

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

DATE: August 9, 1985  
TIME: 9:00 a.m.  
PLACE: Honokaa Conference Room  
Royal Sheraton Waikoloa Hotel  
Waikoloa, Hawaii

ROLL CALL Chairperson Susumu Ono called the meeting of the Board of Land and Natural Resources to order at 9:00 a.m. The following were in attendance:

MEMBERS Mr. J. Douglas Ing  
Mr. Moses W. Kealoha  
Mr. Leonard H. Zalopany  
Mr. John Y. Arisumi  
Mr. Susumu Ono

Absent and Excused  
Mr. Roland H. Higashi

STAFF Mr. James J. Detor  
Mr. Gordon Soh  
Mr. Libert Landgraf  
Mr. Manabu Tagomori  
Mr. Glenn Taguchi  
Mr. Kimo McTavish  
Ms. Dorothy Chun

OTHERS Mr. Edwin Watson, Dep. Atty Gen.  
Mr. Peter Garcia, DOT  
Mr. Larry Fushikoshi (H-12)  
Captain Kilgore (H-12)  
Mr. B. Martin Luna (H-2)  
Mr. Tamotsu Sahara (H-6)  
Mr. Mike Goodish (H-5)  
Mr. John Borsa (H-11)  
Mr. Patrick Matsui (H-3)

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. 2935, Forestry Supervisor I, Kamuela Tree Nursery, Island of Hawaii

Item E-4 Filling of Two (2) Groundskeeper I Positions for the Oahu Park Section.

Item E-5 Filling of Park Caretaker II, Position No. 12174, Assigned to the Hana Road Wayside Parks, Maui Parks Section.

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

ITEM H-8 CDUA FOR GRADING AND CONSTRUCTION OF WATER TANK, ROADWAY, PIPELINE, AND DRAINAGE CHANNEL AT HALAWA, OAHU (QUEEN EMMA FOUNDATION)

Mr. Soh presented the submittal with staff recommendation to grant approval to this application to grade, construct water reservoir, roadway, pipeline, drainage channel, railings, fence and other appurtenances as well as conduct future facilities maintenance at Halawa, Oahu subject to the conditions listed.

ACTION

Mr. Ing moved for approval with the additional condition that the applicant submit landscaping plans to the department. Seconded by Mr. Kealoha, the motion carried unanimously.

UNIVERSITY OF HAWAII APPLICATION FOR REVOCABLE PERMIT COVERING THE FORMER FORT RUGER CHAPEL, HONOLULU, OAHU, LOCATED AT DIAMOND HEAD ROAD, PORTION OF PARCEL 20 OF TMK 3-1-42, AREA OF 10,000 SQ. FT. +.  
PURPOSE: INSTRUCTION-RELATED ACTIVITIES OF KAPIOLANI COMMUNITY COLLEGE  
COMMENCEMENT DATE: SEPT. 1, 1985, MO. RENT GRATIS

Item F-1-a

Mr. Detor presented the University of Hawaii's request for the use of the former Fort Ruger Chapel.

Mr. Ono asked if other community organizations will be able to use the facility.

Mr. Detor said that under no. 2 of the Recommendation it states that the permittee shall share its use of the chapel, but then he could clarify the language and amend it to delegate authority to the chairman.

ACTION

Mr. Ing moved for approval as amended, to add condition no. 3 Other terms as prescribed by the Chairman for approval. Mr. Kealoha seconded and motion carried unanimously.

ITEM H-6

REQUEST TO AMEND A USE PREVIOUSLY APPROVED: GREENHOUSE FOR LYON ARBORETUM

Mr. Soh said that staff is recommending that the amendment be approved subject to the same conditions attached to the original permit.

Mr. Ing asked how many structures were there in the arboretum and the height of the greenhouses.

Mr. Soh replied about a dozen structures.

Mr. Ing asked the height of the greenhouses.

Mr. Sahara of the University said the greenhouses were not higher than 12 feet.

ACTION

Mr. Ing moved for approval. Seconded by Mr. Kealoha, the motion carried unanimously.

ITEM H-12

RESUBMITAL OF TEMPORARY VARIANCE FOR MILITARY TRAINING EXERCISE "THERMAL GALE '85," KAUAI, OAHU, MOLOKAI, HAWAII (U. S. ARMY ENGINEERS)

Mr. Soh presented the resubmittal to the board with staff's recommendation that the board grant right-of-entry and a temporary variance for the military exercise subject to conditions listed.

Mr. Watson said that they were contacted by the legal section of the U. S. Army Engineers regarding the language to be included.

(Due to electrical power failure, a short recess was taken.)

Mr. Ono said at the last meeting there was a legal question proposed to the Attorney General's office as to why the State should, assuming that the State allows the military or any federal agency to use State

land, and something happens, the State becomes liable for all the portions of that incident. The question of "why", not picking on the Corps. but using this particular instance or case for example should something happen. If the State allows somebody to use their property, do we get stuck with the liability. He said there was a question on the statement, "that's all the federal law allows."

Mr. Zalopany asked Mr. Soh how he arrived on the fee of \$1000.

Mr. Soh replied that upon conferring with the Division of Land Management, it was recommended that a rental of \$250 per island site be assessed, or \$1000 total.

Mr. Fushikoshi said regarding the liability portion, whatever the State counsel and their counsel agreed to is fine with them.

Mr. Watson said it is not so much the type of language that is acceptable to the State. The State is fully aware that the people cannot sign the document agreeing to something which the law doesn't agree to. It appears that the concerns of the Board is that their liability is limited. Should there be a suit, people that look to the State would see that the State would be paying off before the Feds do, because with the Feds you would have to go to Congress for an appropriation.

Mr. Ing said that his understanding now is that the operations originally planned for Waipio Valley have been modified.

Captain Kilgore said that based on the Board's request at the last meeting, they have agreed to completely withdraw operations in the Waipio Valley area. They have moved the helicopter landing which had been planned. They will not have anyone in the Waipio Valley area at all at this time.

Mr. Ono asked about the Upolu Point area where the historic sites are.

Captain Kilgore said that area was discussed in detail during the briefing with Mr. Ing. Those areas were not in the original request and they are completely avoiding those areas.

Mr. Ing reminded him that should a fire occur, you will immediately extinguish that fire and contact state and county authorities.

Captain Kilgore said they also have airplanes available to fly additional personnel in if needed and helicopters available with fire buckets for the Big Island.

Mr. Ono said the legal question cannot be settled yet. He wants the Attorney General's office to at least look at basic concerns of the format of liability coverage by the federal government.

Mr. Watson said in regards to potential concerns, other states not only in Hawaii, whenever the federal agency or military utilizes State or private land, the landowner takes nothing short of an act of Congress to present a case.

Mr. Ono again said that he would like this concern expressed to the Attorney General so at least if she should attend any A.G. conference this could be brought up for discussion and may adopt a resolution or start some discussion going.

ACTION

Mr. Zalopany moved for approval. Mr. Arisumi seconded the motion. In the discussion, Mr. Ing asked that under the Recommendations, B. 2 and 3 be revised according to today's discussion, and that the Attorney General's memo be drafted.

For the record, Captain Kilgore said the exercises are no longer called Thermal Gale '85 but Tandem Orbit.

There being no further question or discussion, Chairman Ono called for a vote on the motion as amended, motion carried unanimously.

ITEM H-2

CONSERVATION DISTRICT USE APPLICATION FOR A STORM DRAIN OUTLET  
AT KIHEI, MAUI, HAWAII TMK: 3-9-01:25

Mr. Soh said this was an application for drainage improvements. Applicants C. Chase Hoffman and Joseph J. Catalano were represented by Mr. B. Martin Luna. Applicants propose to build a concrete-lined covered culvert along the northern portion of the property extending across the county's Kihei Road and through the county park on to the beach.

Mr. Soh said that staff is recommending approval, this approval is for use in conservation land only and that the applicant must obtain authorization for the use and occupancy of State lands.

Mr. Ing said that one of the concerns with beach erosions was a letter that was received from the county. In their response they mentioned that they don't expect this to be a problem because there are other drain outlets in adjacent areas and any erosion due to currents in those areas during the storm was temporary only. He also mentioned there was another concern raised at the public hearing about sedimentation, what would happen to the coral and the water. Has the Planning Division looked at this?

Mr. Soh said that it was the feeling of the applicants that the county had attempted to provide for the matter of sedimentation as much as it possibly is able to, and largely by having a sedimentation basin located mauka of the condominium site, the drainage involved is not simply for the immediate vicinity of the condominium or just mauka, of Kihei Road, but for an extensive and very large drainage area and that in retrospect to that drainage area, that basin is appropriately located to intercept and settle out sediment as much as it is able to. It's the feeling of the Planning Office that the County has addressed the questioned of the entire Kihei area in a comprehensive way.

Mr. Arisumi said he was very familiar with the area. There are many condominiums around in the area. If the subdivision wasn't from the mauka side, he could understand. The storm drainage is already built in. Potentially when the waters go towards the condominiums, the storm drainages are there.

Mr. Watson said it appears that a part of the County Master Plan was a study of possible ways to check all these things including building and construction segments which the County wants. The County is requiring them to do it.

Mr. Martin Luna representing the applicants said they prepared copies of photos of the drainage channels immediately within the vicinity that the County has requested be constructed. The photos show that there's no erosion to the beach. The only erosion would occur during very severe storms. One is a very large drainage stream and the other is a culvert that will be covered. Mr. Luna presented the photos to the Board members to examine.

Mr. Luna said there is already a drainage area beside the existing condo. The Kihei Holiday approached applicants to fill their area in order to eliminate that drainage in order to have everything come down through the culvert.

Mr. Zalopany questioned the amount of rainfall.

Mr. Luna said very little rainfall in Kihei. During the public hearing it was stated that from this project it's only 20 cubic feet per second runoff, but the County has requested that drainage because it is part of the Master Plan to catch the mauka rains.

In answer to Mr. Arisumi's question, Mr. Luna said there are no culverts in that particular area by Kihei Holiday.

Mr. Ing asked Mr. Luna if they were agreeing to our standard hold harmless condition.

Mr. Luna said, "yes," he thinks they will be working with the County on that. Being the developers for their clients, he said they were aware of the liability. He mentioned a letter they received from the County dated May 28, 1985 where the County agrees to take over the maintenance and upkeep. He said they will be working with the County and at the very minimum they might have to put that into the condo document.

**ACTION**

Mr. Arisumi made a motion to approve the submittal as amended with the added proviso: 1) adding recordation at the Bureau of Conveyances to show liability and 2) that the County will assume maintenance and repairs and responsibility of the intake and the out-take sense. Seconded by Mr. Zalopany, the motion carried unanimously.

**ITEM H-11**

**VIOLATION WITHIN CONSERVATION DISTRICT AT WAIALUA, OAHU  
TMK 6-7-14:28 (MR. JOHN A. BORSA)**

Mr. Soh presented the violation within conservation district at Waialua, Oahu by Mr. John A. Borsa to the Board with staff's recommendation.

Mr. Ono asked Mr. Soh if he were aware when Mr. Ujimori advised Mr. Borsa about the Special Management Area requirement, was there any indication that he advised Mr. Borsa of the Conservation District use.

Mr. Soh said no.

Mr. Ono asked if contact was made with Mr. Ujimori and was there any discussion on a CDUA requirement. Was Mr. Ujimori aware of a CDUA requirement?

Mr. Soh said he didn't know if that was discussed.

Mr. Kealoha asked Mr. Soh when the rocks and dirt were deposited did he know if it were deposited from his property down beyond the shoreline or whether it was along the shoreline.

Mr. Soh did not know.

Mr. Borsa said that he felt he did not do anything wrong. He said he never discussed seawalls with Mr. Ujimori or anything like that.

They talked about the lot where he wanted to build the house on and Mr. Borsa went on to quote from the County brochure regarding permits. He read, "Building permits are not required for 1) planter boxes, retaining walls, or fences not more than 18" in height." He said his wall is a string of rocks, there are no bars of concrete or steel. He said although he is a licensed contractor, he just went by that County brochure which said he didn't need a permit. So all he got was a building permit.

Mr. Ing asked him what about the grading and fill, did you know that additional permits are needed besides the building permit?

Mr. Borsa said he didn't realize he needed one, as the job was done in an hour and wasn't a major job, he didn't think he needed one. He then presented the Board with some photographs of the site that he had taken.

Mr. Ono asked when did he apply for a permit.

Mr. Borsa said he applied for a CDUA around June, he submitted the 18 copies and \$50.00.

Mr. Ing asked if he planted the trees that were in the photos.

Mr. Borsa said no, they were there already and were about 30-40 feet tall ironwood trees. He said the surveyor he got told him that he lost a lot of land out there in the ocean, about 3,000 square feet, and suggested that he plant some kind of vegetation. He said he planted some grass on top of the dirt.

Mr. Ing asked if there were a recent survey.

Mr. Soh said that a survey was done in 1981.

Mr. Watson said he recollects a case back in 1981 where there were several landowners in the area that had properties highly susceptible to erosion. They required the landowners to get together as they didn't want one person to build a seawall, but wanted uniform walls to be built so that no one's property would erode. They wanted them to all come back within a year and construct a seawall that would basically be a type to prevent erosion. There were about seven landowners that came to take advantage of the agreement.

Mr. Ing asked Mr. Borsa was the fill placed inside the 1981 line.

Mr. Borsa said if it were built in 1981, that's where the wall could have been built. He said he just lined up everything with the neighbor's wall.

Mr. Watson said that back in 1981 all of the landowners were informed that they should build their seawall within a year or there would be additional erosion to the land. Therefore should the respective owners fail to construct their seawall within one year as of June 8, 1981, they would have to obtain a new shoreline approval if construction of a seawall is contemplated.

Mr. Ing asked Mr. Soh what was the intent of recommendation no. 1.

Mr. Soh said the intent was to remove all illegally-placed dirt and rocks.

Mr. Ing asked how did he know if it were illegally placed, mauka of the shoreline or on top.

Mr. Soh said they would have to go by what was certified as the June 1981 certified shoreline. There were two 1981 certified shorelines, one in January and one in June and we would have to follow the June certification which was agreed on and if we can't go by that then they would have to go with the January 1981 certified shoreline.

Mr. Kealoha wanted to clarify with Mr. Watson, "the condition that you build within one year." The discussion that was held in June 1981 between Mrs. Chee of Land Utilization, State surveyor Saiki and yourself, the condition you just said was that everyone build their seawall within one year is so that no property owner will lose any more land, so everybody build one time.

Mr. Watson clarified saying within that year.

Answering Mr. Kealoha's question if this were a violation now, Mr. Watson said there's no doubt as far as the violation goes as it was beyond the 1981 line. There's no way of determining how far mauka of the 1981 line that he filled. We can only use the 1981 line as the latest certified boundary and anything makai of the 1981 line has to be a CDUA violation.

Mr. Ono asked if the portion that is to be corrected or recommended for removal, would that only be the portion that exceeds the June 1981 shoreline.

Mr. Soh said that is what Mr. Watson is recommending.

#### ACTION I

Mr. Ing moved for approval with the following amendments: 1) amended that he remove illegally placed fill seaward of the June 1981 shoreline, 2) the fine be reduced to \$250.00 for encroachment onto State land, 3) the fine be reduced to \$250.00 for unauthorized placement of rocks and dirt within Conservation District, 4) that Mr. Borsa shall reimburse the State of Hawaii administrative costs for the investigation in the amount of \$347.20. Seconded by Mr. Arisumi, the motion carried unanimously.

Mr. Borsa asked for a clarification of the action. As he understood, there is a \$250 fine for encroachment, \$250 fine for illegally placed rocks and an administrative costs fine. He knows he has to remove the rocks but wanted to know if he could pull the rest of the rocks out of the dotted line and continue the continuity.

Mr. Ing said that would be taken up when the Board considers his Conservation District Use Application.

Mr. Borsa said he thought that was the purpose of this meeting.

Mr. Ing informed him that this meeting only considers the violation aspect, the encroachment and the fill in conservation land.

Mr. Borsa said the letter he received says, "Will consider your application at its regularly scheduled meeting, Friday, August 9, 1985..." He said he's just trying to get this thing all straightened out, cause he might be paying a monthly payment for 3, 4, 5, or 6 months and his hands are tied. Until the vegetation line is established, the building department doesn't know the setbacks and he will have to know the flood elevation height before he can even design the house.

Mr. Ing then asked Mr. Soh the status of applicant's CDUA.

Mr. Soh said the normal process time is about 4 months from time of application.

Mr. Kealoha instructed Mr. Soh that staff should be more careful when sending letters to applicants or parties when violations will be heard.

Mr. Ono said that in order for him to get onto State property and to remove the fill of rocks, can he do it on today's action?

Mr. Soh said he thinks yes, as the Board has directed Mr. Borsa to remove the rocks.

Mr. Soh then suggested that the staff take action as directed by the Board as expressed in the motion and that Mr. Borsa be directed to remove the fill makai of the June '81 line and that the staff advise the State surveyor of the Board's action on this matter and request proceeding with the certification of the shoreline, based on what is there after the removal of the fill.

Mr. Ono said then there would be no need for a CDUA.

Mr. Soh said, yes, he thinks this renders no need for a CDUA.

Mr. Ono said that was the question he had wanted legal's opinion on.

ACTION II

Mr. Ing further amended his previous motion to include that the shoreline shall be recertified following the removal of the fill of the encroachment. Seconded by Mr. Arisumi, the motion carried unanimously.

ITEM J-1

CONSENT TO ASSIGNMENT OF LEASE NO. DOT-A-84-36, GENERAL LYMAN FIELD, HILO, AND KEAHOLE AIRPORT, KONA, HAWAII (LIBERATO'S U-DRIVE & TAXI, INC.)

Mr. Garcia asked that the submittal be amended by changing the wording and addition of a sentence in the second paragraph under Remarks. The paragraph should read as follows:

Liberato's U-Drive is presently delinquent in its rental payments to the Airports Division, which is approximately \$4200.00. Tropical Rent-A-Car, as approved by Liberato's U-Drive, will payoff the latter's arrearages upon Consent and will deduct the payoff from the proceeds due Liberato's U-Drive. Consideration for the assignment is \$45,000.00 and other good and valuable consideration.

ACTION

Mr. Zalopany moved for approval as amended. Seconded by Mr. Arisumi, the motion carried unanimously.

ITEM H-3

CONSERVATION DISTRICT USE APPLICATION TO IMPROVE THE EXISTING SEVEN PUBLIC RECREATIONAL BEACH ACCESS EASEMENTS AT PAPOHAKU BEACH, MOLOKAI, HAWAII

Mr. Soh presented the submittal of the County of Maui with staff recommendation that the Board deny this request because the proposed use is inconsistent with the Board's previous decision to protect the open conservation-zoned lands at Papohaku Beach.

Mr. Soh said their office had received a recent communication from the applicant saying that reason for requesting the proposed improvements was to provide safer access through existing public easements. They understand our concern regarding the implications



of the action of the pending subdivision court case. However, they would still like to provide some improvements within the easements for safety purposes and therefore they have asked to communicate with the department further on this matter. This communication was received on July 26, 1985.

Mr. Arisumi expressed concern saying if our people are still using the area and people get hurt, then the County will be liable. He said the question is how much longer is it going to take to clarify the authority regarding Kaluakoi.

Mr. Ing said as he understands, the basis for staff's recommendation for denial was partly subject to the Attorney General's decision or opinion recommending an easement may or may not constitute a "use". If they were to do clearing, for example, in a conservation district, wouldn't they have to have a CDUA?

Mr. Soh said there have been a number of instances where the applicant's have asked for ordinary maintenance of property and we have felt that, if it served to sustain the existing use of the property, it was not the intent of the regulation that an application should be filed.

Mr. Zalopany asked wouldn't there be a temporary permit of some kind that can be issued to clear the property and clean the place up.

Mr. Soh said if it's for maintenance of the land and to support how the land is being used now.

Mr. Zalopany said isn't it the concern of the County to clean up the place so that no one gets hurt.

Mr. Soh said yes, and it is also for the purpose of cleaning up and for some unspecified improvements, like grading and he didn't know if paving is intended or if parking lots are intended, etc.

Mr. Arisumi said as far as parking lots, they're already built. He said what we need is some idea when the court case will be settled or how the Land Board can be protected by legal interpretation.

Mr. Matsui of the County of Maui said basically they're looking at improving the safety and liability aspect. They still want to retain the conservation character of the area. They want to do some basic minor grading where the terrain varies. Secondly they wanted to delineate where the lateral boundaries of the easement to the conservation area was, so that was the fencing, they did not intend it to be a barrier for people not to cross. They feel they need to identify where the right of way ends and starts for the public. They're still willing to cut back on the fencing request, maybe if they were allowed, they could put up a series of keawe poles to the show the right-of-way.

Mr. Matsui said the agricultural areas already have fences and are paved with parking lots, all six of them. The seventh easement is a park, a ten acre park.

Mr. Kealoha asked if the County requested these easements.

Mr. Matsui said he thinks it was part of the subdivision requirement that, part of the County requirement was to provide beach access.

Mr. Kealoha asked if the right-of-ways come right up to the end of the agricultural areas and end there.

Mr. Matsui said yes, and then you come upon the conservation strip that you have to walk through to get to the sandy beach or rocky space.

Mr. Kealoha said he couldn't understand why would the County wanted to delineate the different boundary between the agriculture and conservation lands when the owners themselves will put up their own physical boundaries.

Mr. Matsui said the delineation is through the conservation land, so they want to identify where the right-of-way is, and they want to improve it so that the public will not wander off into the adjoining properties. If the public got hurt then it would still be a part of the County's liability because they weren't informed of where the right-of-way was.

Mr. Arisumi asked him if he were talking about the narrow strip that was about 10 feet wide by 10 feet, the straight path to the ocean and not the entire lot 403.

Mr. Matsui said yes, just the narrow strip and not the entire lot 403.

ACTION

Mr. Arisumi moved to defer this item to the next meeting so that the Attorney General could clear up the legal matter. Seconded by Mr. Zalopany, motion carried unanimously.

Mr. Ono then instructed Mr. Matsui to work with staff on the maintenance aspect of his request.

ITEM H-5

REQUEST TO AMEND A USE PREVIOUSLY APPROVED: MAUNA KAPU MICROWAVE RELAY, OCEANIC CABLEVISION (CAMPBELL ESTATE)

Mr. Soh presented the request of Oceanic Cablevision to amend their previously approved use at Mauna Kapu in the Waianae Range.

By his request, Mr. Ing was excused from participating on this item.

ACTION

Motion was made by Mr. Zalopany for approval. Motion was seconded by Mr. Arisumi. Discussion followed.

Mr. Ono wanted to know, regarding the broadcasting capabilities from Aloha Stadium, will it require any additional structures to be mounted at the Aloha Stadium site.

Mr. Mike Goodish from Ocean Cablevision Transmission Department said they will erect a temporary portable microwave dish only during events and these will be removed after the event.

Mr. Kealoha asked if any trimming of trees will be required.

Mr. Goodish said no trimming of trees will be required.

There being no further discussion, Chairman Ono called for a vote on the motion. Motion carried unanimously.

ITEM C-1

REQUEST TO ENTER INTO A JOINT AGREEMENT WITH THE NATURE CONSERVANCY OF HAWAII TO ESTABLISH A JOINT DATABASE FOR THREATENED AND ENDANGERED SPECIES

Mr. Landgraf summarized this submittal to the Board. There was one change in the last paragraph above the Recommendation. There was an approximate cost of \$16,000 which he would like to change to \$10,000.

Subsequent to this submittal, the Division of Forestry and Wildlife had done more work with the Fish and Wildlife Service and the U.S. Forest Service and by including assistance from their people, their hardware and software equipment, the Division of Forestry and Wildlife was able to reduce the amount requested.

- ACTION Mr. Arisumi moved for approval as amended. Seconded by Mr. Zalopany, the motion carried unanimously.
- ADDED  
ITEM C-2 FILLING OF POSITION NO. 2935, FORESTRY SUPERVISOR I, KAMUELA TREE NURSERY, ISLAND OF HAWAII
- ACTION Mr. Zalopany moved for approval of the appointment of Mr. Charles Labrador, Jr. to fill Position No. 2935, Forestry Supervisor I, at the Kamuela Tree Nursery, Island of Hawaii. Seconded by Mr. Ing, the motion carried unanimously.
- ITEM D-1 APPLICATION FOR STREAM CHANNEL ALTERATION PERMIT, KAHULUU, KOOLAUPOKO, OAHU
- ACTION Unanimously approved as submitted, subject to the conditions in the submittal. (Ing/Zalopany)
- ITEM D-2 APPLICATION FOR STREAM CHANNEL ALTERATION PERMIT, HAUULA, KOOLAULOA, OAHU
- ACTION Unanimously approved as submitted, subject to the conditions in the submittal. (Ing/Kealoha)
- ITEM D-3 SOIL AND WATER CONSERVATION DISTRICT DIRECTORS, OAHU
- ACTION Unanimously approved as submitted. (Ing/Kealoha)
- ITEM D-4 FILLING OF GENERAL LABORER II POSITION ON TEMPORARY APPOINTMENT OUTSIDE OF LIST BASIS, MOLOKAI IRRIGATION SYSTEM, ISLAND OF MOLOKAI
- ACTION Mr. Arisumi moved to approve the appointment of Mr. Andrew K. Grambusch to fill the General Laborer II position, Position No. 22697, Island of Molokai. Seconded by Mr. Kealoha, motion carried unanimously.
- ITEM E-1 YOUNG PEOPLE'S SUPPORT CENTER REQUEST FOR PERMIT TO USE DIAMOND HEAD CRATER, HONOLULU, OAHU FOR FUND RAISING
- Mr. Ono said he did ask staff for additional information on the safety aspects on the trail where some places would be lighted and others dark. The response he received was there would be an adult accompanying the youngsters and if they cannot make it they will turn around and go back down.
- ACTION Mr. Zalopany moved for approval as submitted. Seconded by Mr. Ing, motion carried unanimously.
- ITEM E-2 AWARD OF CONSTRUCTION CONTRACT, JOB NO. 36-MP-28, SANITARY SYSTEM IMPROVEMENTS, WAHIKULI STATE WAYSIDE, LAHAINA, MAUI
- ACTION Unanimously approved as submitted. (Kealoha/Zalopany)
- ITEM E-3 REQUEST TO USE A PORTION OF HONOLULU STADIUM STATE RECREATION AREA, OAHU, FOR A "PARAMEDIC OLYMPICS"
- Mr. Ono said that the applicant's have asked that the insurance condition be waived as it would cost about \$600 for such an event.

Mr. Ing suggested that the standard Hold Harmless Clause be inserted into the conditions.

ACTION Mr. Arisumi moved for approval as amended. Seconded by Mr. Kealoha, the motion carried unanimously.

ADDED  
ITEM E-4 FILLING OF TWO GROUNDSKEEPER I POSITIONS FOR THE OAHU PARK SECTION

ACTION Mr. Ing moved to approve the appointment of Mr. Sinfronio B. Acorda to fill Position No. 27053, Groundskeeper I, Nuuanu Pali State Wayside and the appointment of Mr. John Y. Tamashiro to fill Position No. 31513, Groundskeeper I, Waimanalo Bay State Recreation Area. Seconded by Mr. Arisumi, the motion carried unanimously.

ADDED  
ITEM E-5 FILLING OF PARK CARETAKER II, POSITION NO. 12174, ASSIGNED TO THE HANA ROAD WAYSIDE PARKS, MAUI PARKS SECTION

ACTION Mr. Arisumi moved to approve the appointment of Mr. Willie Kimokeo, presently assigned to Waianapanapa State Park to fill Position No. 12174, Park Caretaker II, Hana Road Wayside Parks on the Island of Maui. Seconded by Mr. Zalopany, motion carried unanimously.

ITEM F-1 DOCUMENTS FOR CONSIDERATION

UNIVERSITY OF HAWAII APPLICATION FOR REVOCABLE PERMIT COVERING THE FORMER FORT FUGER CHAPEL, HONOLULU, OAHU, LOCATED AT DIAMOND HEAD ROAD, PORTION OF PARCEL 10 OF TMK 3-1-42, AREA OF 10,000 SQ. FT. + PURPOSE: INSTRUCTION-RELATED ACTIVITIES OF KAPIOLANI COMMUNITY COLLEGE COMMENCEMENT DATE: SEPT. 1, 1985, MONTHLY RENT: GRATIS

Item F-1a

ACTION (See page 2 for Action.)

GLADYS AKUI APPLICATION REQUEST FOR REVOCABLE PERMIT, KALAPANA, PUNA, HAWAII, TMK: 1-2-03:PORTION OF 12, CONTAINING AN AREA OF .69 ACRES, FOR CONTINUATION OF EXISTING RESIDENTIAL USE. RENTAL: \$198.00 PER MO. COMMENCING JULY 1, 1985.

Item F-1b

ACTION Unanimously approved as submitted. (Kealoha/Zalopany)

ITEM F-2 GRANT OF EASEMENT FOR UTILITY AND ROAD PURPOSES, TMK 7-5-14:11 & 12, BROWN V. KOBAYASHI, ETAL, CIVIL NO. 5809, THIRD CIRCUIT COURT

ACTION Unanimously approved as submitted. (Zalopany/Ing)

ITEM F-3 K.K. RANCH, INC. REQUEST FOR RECONSIDERATION OF PREVIOUS BOARD ACTION (4/10/85, AGENDA ITEM F-2) AUTHORIZING TERMINATION OF G.L. NO. S-4475, KALOPA AND KAOHE 3, HAMAKUA, HAWAII

Mr. Detor presented the submittal orally to the Board explaining that staff had just obtained additional information a couple days ago and had not had time to put it into writing.

Back in April, a recommendation was made to the Board to cancel this lease because previously a notice of default was served for non-payment of rent and also failure to provide the performance bond. The rental owing amounted to over a year's rent. The rent was \$77,000 a year, so he owed about \$115,000. He made periodic payments but not enough to

really catch up. More time was asked and the Board voted to give him until June 30, 1985 to clear up the delinquency, if not go ahead and cancel. He was not able to bring it up to date but the lease cancellation documents have not been issued so very technically speaking, the lease has not been officially cancelled.

Now the owner is trying to sell the ranch to a new party and thus he met with the Hilo land agent, Glenn Taguchi the other day and has proposed another way to settle this. Extension is being requested to allow time to consummate the sale sometime in September and he should be able to pay off the back rent.

Mr. Taguchi said he met with Mr. Toledo, the principal in K.K. Ranch. who presented a purchase agreement between K.K. Ranch and John Brumlow and Mike Brumlow along with the financial statements of the Brumlows. (Copies of financial statement distributed to Board members.)

Mr. Taguchi said it appears should the Board allow for an extension from June 30, 1985 to September 30, 1985 or somewhere in that area, it would allow sufficient time to consummate a sale, derive enough money from the sale to pay off the State and its delinquent rentals and also to pay off the Hawaii Production Credit Association, in which he has an outstanding loan. It would appear if the Board not take any action that we may have some difficulties collecting the delinquent rentals.

Mr. Detor said there may be another aspect possibility, the mortgage. The Board had consented to the mortgage originally, about \$500,000.00. The purchase agreement calls for a total price of \$895,000.00 and from that monies the creditors will be paid off, PCA, the State and assuming there are delinquent real property taxes to be paid also.

Mr. Arisumi asked if there was a guarantee that the State would be paid off.

Mr. Taguchi said that Mr. Toledo has given the Department a letter saying that he will make an assignment of the monies to pay off all the delinquent rentals. Mr. Taguchi said what he will try to do is work with the escrow company and try and get a guarantee from the escrow company before any disbursement of monies are made to the seller. He said he would also be sure to include that the real property taxes must be paid off.

Question was asked, who were the buyers?

Mr. Taguchi said the financial statement shows that the Brumlows are a rancher and an investor and they both come from New Mexico. A cursory check was made by the Hawaii Land Company and their check shows that the two parties have financial resources but no other information.

Mr. Watson asked what was exactly the last board action.

Mr. Detor said if he did not pay by June 30, 1985, staff was authorized by the Board to go ahead and cancel the lease. Right now the actual documents have not been issued, so the Board would have to rescind or amend the previous action to extend the time.

Mr. Watson cited a previous case where the same action was taken by the Board, unless you pay by "x" date, the lease document is hereby cancelled. The issuance of a formal document was merely a formality and a problem arose in that because after the cancellation date approved by the Board, the lessor sold to a big company under an assignment, we got banged by the lessor and the new company because they wanted the lease and the State's position was that notwithstanding the issuance of the document itself, it was already cancelled. The new lessor had nothing to sell at the time. If the lease were cancelled on June 30 and the Board informed him that you be out by June 30, that's it, cancelled. On that part, the Supreme Court upheld the State's position and we won that case because there was no lease for the lessor to assign to the new assignee because the lease was cancelled.

Mr. Taguchi said that is why Mr. Toledo is not coming in for an assignment at this particular time. He is coming in for some consideration that the Board rescind or amend the previous Board action of cancellation. He does have a buyer and wishes to make good on all his obligations. If the Board chooses not to either amend or rescind its previous action, then he has nothing to make an assignment on.

Mr. Detor expressed concern that the State may be on the hook for the \$500,000 mortgage to PCA because we consented to the mortgage.

Mr. Ing said in that situation, can the Board rescind the cancellation.

Mr. Taguchi said it is his understanding that the amount of money that is going to be paid will cover all of the obligations. He suggested placing a time limit of September 30, 1985 to encourage the parties involved in the sale to speed things up.

Mr. Ono said assuming we go that route, he would like to have the staff prepared should monies be recovered.

Mr. Detor said he had instructed his staff to be prepared in the event the Board cancelled this request with preparations to go to the Board at the next meeting with a submittal requesting permission to go to public auction.

**ACTION**

Motion was made by Mr. Ing to rescind the prior cancellation date of June 30, 1985 and extend the cancellation date to September 30, 1985 on the condition that if the sale closes and the back rent is paid up, that there will be no cancellation. In addition to that, we require seller to take care of delinquent property taxes. Seconded by Mr. Arisumi, the motion carried unanimously.

Mr. Ing instructed staff that all interested parties should be informed.

Mr. Taguchi said that he will work closely with Security Title and will inform them by telephone as soon as possible. He will also follow up with a written letter.

**ITEM F-4**

REQUEST FOR RIGHT-OF-ENTRY AND GRANT OF PIPELINE EASEMENT, OLINDA, MAKAWAO, MAUI, TMK 2-4-15:POR. 02 (MAUI DEPARTMENT OF WATER SUPPLY

**ACTION**

Unanimously approved as submitted subject to conditions in the submittal. (Arisumi/Zalopany)

CITY AND COUNTY OF HONOLULU, DEPARTMENT OF PUBLIC WORKS REQUESTS  
TEN-YEAR RIGHT OF ENTRY TO GOVERNMENT LAND AT WAIMANALO, OAHU,  
FOR STREAM CLEANING PURPOSES

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ITEM F-5

ACTION

Unanimously approved as submitted subject to condition in the submittal.  
(Ing/Arisumi)

STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF A LEASE COVERING  
LAND SITUATE BETWEEN KAPAA STREAM AND KAPAA HOMESTEADS AND LOT 40-A,  
41-A, 64 AND 65 (KULA) OF THE KAPAA HOMESTEADS, KAPAA, KAUAI

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ITEM F-6

STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF A LEASE COVERING  
PORTION OF THE KALAHEO HOMESTEADS, KALAHEO, KOLOA, KAUAI

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ITEM F-7

STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF A LEASE COVERING  
PORTIONS OF LOTS 27 AND 28 AND LOTS 29-34, INCLUSIVE, HANAPEPE  
RICE AND KULA LOTS, HANAPEPE, WAIMEA, KAUAI

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ITEM F-8

STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF A LEASE COVERING  
LOT 44, WAILUA RICE AND KULA LOTS, WAILUA, LIHUE, KAUAI

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ITEM F-9

STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF A LEASE COVERING A  
PORTION OF LOT 2-A-2, KAPAA RICE AND KULA LOTS, KAPAA, KAWAIHAU, KAUAI

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ITEM F-10

STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF A LEASE COVERING  
LOT 33, KAPAA HOMESTEADS, KAPAA, KAWAIHAU, KAUAI

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ITEM F-11

STAFF RECOMMENDATION FOR PUBLIC AUCTION SALE OF A LEASE COVERING  
LOTS 20 THROUGH 22, 25, 26, 28 AND 29-B, KAPAA HOMESTEADS, 1ST  
SERIES, KAPAA, KAWAIHAU, KAUAI

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ITEM F-12

ACTION

Motion was made by Mr. Zalopany to approve as submitted, subject to  
conditions in the respective submittals, Items F-6, F-7, F-8, F-9,  
F-10, F-11 and F-12. Seconded by Mr. Arisumi, the motion carried  
unanimously.

BUDGET AND FINANCE REQUEST FOR ACQUISITION OF LEASE COVERING UNIT 7 OF  
THE BASQUE PROFESSIONAL BLDG., CAPT. COOK, KONA, HAWAII

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ITEM F-13

ACTION I

Mr. Kealoha moved for approval as submitted. Seconded by Mr. Zalopany,  
motion carried unanimously.

Mr. Ono had a question as to whether this building had ramps and hand  
rails to accommodate the handicap being it is used by the general public.

Mr. Detor was not sure if facilities were available.

ACTION II

Mr. Kealoha moved to amend his previous motion to be contingent on  
the facilities be available to the handicap. Seconded by Mr. Zalopany,  
motion carried unanimously.

DEPARTMENT OF HEALTH REQUEST FOR APPROVAL OF RENEWAL OF LEASE  
COVERING ROOM 300 OF THE BETHEL-PAUHI BUILDING, HONOLULU, HAWAII

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ITEM F-14

ACTION

Unanimously approved as submitted. (Ing/Zalopany)

AFTER-THE-FACT CONSERVATION DISTRICT USE APPLICATION FOR RECONSTRUCTION  
OF THE MAUNA LOA POWERLINE AT MAUNA LOA, NORTH AND SOUTH HILO  
DISTRICTS, HAWAII (HELCO)

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ITEM H-1

ACTION

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

- ITEM H-2      CDUA FOR CONSTRUCTION OF STORM DRAIN OUTLET AT KIHEI, MAUI
- ACTION      (See page 5 for action.)
- ITEM H-3      CDUA TO IMPROVE THE EXISTING SEVEN PUBLIC RECREATION BEACH ACCESS EASEMENTS AT PAPOHAKU BEACH, MOLOKAI (MAUI COUNTY DEPT. OF PARKS & REC.)
- ACTION      (See page 10 for action.)
- ITEM H-4      RESUBMITTAL OF A CDUA FOR SINGLE-FAMILY RESIDENTIAL USE WITH TARO FARMING AT WAILAU VALLEY, MOLOKAI (JOHN RODRIGUES)
- Agent Mr. Clifford Soares has asked on behalf of Hulu Estate to withdraw this application as Mr. Rodrigues has passed away.
- ITEM H-5      REQUEST TO AMEND A USE PREVIOUSLY APPROVED: MAUNA KAPU MICROWAVE RELAY, OCEANIC CABLEVISION (CAMPBELL ESTATE)
- ACTION      (See page 10 for action.)
- ITEM H-6      REQUEST TO AMEND A USE PREVIOUSLY APPROVED: GREENHOUSE FOR LYON ARBORETUM (UNIVERSITY OF HAWAII)
- ACTION      (See page 2 for action.)
- ITEM H-7      CONSERVATION DISTRICT USE APPLICATION FOR NONCONFORMING SINGLE-FAMILY RESIDENTIAL USE AT WAIMEA, OAHU (GARY T.S. LEE)
- In the comments from the Department of Health, under terms of a policy agreement between the Board of Water Supply (BWS), the BWS was to investigate the sewer problem. Mr. Ono asked if they had completed their investigation.
- Mr. Soh said that staff has asked the BWS about their investigation about this matter and the BWS has indicated that they have no serious concerns on this matter.
- ACTION      Mr. Zalopany requested that this matter be deferred to the next meeting so that applicant can be present. Since there were no objections to this item being deferred to the next meeting, Chairman so ordered.
- ITEM H-8      CDUA FOR GRADING AND CONSTRUCTION OF WATER TANK, ROADWAY, PIPELINE, AND DRAINAGE CHANNEL AT HALAWA, OAHU (QUEEN EMMA FOUNDATION)
- ACTION      (See page 2 for action.)
- ITEM H-9      PROPOSED AMENDMENT TO A PREVIOUSLY APPROVED CDUA APPLICATION FOR AN ACCESS EASEMENT AT KAWAIHAU, KAPAA, KAUAI (ANTONE ARRUDA)
- ACTION      Mr. Zalopany moved to approve submittal subject to conditions as listed. Seconded by Mr. Ing, motion carried unanimously.
- ITEM H-10      UNAUTHORIZED SEAWALL CONSTRUCTION WITHIN CONSERVATION DISTRICT AT 53-701 KAMEHAMEHA HIGHWAY (HAROLD FULLER, SR.)
- Mr. Soh said he was just informed this morning by staff that Mr. Fuller came into the Honolulu office yesterday, trying to see the Chairman to discuss this matter. Mr. Fuller lives in Kona, Hawaii.
- ACTION      Mr. Ing requested that this item be deferred so that Mr. Fuller or someone representing him may be present. There were no objections to this request, thus Chairman so ordered.



Mr. Ono instructed staff to be sure that Mr. Fuller is notified of the meeting date and it will be his prerogative to attend in his best interest.

Mr. Soh apprised the Board that staff does not have Mr. Fuller's telephone number and the only contact is by certified mail. A notice of this particular meeting was sent by certified mail and although return receipt was requested, the Kailua-Kona postmaster does have Mr. Fuller's signature that he did in fact receive the notice.

- ITEM H-11      VIOLATION WITHIN CONSERVATION DISTRICT AT WAILUA, OAHU (JOHN BORSA)  
ACTION      (See page 9 for action.)
- ITEM H-12      RESUBMITTAL OF TEMPORARY VARIANCE FOR MILITARY TRAINING EXERCISE "THERMAL GALE '85," KAUAI, OAHU, MOLOKAI, HAWAII (U.S. ARMY ENGINEERS)  
ACTION      (See page 4 for action.)
- OTHER STATE DEPARTMENTS
- ITEM J-1      CONSENT TO ASSIGNMENT OF LEASE NO. DOT-A-84-36, GENERAL LYMAN FIELD, HILO, AND KEAHOLE AIRPORT, KONA, HAWAII (LIBERATO'S U-DRIVE & TAXI, INC.)  
ACTION      (See page 9 for Action.)
- ITEM J-2      CONSENT TO SUBLEASE, LEASE NO. DOT-A-78-22, LIHUE AIRPORT, KAUAI (HAWAIIAN AIRLINES, INC.)  
ACTION      Application withdrawn.
- ITEM J-3      APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4062 AND 4052, AIRPORTS DIVISION  
ACTION      Unanimously approved as submitted. (Zalopany/Kealoha)
- ITEM J-4      APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT 4005, NON-CONFORMING USE, AIRPORT DIVISION  
ACTION      Unanimously approved as submitted. (Kealoha/Zalopany)
- ITEM J-5      ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEEHI LAGOON COMMERCIAL SUBDIVISION, HONOLULU, OAHU (JIMMY CHEE MASONRY, INC.)  
ACTION      Mr. Garcia said he would like to amend the submittal with a change of name from Jimmy Chee Masonry, Inc. to Chee, Inc.  
ACTION      Mr. Ing moved for approval as amended. Seconded by Mr. Zalopany, the motion carried unanimously.
- ITEM J-6      ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, HONOLULU HARBOR AND KEWALO BASIN, OAHU (PACIFIC PETROLEUM SERVICES)  
ACTION      Unanimously approved as submitted. (Kealoha/Zalopany)
- ITEM J-7      USE OF HARBORS DIVISION FACILITIES, PIERS 9 AND 10 PASSENGER TERMINALS, HONOLULU, OAHU (TIP TRAVEL PRODUCTIONS, INC.)  
ACTION      Unanimously approved as submitted. (Arisumi/Ing)
- ITEM J-8      AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-20, KAHULUI AIRPORT, MAUI (TRAVELER'S RENT A CAR OF HAWAII, INC.)

- ITEM J-9            AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-19, KAHULUI AIRPORT, MAUI (ANDRES TAXI & U-DRIVE, INC.)
- ITEM J-10            AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-14, KAHULUI AIRPORT, MAUI (TAYLOR TRANSPORTATION CO., LTD.)
- ITEM J-11            AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-18, KAHULUI AIRPORT, MAUI (ROBERT'S HAWAII RENT-A-CAR SYSTEMS, INC.)
- ITEM J-12            AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-21, KAHULUI AIRPORT, MAUI (PACIFIC INTERNATIONAL SERVICES CORP.)
- ITEM J-13            AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-23, KAHULUI AIRPORT, MAUI (MAUI AIRPORT U-DRIVE INC.)
- ITEM J-14            AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-13, KAHULUI AIRPORT, MAUI (THE HERTZ CORP.)
- ITEM J-15            AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-24, KAHULUI AIRPORT, MAUI (BUDGET RENT A CAR SYSTEMS, INC.)
- ITEM J-16            AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-12, KAHULUI AIRPORT, MAUI (AVIS RENT A CAR SYSTEM, INC.)
- ITEM J-17            AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-16, KAHULUI AIRPORT, MAUI (ARAKI TAXI & U-DRIVE, INC.)
- ITEM J-18            AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-22, KAHULUI AIRPORT, MAUI (ALAMO RENT-A-CAR, INC.)
- ITEM J-19            AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-17, KAHULUI AIRPORT, MAUI (TRANS-MAUI, LTD.)
- ACTION                Mr. Arisumi moved to approve items J-8 to J-19 as submitted. Seconded by Mr. Zalopany, the motion carried unanimously.
- ITEM J-20            AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-38, MOLOKAI AIRPORT MOLOKAI (TROPICAL RENT A CAR SYSTEMS, INC.)
- ACTION                Unanimously approved as submitted. (Zalopany/Arisumi)
- ITEM J-21            AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-35, MOLOKAI AIRPORT, MOLOKAI (MOLOKAI TRANSPORTATION ASSOCIATES, INC.)
- ACTION                Unanimously approved as submitted. (Zalopany/Ing)
- ITEM J-22            SHOE-SHINE CONCESSION, HONOLULU INTERNATIONAL AIRPORT, OAHU
- ACTION                Unanimously approved as submitted. (Ing/Kealoha)
- ITEM J-23            APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT 4063, NON-CONFORMING USE, AIRPORTS DIVISION
- ACTION                Unanimously approved as submitted. (Ing/Kealoha)

ADJOURNMENT: There being no further business, the meeting was adjourned at 12:45 p.m.

Respectfully submitted,

*Dorothy C. Chum*  
Dorothy C. Chum  
Secretary

APPROVED:

*S. Ono*  
SISIMII ONO