office. He especially wanted to make sure that there would be no consumption of alcohol in the park.

ITEM E-3

REQUEST TO USE A PORTION OF AINA MOANA STATE RECREATION AREA (MAGIC ISLAND) FOR PART OF A TRIATHLON EVENT.

Tinman Unlimited, a Hawaii non-profit organization, is requesting use of a portion of the parking lot and the Ewa end restroom area of Magic Island for a part of their event which is to be held on Sunday, July 14, 1985. Magic Island will be used as the finishing area for the swim course, as an area for swimmers to shower and change, as a bike storage area, and as the start of the bike race.

Mr. Nagata said that he had talked to the applicants about cutting down the area which they originally requested. One of the things he wanted to do was eliminate blockage of both entrances for the event so he tried to confine them to one of the entrance areas and they, apparently, do not need as much of the parking lot as was originally thought.

ACTION

Unanimously approved as submitted. (Ing/Kealoha)

ITEM E-5

REQUEST TO USE A PORTION OF AINA MOANA STATE RECREATION AREA (MAGIC ISLAND) FOR PART OF AN IRONKIDS TRIATHLON EVENT.

The applicant is asking for a permit to use a portion of the parking lot and the Ewa end restroom area and the walkways of Magic Island for part of the event to be held on Sunday, May 26, 1985.

ACTION

Unanimously approved as submitted. (Ing/Yagi)

Mr. Ono suggested that the Division of State Parks start looking at putting out some guidelines so that the public as well as the board would know under what conditions these kinds of requests would be received or considered. If these kinds of events continue, eventually there will have to be some kind of limitations.

ITEM H-6

VIOLATION WITHIN CONSERVATION DISTRICT, PROTECTIVE SUBZONE, AND WAO KELE O'PUNA NATURAL AREA RESERVE.

On November 13, 1984 a complaint was filed with DLNR that a road had been constructed within the Wao Kele 'O Puna Natural Area Reserve at Puna, Hawaii. An investigation by DOCARE concluded as follows:

1. A road was constructed within the boundaries of Wao Kele 'O Puna Natural Area Reserve; and
2. No evidence of a survey conducted prior to the road construction was found.

The facts of the case were presented by Mr. Soh. Based on the facts presented, Mr. Soh said that staff found that Bio Power Corporation had violated several provisions of the statutes governing Conservation District lands and State lands.

Mr. Soh said that staff could find no evidence of Bio Power engaging the services of a surveyor before the construction attempt. The unfortunate destruction clearly demonstrates Bio Power's lack of regard for others.

Staff feels that the damage caused is irreparable and irreversible and any attempt to repair the damage may actually cause more damages. With that in mind staff felt it difficult, if not impossible, to assign a monetary value to the damage. For the purpose of this action, however, it is the opinion of staff that a fine of \$0.10 per sq. ft. of damage must be assessed against Bio Power as a deterrent for possible future violations.

Staff recommended that Bio Power be assessed a total fine of \$1,000.00 for the violations and an additional fine of \$0.10 per sq. ft. of damage of State land for a total of \$7,392.00.

Mr. Higashi felt that the applicant was being fined for the same thing inasmuch as he was being fined once for being in the natural area reserve, which is in the conservation district and also for violation in the conservation district area. He felt that the violation in the natural area reserve area is another matter.

Mr. Soh said that he understood what Mr. Higashi was saying.

Mr. Ono did not agree that he was being fined twice for the same thing. He felt that there were two separate violations. He asked Mr. Soh if he was agreeing with the conclusion that it's one in the same.

Mr. Soh that Mr. Higashi's question was to the effect that Chapter 209 is administrative as a penal matter.

Mr. Ono asked if he was concluding that NARS should come in separately.

Mr. Soh said that he is not qualified to answer that question.

Mr. Ono asked what the intent was.

Mr. Soh said that the intent was that these were both rules of the department which were violated and a fine should be assessed.

Mr. Ono felt that these were two separate and distinct violations.

Mr. Soh said yes.

Mr. Higashi said that one would be entering a conservation area and the other would be a natural area violation. Mr. Higashi asked whether the Natural Area Reserve has its own authority to fine the applicant.

Mr. Soh said that he was not qualified to answer this question.

Mr. Kealoha agreed with Mr. Higashi. Under the conservation violation you have a maximum of \$500.00. So you cite the \$500.00 under Chapter 13. But then staff also added \$0.10 a sq. ft.

Mr. Soh said that the \$0.10 per sq. ft. assessment was for encroachment and damage to State land.

Mr. Kealoha asked what the first \$500.00 fine was for.

Mr. Soh said that this was for violation of conservation district rules.

Mr. Kealoha asked what that constituted.

Mr. Soh said using land without a permit from the board.

Mr. Kealoha felt that the \$0.10 per sq. ft. was for using the same land.

Mr. Soh said that the \$0.10 per sq. ft. is derived from Chapter 171, which is for encroachment.

Mr. Higashi asked whether staff was intending to use the \$0.10 per sq. ft. formula for anytime there is damage to state land in lieu of repairing it. He realized that payment has to be made for damages but he has never seen this formula used before so he asked if staff thought this to be a fair figure.

Mr. Soh did not seem to think that the \$0.10 per sq. foot was an unreasonable figure.

Mr. Higashi wanted to know on what basis the \$0.10 per sq. ft. figure was used. Why not \$0.02 or \$.25?

Mr. Ono asked if there was somewhere in staff's analysis a basis for arriving at the \$0.10 per sq. ft. formula.

Anne Shimazu, staff planner, said that the value was arrived at from the standpoint that the natural area reserve was set aside for not only preservation but also scientific purposes to monitor any changes in the environment. Therefore the \$0.10 per sq. ft. was really a judgment amount. They did not go through an appraisal process. She did not feel that the area could be appraised inasmuch as there are no comparables. The \$0.10 figure is strictly for this case and not to be applied to other cases.

Mr. Ono asked whether there was any communication from Bio-Power regarding the fine.

Ms. Shimazu said that the applicant was notified and she had met with them yesterday. Their request was to defer this item but she asked that they appear at this morning's meeting.

Mr. Ono asked for what reason did they want to defer this item.

Mr. Soh said that he understood that someone would not be able to be at the meeting.

Mr. Ing said that he received a call from Mr. Rostrown explaining that he wanted to defer this matter inasmuch as he had just received a copy of the submittal and did not have a chance to review and obtain the information to defend themselves but, in the interim, he did have a chance to review it but did want to present their side of the case.

Mr. Rostrown of Bio-Power said that on Tuesday, May 7, 1985, they received a telephone call from their public relations representative on the Big Island who stated that he had received a call from Roland Higashi regarding violations by Bio-Power within the Conservation District. He telephoned the Department of Land and Natural Resources and asked to pick up a copy of the letter to the Board dated May 10, 1985. He read it and became very disturbed not only with some of the facts presented but also with the general tone of the letter. They do admit that mistakes were made by their logging crew. Sometime in October of 1984 a bulldozer with a 14-foot blade was driven approximately 7/10th of a mile within the boundaries of the Puna Natural Area

Reserve. However, they did not build a road. Their purpose was to construct a radio repeater antenna on the highest elevation possible within Campbell Estate property. They did not agree with the implication that surveys were not being conducted in the area and that the unfortunate destruction clearly demonstrates Bio Power's lack of regard for others.

Mr. Rostrown said that the firm of Austin, Tsutsumi and Associates were engaged by Bio-Power on October 10, 1984 to conduct land surveys for a wood-chipping operation. In fact, they had a crew conducting surveys in the wood-chipping areas approximately one week prior to the violation. The driver of the bulldozer mistakenly thought that the U. S. geological survey marker was a property boundary marker. He stopped immediately when he recognized his mistake. At no time was it their intent to construct a road within the conservation district. They do not believe that any actual destruction occurred. A road was not constructed but the bulldozer did disturb a 14-foot wide strip of the 1977 lava flow for approximately 7/10th's of a mile.

Mr. Rostrown admitted that they did make an honest mistake. However, under the circumstances and in view of their past record, they felt that a fine of \$8,392.00 is excessive.

Because the survey took place about the same time that the bulldozing was done, Mr. Ono felt that there was no way the bulldozer operator could have known where the boundaries were.

Mr. Higashi was searching for some way to come up with a fair fine and did not feel that \$0.10 per sq. ft. could be used as a barometer.

Mr. Ing said that he had some difficulty with the concept of punitive damages but no difficulty assessing the damages under HRS 171-7(2) and Section 171-7(7). He said that punitive damages are usually reserved for circumstances where there has been some woeful, wanton and reckless disregard. He did not feel that the conduct of Bio-Power in this circumstance, while it may have been negligence, was woeful.

Mr. Higashi felt that the \$7,392.00 fine was alright, however he did not go along with staff's rationale for coming up with the amount.

Mr. Soh said that the above was a small fraction of \$500.00.

Mr. Ing did not think that the board was restricted to the \$0.10 per sq. ft. The decision is up to the board and they do not have to confine themselves to any particular method of arriving at a figure.

**ACTION**

Mr. Higashi moved for approval of staff's recommendation with an amendment to Condition No. 2 by deleting "\$0.10 per sq. ft." and have the condition read as follows:

2. Bio Power Corporation be assessed an additional fine of \$7,392.00 for damage to State land.

Mr. Kealoha seconded, motion carried unanimously.

**ITEM H-7**

REQUEST FOR TIME EXTENSION ON CDUA FOR DATA COLLECTION AND OBSERVATION USE AT MAUNA KEA, HAWAII.

**ACTION**

Unanimously approved as submitted. (Higashi/Kealoha)

ITEM F-8

VETERANS OF FOREIGN WARS (VFW) APPLICATION TO LEASE LAND AT WAIKIKI, HONOLULU, OAHU.

As proposed in the submittal, Mr. Detor said that the VFW proposes to put up a new building which is to be completed within five years from commencement of the lease valued at not less than \$500,000.00.

Mr. Ing asked whether there was a provision to escalate the liability insurance from time to time. He could see \$1 million being appropriate today and maybe even for the next three years but 20-30 years from now it would not.

Mr. Detor said that he could not recall whether the standard provision within the lease calls for that or not but staff can certainly word it so that it can be reviewed from time to time.

Mr. Ono asked that Mr. Detor look into this as a standard provision.

ACTION

Mr. Ing moved for approval with the amendment that a Condition be included in the lease wherein there will be an escalation of the liability insurance periodically. Mr. Yagi seconded.

Mr. Will Chee, project manager and planner for VFW, wanted to know whether they would be able to have certain types of fund raising activities and whether or not this condition would be included in the lease.

There was much discussion on Mr. Chee's question. Mr. Ono asked that Mr. Chee work with Mr. Detor's staff before the lease is drafted at which time specific terms and conditions could be included in the lease.

Mr. Kealoha said that VFW had some programs in motion to raise funds. He asked whether the construction would cost \$2 million dollars.

Mr. Chee said yes.

Mr. Kealoha asked about their time-table.

Mr. Chee said that they have projected a two year fund raising period and a one year construction period for the building. They had originally projected a three year time period but he understands from Mr. Detor's earlier statement that he is recommending five years which is better for them.

Mr. Yagi seconded. Motion carried.

Mr. Kealoha voted no. He felt that a five year building requirement was too long.

ITEM H-8

CDUA FOR A NONCONFORMING SINGLE FAMILY RESIDENTIAL USE WITH ACCESS AND UTILITY EASEMENTS AT KIHOLLO BAY, NORTH KONA, HAWAII (ROBERT AND ANN KEENAN).

Mr. Soh said that this involves three acres at Kiholo. The applicant would like to build a one story single family house with a detached five-bedroom sleep area. In addition, the applicant would like access to utility easements from an area that had been previously granted to another CDUA.

Staff recommended approval subject to the twelve conditions listed in the submittal and asked also that a thirteenth condition, as follows, be added:

13. This approval is for conservation lands only and that the applicant shall obtain appropriate authorization through the Division of Land Management for the occupancy of State lands.

Mr. Higashi asked if staff was recommending approval of this application, which includes a detached unit.

Mr. Soh said yes.

Mr. Higashi said that the board has always disapproved construction of detached quarters, including maid's quarters, so he could not understand why staff was recommending approval of this application.

Mr. Ono asked what was staff's basis for the recommendation.

Mr. Soh was not sure.

Mr. Ono asked what was the intended use of the dwellings.

Mr. Soh said that the intended use of the five bedroom structure was not in the record.

Mr. Ing thought that we had developed a standard condition that required recordation of dwellings.

Mr. Soh stated that this was listed in Condition No. 7.

Mr. Ing said that there was also a provision which limited the use to single family residential in addition to what was listed in Condition No. 6.

Mr. Soh said that he did not understand the question.

Mr. Ing said that there was a difference between single family and mutli-family use. In the single family use, the dwelling was to be limited to single-family residential use and not for rental or any other commercial uses.

Mr. Soh did not believe the above to be a part of the standard conditions and asked Mr. Ing if he wanted that to be added to the submittal.

Mr. Higashi said that one of the things the board is concerned about is having a detached unit for single family use. He asked if the applicants were firm on wanting a detached unit.

Mr. Robert Triantos, Attorney for the applicants, said that his clients are quite firm about wanting a detached unit. They have children and grandchildren and, when they come to visit, they would like to have them stay in another structure.

Mr. Triantos said that they will have no problem with recording as shown in Condition No. 7. Addressing Mr. Ing's question, Mr. Triantos said that the only reason "single-family dwelling" was used is because it is the County's language under the zoning code but they would have problems with adding the language "single-family residential use." He said that they have no intention of using the detached dwelling for commercial purposes.

Mr. Higashi said that the major problem is the detached unit.

Mr. Ing did not think that they had a choice insofar as the detached unit was concerned. It was not an option.

Mr. Triantos wanted to know what authority the board had if there is a single family use agreement to not allow a detached unit.

Mr. Ing said that the board has authority under the Department's rules and regulations. The applicant has no authority to do anything in the conservation area unless permission is granted from the board.

Mr. Triantos said that this is a non-conforming use for single family. He asked if it was the use that the board was denying.

Mr. Ing said that what the board is concerned with is the level of improvements on the property.

Mr. Triantos spoke to the architect, Mr. Vladimir Ossipoff who said that it was not physically possible in his opinion to build the structure that these people want as not a detached unit.

Mr. Higashi said that the question is not whether he can or cannot build a detached structure. He will either revise the plan or reapply.

Mr. Ossipoff said that the applicants did not require him to build a detached unit. However there was a requirement that there be space for their children and grandchildren and in the area which is available for construction it is impossible to build a home the size that they want as one building. Mr. Ossipoff said that it was his suggestion that the buildings be detached.

Mr. Kealoha asked what the floor area was for the five bedroom unit.

Mr. Ossipoff said about 4000 sq. ft.

Mr. Triantos asked if was possible to get the use approved today and then come in later for approval of the building plans. If possible, he would not like to file an amended application.

Mr. Ono said that if it is intended to keep the current plan essentially intact with the exception of just having a covered walkway between the two units, then he would be looking at this very, very carefully.

Mr. Ossipoff said that, as the architect, he would like to know if there will be a size limitation.

Mr. Higashi said that conditions were imposed on other applicants that the structure not exceed the view plain from the highway. So size does have some consideration.

For the record, Mr. Triantos said that they have no objection to the addition of Condition No. 13.

Mr. Higashi said that because the easement to their property will run through State land, the Board will want to reserve the right to have the public use that road for recreation purposes.

Mr. Triantos said that they will comply with whatever conditions the State may impose. He understood that there will be a Master Plan for that area and they will comply with all conditions of said Plan.

**ACTION**

Mr. Higashi moved for approval as amended and it is not cited in the recommendation but he would like to approve this application and delegate to the Chairman the authority to give final approval upon inspection and consent of the building plan and incorporate Condition No. 13.

Mr. Kealoha asked if the approval was for a single family dwelling/single building.

For clarification, Mr. Ono said that the approval was for the use only.

Mr. Kealoha seconded, motion carried unanimously.



STAFF RECOMMENDATION FOR SALE OF LEASES COVERING BEACH SERVICES AT WAIKIKI, HONOLULU, OAHU.

Mr. Detor said that this is a proposal for the public auction sale of two leases covering the concession arrangements at Waikiki, Duke Kahanamoku Beach, which fronts the Hilton Hawaiian Village Hotel. What staff is proposing to lease are the same two areas which are presently under permit to two parties.

These permits which were awarded on a direct basis have been in existence for several years. The proposal today is to put these up for bid -- to convert the permits to leases. They have been listed as leases for beach services and not as concessions per se. Concessions involve the use of state-owned or state-constructed buildings whereas these would be leases covering plots of land on the beach from which they would operate the beach services.

Mr. Detor said that the terms and conditions to be listed in the leases would be basically what is covered in the present permits.

Mr. Kealoha asked what was meant by "Sailing Lessons" as shown on page 3 of the submittal.

Mr. Detor said that these would be sailboats such as windsurfers.

Mr. Kealoha asked also if staff planned to allow rental of catamarans. He has not yet seen a small catamaran. He felt that staff should take a look at this again. He asked also that he take another look at the rental of canoes. He felt that catamarans and canoes take up a lot of room and Kahanamoku Beach is not that big.

Mr. Detor said that the main purpose for bringing this up today is to get some indication as to what direction the board wants to go. This is really a vehicle to bring the matter up so this can be refined.

Mr. Ono had concerns regarding Item 4 on page 3 regarding motorized equipment. The language in the submittal seems to be flexible. He felt that if we do have concerns then it may be best to just prohibit it altogether. If it's left open this way there will always be a question as to whether it is allowable or not.

In answer to Mr. Ono's question Mr. Detor said that there is a percentage clause included in the submittal. The percentage figure is yet to be determined.

Mr. Ono asked if it was staff's intent to start from Duke Kahanamoku Beach and then work down to the other areas.

Mr. Detor said yes. There is an area in front of Ft. DeRussy which they may or may not come in with and the other is across from the Hyatt Hotel. He thought that they would be able to come in with something on that within a month or so.

Mr. Ono asked whether we were working with the Department of Transportation.

Mr. Detor did not know whether an administrative bill which was just passed would require DOT to just regulate vessels or whether they would also apply to actual concessions of this kind. He was not sure what the affect of the bill would be.

Mr. Ono said that he did not want to slow this down. However, in the next area he asked that Mr. Detor work with DOT so that their beach will be included as well.

Mr. Kealoha clarified that the submittal has been amended so as not to include any motorized equipment.

Mr. Ono asked if the amendment should read to prohibit operating, renting or using jet skis, windsurfing equipment, motorized equipment of any kind or shall we just prohibit motorized equipment of any kind.

Mr. Kealoha said that windsurfing should also be prohibited.

Mr. Ono asked if staff would be reworking the package to be submitted at the next meeting.

Mr. Detor didn't think so inasmuch as the submittals for the next meeting would have to be completed today. He said what staff could do is come up with a draft lease and bring it back at the first July meeting on the island of Oahu.

Mr. Ono asked if it would be possible to include the whole stretch of the beach at that time.

Mr. Detor thought it would be rather difficult.

Mr. Ono could not see why it would be so difficult inasmuch as staff already had the basic provisions. Accordingly, he asked that the whole package be presented to the board at the first meeting in July.

ACTION

Deferred to the next Oahu meeting which is scheduled for July 12, 1985.

Mr. Ono said that the board was in receipt of communication from Mr. Clyde Aikau on the permit that he currently holds so the board would accept same for the record.

Mr. Ing asked Mr. Aikau if there was anything he wanted to add besides what was contained in his letter.

Mr. Aikau just wanted to express that he just received the notice of the submittal yesterday and felt that he was not given too much time to prepare his testimony and he was hoping that the board would postpone any further talks on the proposal until he could get better prepared. He felt that what staff should keep in mind is the large hotels and corporations, etc. He would hope that in the future the board would give more notice to himself and the other person holding a permit at the beach.

Mr. Higashi asked if, according to the submittal, a concessionaire would only be able to bid in one area so a corporation won't be able to come in and bid for the whole area.

Mr. Detor said yes, that was their idea.

Mr. Detor wanted to clarify if the board wanted to go the whole stretch of the beach, including land that is under executive order under the City and County and under DOT.

Mr. Kealoha said that that is the reason the board has asked that he work with DOT.

As far as the County, Mr. Watson said that none of the lease concession areas under Executive Order to the County are included. However, staff could work in the area of qualification of bidders.

ITEM H-2

PETITION FOR A DECLARATORY RULING.

Mr. Soh said that on July 27, 1984 there was a case brought up concerning Moomomi Beach at Kaluakoi, Molokai which the board dismissed because of insufficient evidence.

During the course of investigation the department discovered a line on the tax map drawn through Conservation District lands. This was looked into and staff found out that sometime back the County of Maui had been approached by the ranch for a five lot subdivision. The County referred this to the different agencies indicating that this subdivision would include ag and urban lands. When it was reviewed by DLNR, staff indicated, on March 17, 1980 that they had no objection to the subdivision. This was based on the information submitted for review. Conservation District land was not mentioned as one of the zonings involved.

Mr. Ing said that it was hard to tell from the exhibits what was or was not approved by DLNR.

Upon discovery of the line, Mr. Higashi asked if we shouldn't have written to the County of Maui to say why it was allowed.

Mr. Soh said that they would just come back and say that we had o.k'd it.

Mr. Ono said that telling them that we had no objections is not the same as the department having approved the subdivision.

Mr. Watson said that a Petition to Subdivide land is filed with the Land Court. The Land Court, seeing that it is conservation land, will require approval of a CDUA. He felt that staff should check this out with the Survey Division.

ACTION

Deferred.

Mr. Ono asked that staff get more information on the survey and the Land Court action on this matter, if any. Also, Maui County should be informed officially of the situation.

ITEM H-5

CDUA FOR AFTER-THE-FACT RECREATIONAL PIER AT KANEOHE BAY, OAHU (HABILITAT, INC.).

Mr. Soh explained that Habilitat had acquired this property long after the pier had been built. It is believed that the pier was built during the 1940's.

There is another pier which is believed to have been built after Regulation 4 became effective. It was built without a permit. Both a CDUA and a Land Tenure Permit is necessary to bring this pier into compliance. Staff feels that removal of this pier would probably cause more disturbance to the present ecological system. This is the pier located on Parcel 5.

Mr. Soh said that there are two piers out there and this application only covers the short one.

Mr. Ono asked if we could act on the small pier today and take the other pier up later.

Mr. Ono asked the applicant if he would have a problem if the board deferred taking action today. We are dealing with two separate piers. One which was built before the Regulations came into being and one after.

Mr. David George said that they only purchased the property about seven years ago and the pier was built about 10-20 years ago so they did submit an after-the-fact CDUA.

Mr. Ing felt staff should sit down with the applicant and then have the submittal amended to get it accurate.

ACTION Deferred.

ITEM D-1

PERMISSION TO ADVERTISE FOR BIDS - JOB NO. 7-OM-17, LEASING CRAWLER TRACTOR FOR KUAOKALA ACCESS ROAD, KAENA, OAHU.

ACTION Unanimously approved as submitted. (Ing/Yagi)

ITEM D-2

PERMISSION TO ADVERTISE FOR BIDS - JOB NO. 3-OW-50, REHABILITATION OF FOOTBRIDGE AND 0.5 M.G. STEEL TANK, MOLOKAI IRRIGATION SYSTEM, MOLOKAI.

ITEM D-3

PERMISSION TO ADVERTISE FOR BIDS - JOB NO. 3-9W-51, IMPROVEMENTS TO KUALAPUU RESERVOIR, MOLOKAI IRRIGATION SYSTEM, KUALAPUU, MOLOKAI.

ACTION Mr. Yagi moved for approval of Items D-2 and D-3 as submitted. Motion carried unanimously with a second by Mr. Kealoha.

ITEM D-4

FILLING OF PROGRAM MANAGER, POSITION NO. 9575, DIVISION OF WATER AND LAND DEVELOPMENT, OAHU.

ACTION Mr. Ing moved to approve the appointment of Mr. Herbert Morimatsu to Position No. 9575. Mr. Kealoha seconded, motion carried unanimously.

ITEM E-1

REQUEST FOR A PERMIT TO USE TWO STATE PARKS ON OAHU BY THE HAWAII BICYCLING LEAGUE.

Mr. Ing said that the submittal did not indicate any details e.g. time, dates, etc.

Mr. Nagata said that this group was first warned by DOCARE after which they came to talk to State Parks. They have been using places such as Iolani Palace as a gathering place. They gather about 9 to 10:00 A.M. on Sundays. This is kind of a family type outing and usually involve about thirty people.

Mr. Ono asked why was it necessary for them to use the Palace Grounds.

Mr. Nagata felt only because it is a nice, convenient spot which they apparently have been using for a long period of time.

Mr. Kealoha said that he was not opposed to this group meeting at Iolani Palace since there are other groups coming in the morning to take pictures on the grounds and on the grass. There is a group that meets beyond the back steps and the other group meets under the tree near the bandstand. Once we allow one group to come in, then we will have to allow all groups or eliminate all groups. This will only compound the problem. This group at least reported to State Parks.

ACTION Deferred.

Staff to find out who else is using the area and then make an evaluation.

Mr. Nagata asked the board if they had any strong feelings about use of the Honolulu Stadium Park. He could understand Iolani Palace because of the sensitivity. Staff's concern as far as the Stadium Park is trying to make

sure that they are actually bicycling in so that their cars are not left in the parking lot where parking is limited.

Mr. Ing felt we should have more details as to the hours they will be using the area and how much of the park area do they intend to use, etc.

ITEM E-2

REQUEST TO USE A PORTION OF THE WAHIAWA FRESHWATER STATE RECREATION AREA FOR A MILITARY APPRECIATION WEEK PICNIC, WAHIAWA, OAHU.

(See Page 2 for Action.)

ITEM E-3

REQUEST TO USE A PORTION OF AINA MOANA STATE RECREATION AREA (MAGIC ISLAND) FOR PART OF A TRIATHLON EVENT.

(See Page 2 for Action.)

ITEM E-4

PERMISSION TO ADVERTISE FOR BIDS JOB NO. 5-OP-48, RECONSTRUCTION OF PARK FACILITIES, WAIMANALO BAY STATE RECREATION AREA, WAIMANALO, OAHU.

ACTION

Unanimously approved as submitted. (Kealoha/Higashi)

ITEM E-5

REQUEST TO USE A PORTION OF AINA MOANA STATE RECREATION AREA (MAGIC ISLAND) FOR PART OF AN IRONKIDS TRIATHLON EVENT.

(See Page 2 for Action.)

ITEM F-1

DOCUMENTS FOR CONSIDERATION.

Item F-1-A

FIRST ASSEMBLY OF GOD, KAHULUI, MAUI, APPLICATION FOR REVOCABLE PERMIT, KAHULUI, MAUI CONTAINING 17,919 SQ. FT. FOR PARKING LOT PURPOSES. RENTAL: \$3782.00 PER MO., COMMENCING MAY 16, 1985.

Item F-1-B

MANOA SHOPPING CENTER, INC. REQUEST FOR CONSENT TO AGREEMENT FOR USE OF EASEMENT, MANOA VALLEY, HONOLULU, OAHU CONTAINING 1,087 SQ. FT.

Item F-1-C

MANUEL ANDRADE, JR. APPLICATION FOR REVOCABLE PERMIT, LOT 7-A, HANAPEPE RICE & KULA LOTS, HANAPEPE, WAIMEA, KAUAI CONTAINING 3.080 ACRES FOR GENERAL AGRICULTURE/EMPLOYEE RESIDENCE. RENTAL: \$85.00 PER MO. COMMENCING MARCH 19, 1985.

Item F-1-D

OLAF E. THRONAS APPLICATION FOR REVOCABLE PERMIT COVERING LOTS 32 AND 38, WAILUA RICE & KULA LOTS, WAILUA, LIHUE, KAUAI CONTAINING A TOTAL OF 13.83 ACRES FOR PASTURE PURPOSES. RENTAL: \$12.00 PER MO. COMMENCING JANUARY 11, 1985.

Item F-1-E

MASONS' UNION APPLICATION FOR REVOCABLE PERMIT, SAND ISLAND, HONOLULU, OAHU, CONTAINING 15,390 SQ. FT. FOR FIELD TRAINING AREA FOR TRAINING APPRENTICES AND UPGRADING THE SKILLS OF JOURNEYMEN MASONS. RENTAL: \$923.00 PER MO. COMMENCING JUNE 1, 1985.

Item F-1-F

ACTION DISPOSAL, INC. APPLICATION FOR REVOCABLE PERMIT, SAND ISLAND, CONTAINING 33,100 SQ. FT. FOR OFFICE AND STORAGE AND MAINTENANCE BASEYARD PURPOSES. RENTAL: \$2,058.00 PER MO. COMMENCING MAY 1, 1985.

ACTION

Mr. Ing moved to approve Items F-1-A thru F-1-F. Mr. Kealoha seconded, motion carried unanimously.

ITEM F-2

JAMES E. MILES CONSTRUCTION, INC. REQUEST FOR WAIVER OF PERFORMANCE BOND REQUIREMENT, G. L. NO. S-4664, WAIAKEA, SO. HILO, HAWAII.

ACTION

Unanimously approved with the understanding that such bond may be reimposed at any time during the lease term. (Higashi/Ing)

ITEM F-3

STAFF RECOMMENDATION FOR CANCELLATION OF G. L. NO. S-4475, KALOPA & KAOHE 3, HAMAKUA, HAWAII.

Mr. Detor explained that this item had been deferred by the board earlier. A check was received two days ago for \$7,500.00. Mr. Detor said that he still owes a lot of money but he did talk to him and what he would like is to the end of June to clear this thing up.

He does have land which was suggested to be put up as collateral for the back rent. However, he not only owes back rent but he has not posted a performance bond. Staff said that they are willing to take the land for the performance bond which is perfectly o.k. but he still owes rent.

In answer to Mr. Higashi's question, Mr. Detor said that he owes roughly \$150,000.00 for the performance bond, which is two years rent.

Mr. Detor said also that he is in default on three things. One is the rent, the other is the posting of the performance bond and the third is the liability insurance.

Mr. Ono asked whether Mr. Andrade had indicated any plan for paying the back rental.

Mr. Detor said no. Evidently he feels that he can pay the whole thing off at the end of June. If the board should given him to the end of June to make payment, Mr. Detor suggested letting him post the land as performance bond so that we at least have that in hand.

ACTION

Mr. Higashi moved to give the Lessee until the end of June to make good on his delinquent payments after which time G. L. S-4475 will be cancelled if payment is not made. In the meantime, the Lessee's land will be used as collateral. Motion carried unanimously with a second by Mr. Kealoha.

ITEM F-4

DEPARTMENT OF TRANSPORTATION REQUEST FOR AUTHORIZATION TO DISPOSE OF HIGHWAY REMNANT PARCEL 33, HAWAII BELT ROAD, FAP ROUTE 11, NO. KONA, HAWAII.

ACTION

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

ITEM F-5

DEPARTMENT OF TRANSPORTATION REQUEST FOR CONVEYANCE OF LAND FOR ROAD PURPOSES, KALAUPAPA LOOKOUT ROAD, MOLOKAI.

ACTION

The board voted unanimously to rescind its action of August 14, 1983 under agenda Item F-6 and approved the direct conveyance of highway designated parcel 3A to the owners of the eight lots to which it will serve as a roadway. The board also authorized the Chairperson to take any other action as may be necessary to complete this transaction. (Yagi/Ing)

ITEM F-6

MAUI ELECTRIC CO., LTD. APPLICATION FOR TRANSMISSION LINE EASEMENT, LANAI CITY, LANAI.

ACTION

Unanimously approved subject to the conditions listed in the submittal. (Yagi/Ing)

ITEM F-7

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. (Ing/Yagi)

<u>ITEM F-8</u>	VETERANS OF FOREIGN WARS (VFW) APPLICATION TO LEASE LAND AT WAIKIKI, HONOLULU, OAHU.
	(See Page 6 for Action.)
<u>ITEM F-9</u>	STAFF RECOMMENDATION FOR SALE OF LEASES COVERING BEACH SERVICES AT WAIKIKI, HONOLULU, OAHU.
	(See Page 10 for Action.)
<u>ITEM F-10</u>	STAFF RECOMMENDATION FOR CANCELLATION OF EXECUTIVE ORDERS AND RESET ASIDE OF LAND TO DAGS, DOE, AND C&C OF HONOLULU, BOARD OF WATER SUPPLY, RESPECTIVELY, KAWAIILOA, KAILUA, KOOLAUPOKO, OAHU.
<u>ITEM F-13</u>	DEPARTMENT OF TRANSPORTATION REQUEST FOR EXECUTIVE ORDER SETTING ASIDE LAND FOR HIGHWAY PURPOSES, KAWAIILOA, KOOLAUPOKO, OAHU.
ACTION	Mr. Ing moved to approve Items F-10 and F-13 as submitted. Motion carried unanimously with a second by Mr. Yagi.
<u>ITEM F-11</u>	STAFF RECOMMENDATION FOR SERVICE OF NOTICE OF DEFAULT, H. L. NO. 38, LOT 32-A, HAUULA HOMESTEAD WATER LOTS, HAUULA, KOOLAUPOKO, OAHU.
ACTION	Unanimously approved as submitted. (Ing/Yagi)
<u>ITEM F-12</u>	STAFF RECOMMENDATION FOR SALE OF A LEASE COVERING LOT 42, WAIMANALO AGRICULTURAL SUBDIVISION, WAIMANALO, OAHU.
ACTION	Unanimously approved as submitted. (Ing/Yagi)
<u>ITEM F-13</u>	(See above, after Item F-10, for Action.)
<u>ITEM F-14</u>	HONOLULU DISPOSAL SERVICE REQUEST FOR ADDITIONAL AREA AT SAND ISLAND, HONOLULU, OAHU.
ACTION	Unanimously approved as submitted. (Ing/Yagi)
<u>ITEM F-15</u>	REUBEN WONG APPLICATION TO PURCHASE ABANDONED DITCH RIGHT-OF-WAY, KANEOHE, OAHU.
ACTION	Unanimously approved as submitted. (Ing/Yagi)
<u>ITEM F-16</u>	EDWARD BITTNER APPLICATION FOR ACCESS EASEMENT, KAPAA, KAUAI.
ACTION	Unanimously approved as submitted. (Yagi/Higashi)
<u>ITEM F-17</u>	STAFF RECOMMENDATION FOR CANCELLATION FO REVOCABLE PERMIT NO. 5639, KALIHI-KAI, HONOLULU, OAHU.
	Mr. Detor said that this was a resubmittal. Staff had earlier recommended cancellation.
	Mr. Kealoha felt that staff should have written a new submittal inasmuch it appears from reading the present submittal that nothing was done. However, subsequent to this meeting, something was done.
	Mr. Detor said that he was in receipt of a memorandum from Mr. Mason Young to himself which kind of explains the situation.
	After reading Mr. Young's memo, Mr. Kealoha commented that Mr. Young had done a good job.

When questioned by Mr. Ono, Mr. Detor said that the Termite Company was no longer on the property.

Mr. Kealoha suggested taking away the parking area should the permittees be allowed to keep the permit. He said that the area is outside of the fence so it should be taken away and have them confined to the inside of the fence.

Mr. Detor said that rather than go along with what was recommended in the submittal that we go along with what Mr. Young has proposed in his memo.

ACTION

Mr. Kealoha moved to deny staff's recommendation to cancel Revocable Permit S-5639 and, instead, incorporate and accept those conditions listed in Mason Young's memorandum of May 10, 1985 to James Detor. The added conditions are as follows:

1. Monthly rental be increased from \$1,194.00 to \$1,935.00 based on the following:

. parking	19,987 sq. ft. x \$0.06 =	\$1,199.22
. storage	6,550 sq. ft. x \$0.06 =	393.00
. structures	2,913 sq. ft. x \$0.12 =	349.56

TOTAL .....\$1,934.78, say  
\$1,935.00

2. Permittee be required to obtain a building permit for the structures. If a building permit cannot be obtained, the permittee shall at its own cost and expense remove said structures by no later than September 10, 1985 (approximately 120 days).
3. Collateral security deposit to be increased from \$2,388.00 to \$3,870.00.
4. The permittees be required to obtain building permits for the structures on the premises. If they are not able to receive the necessary building permits, then the permittees shall at his own cost contact the board before demolishing the building.

Mr. Higashi seconded, motion carried unanimously.

ITEM H-1

DELEGATION OF AUTHORITY TO THE CHAIRPERSON TO RESOLVE CERTAIN LAND USE VIOLATIONS ADMINISTRATIVELY.

Mr. Soh said that last fall staff received a report from the County of Kauai that there was something illegal going on in Haena. Upon checking, the Kauai Land Agent did verify their report. As a consequence of that report, Mr. Ed Watson and one of the State's surveyors went to Kauai to look at the property and determined the shoreline boundary, and that the rocks were placed on the beach for protection and that there had been some brush clearing on the property. They had a discussion with the landowner and a mutual understanding was reached that there in fact was a violation and the landowner wanted to set things right inasmuch as the violation was not deliberate.

What staff is suggesting is that when there is this kind of thing happening that it be handled administratively.

Should the board approve this submittal, Mr. Ono suggested adding another condition and that is that after the disposition of the case that a report be made to the board.

Mr. Ing thought this to be a good idea. This way the board would be aware of what is happening.



ACTION

Mr. Ing moved that the Board delegate to the Chairperson the authority to resolve violations administratively only under the following circumstances:

1. That the violators willingly acknowledge the violation and will comply with whatever action is deemed necessary to correct the violation, which may also include the imposition of fines; and
2. That the Department of Attorney General review the case and concur with staff in recommending that the violation be resolved administratively.
3. After disposition of the case, that a report be submitted to the Board.

Mr. Kealoha seconded, motion carried unanimously.

ITEM H-2

PEITITON FOR A DECLARATORY RULING.

(See Page 11 for Action.)

ITEM H-3

VIOLATION OF SPECIAL CONDITION NO. 7 OF COMMERCIAL FILMING PERMIT.

Mr. Soh said that on January 18, 1985 a film crew was filming on Lanikai Beach and a female jogger ran over an area which they had just smoothed out. One of the crew members asked her not to mess up the area inasmuch as they had just smoothed out the area. Because she did not want to stop running, the crew member grabbed her arm.

A condition of the Permit says that:

"Public passage over these sections of public beach(es) being used by the applicant shall be provided at all times."

Staff recommends that the Board find that permittee has violated Condition No. 7 and that a fine of \$500.00 be levied and that failure to pay off in sixty days, the matter will be referred to the Office of the Attorney General.

Mr. Ing felt that the fine was kind of steep.

Mr. Soh said that a letter was received from the applicant saying that they would like to assure that they have utmost respect and honor concerning State permits and regulations. The person in charge was helping to unload film, etc. at the time. The person involved was trying to explain in broken english saying "excuse me, excuse me", but the jogger remarked that she can go wherever she wants. The coordinator did not feel that Mr. Yamaguchi had any arrogant or malicious intent toward the jogger and that it was an unfortunate thing so he is ready to accept any decision made by the board.

ACTION

Mr. Ing moved:

1. That the Board of Land and Natural Resources find the permittee, Size, Inc. to have violated Special Condition No. 7 of Film Permit No. CD-85-179;
2. That a fine of \$250.00 shall be levied for the above violation; and
3. That failure on the part of the permittee to comply with Section 2 above within sixty (60) days after receipt of notice, the matter shall be referred to the Office of the Attorney General for disposition to include all administrative costs.

ITEM H-4	REQUEST TO MODIFY A CONDITION ON CDUA OA-1720 FOR THE CONSTRUCTION OF A 50-FOOT BY 100-FOOT ONE-STORY LIBRARY BUILDING AT TANTALUS, OAHU.
ACTION	Withdrawn. Mr. Soh said that Mrs. Mark's attorney had requested withdrawal of this item.
ITEM H-5	CDUA FOR AN AFTER-THE-FACT RECREATIONAL PIER AT KANEOHE BAY, OAHU (HABILITAT, INC.).  (See Page 12 for Action.)
ITEM H-6	VIOLATION WITHIN CONSERVATION DISTRICT, PROTECTIVE SUBZONE, AND WAO KELE 'O PUNA NATURAL AREA RESERVE.  (See Page 5 for Action.)
ITEM H-7	REQUEST FOR TIME EXTENSION ON CDUA FOR DATA COLLECTION AND OBSERVATION USE AT MAUNA KEA, HAWAII.  (See Page 5 for Action.)
ITEM H-8	CDUA FOR A NONCONFORMING SINGLE FAMILY RESIDENTIAL USE WITH ACCESS AND UTILITY EASEMENTS AT KIHOLE BAY, NORTH KONA, HAWAII (ROBERT AND ANN KEENAN).  (See Page 8 for Action.)
ITEM H-9	CDUA FOR SUBDIVISION AND RESTORATION OF WATER SYSTEMS AT KA'U, HAWAII (DIVISION OF LAND MANAGEMENT AND DIVISION OF FORESTRY AND WILDLIFE.
ACTION	Unanimously approved as submitted. (Kealoha/Yagi)
ITEM J-1	ADDENDUM NO. 1 TO LEASE NO. DOT-A-84-27, KEAHOLE AIRPORT, HAWAII (AVIS RENT A CAR SYSTEM, INC.).
ITEM J-2	ADDENDUM NO. 2 TO LEASE NO. DOT-A-81-18, KEAHOLE AIRPORT, HAWAII (TROPICAL RENT A CAR SYSTEMS, INC.).
ACTION	Mr. Higashi moved for approval of Items J-1 and J-2 as submitted. Motion carried unanimously with a second by Mr. Kealoha.
ITEM J-3	APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 3994, ETC., AIRPORTS DIVISION.
ACTION	Unanimously approved as submitted. (Ing/Yagi)
ITEM J-4	APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 3966 and 4009, AIRPORTS DIVISION.
ACTION	Unanimously approved as submitted. (Ing/Yagi)
ITEM J-5	SECOND AMENDMENT TO HARBOR LEASE NO. H-70-9, MAALAEA SMALL BOAT HARBOR, ISLAND OF MAUI (U.S.A. (DEPT. OF TRANSPORTATION, U. S. COAST GUARD)).
ACTION	Unanimously approved as submitted. ((Yagi/Kealoha)
ITEM J-6	ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NAWILIWILI HARBOR, KAUAI (ONO MANA, INC. DBA ONO MANA CATAMARAN CRUISES).
ACTION	Mr. Garcia said that he had amended the Exhibits. The second slot should have been indicated instead of the first slot.  Unanimously approved with the above amendment. (Kealoha/Yagi)

- ITEM J-7      ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 11, HONOLULU, OAHU (THEO. DAVIES MARINE AGENCIES, INC.).
- ACTION      Unanimously approved as submitted. (Yagi/Kealoha)
- ITEM J-8      USE OF HARBORS DIVISION FACILITIES, PIER 9 PASSENGER TERMINAL, HONOLULU, OAHU (DEPT. OF THE TREASURY, U. S. CUSTOMS SERVICE).
- ACTION      Unanimously approved as submitted. (Ing/Kealoha)
- ITEM J-9      USE OF IRWIN PARK, HARBORS DIVISION, OAHU (HAWAII STATE AFL-CIO).
- ACTION      Unanimously approved as submitted. (Yagi/Kealoha)
- ADJOURNMENT:      The meeting was adjourned at 12:55 P.M.

Respectfully submitted,

*Jaden Tirrell*  
Mrs. LaVerne Tirrell  
Secretary

APPROVED:

*S. Ono*  
SUSUMU ONO  
Chairperson

1t