

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

DATE: September 26, 1986  
TIME: 9:00 A. M.  
PLACE: Kahului Library Conference Room  
Kamehameha and School Streets  
Kahului, Maui

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 Zalopany  
Mr. John Arisumi  
Mr. Herbert Arata  
Mr. Susumu Ono

STAFF: Mr. Libert Landgraf  
Mr. Manabu Tagomori  
Mr. James Detor  
Mr. Eddie Ansai  
Mr. Roger Evans  
Mrs. LaVerne Tirrell

OTHERS: Mr. Johnson Wong, Deputy A.G.  
Mr. Peter Garcia, DOT  
Mr. Chris Hart (Item F-5)  
Mr. Fred Rodrigues (Item H-5)  
Mr. Benn Leialoha (Item H-6)

MINUTES:

The following minutes were unanimously approved as circulated:

July 11, 1986 (Ing/Kealoha)  
July 25, 1986 (Arisumi/Ing)  
August 8, 1986 (Ing/Arisumi)

ADDED  
ITEMS

Upon motion by Mr. Ing and a second by Mr. Kealoha, the following items were added to the Agenda:

Item C-2 -- Filling of Half-time Clerk-Typist II, Position No. 35712, Island of Maui.

Item C-3 -- Resubmittal -- Clarence F. T. Ching Request for Right-of-Entry to Kaniakapupu, the Summer Palace of Kamehameha III at Luakaha, Nuuanu, within the Closed Watershed Portion of the Honolulu Watershed Forest Reserve.

ITEM F-5

STAFF RECOMMENDATION FOR ACQUISITION OF LAND REQUIRED FOR MAKENA-LA PEROUSE STATE PARK BY EXCHANGE AND/OR PURCHASE, MAUI.

Mr. Detor said that there have been previous acquisitions for the park and this is another step in the fulfillment of the plans for a State Park. Mr. Detor pointed out from a map the area that would be affected in this exchange.

What is being recommended, said Mr. Detor, is to purchase the parcel in question with the monies available, which is some \$3.75 million, plus about another \$1 million from the County. Staff is not sure at this point inasmuch as the appraisal has not come in. Should we not be able to buy the parcel, then staff is suggesting a combination of an exchange for a part of the old Kahului School property.

Mr. Detor said that there was a resolution in the last session of the Legislature which asked DLNR to go ahead with the exchange purchase proposal -- that was HCR 60.

Mr. Kealoha asked whether the property on the beach was contiguous to the State beach.

Mr. Detor said, yes, and that it was also contiguous to the Seibu property which was acquired last year.

Mr. Ono asked, "assuming you have \$4.5 million, or roughly that amount, and that is not quite enough to cover the cash purchase of the subject property, you're saying we go to the Kahului School property for possible exchange. But what if the value that is needed to equalize the purchase exchange is such that only a small portion of the Kahului property would be turned over to the current owners. It wouldn't be usable for them and it might break up a valuable piece of school ground property."

Mr. Detor said that until we know how much of the Kahului property will be required, it would be kind of hard to say what will happen as far as the utility of what remains.

Mr. Ono said his question is: "you might split that property into two unusable portions so it is not functional for the new private owner as well as for the State."

Mr. Detor said that the way this proposal is worded DLNR does have the leeway, if it is adopted, to try and gear it so that portion of the Kahului property that would be taken is one that would least affect the utility of the property.

Mr. Ono asked if it would be possible to have it figured out both ways -- cash first and then make up the difference in the portion or all of the Kahului property or, Kahului property first and then what remains we make up with cash.

Mr. Detor said that the appraisal will be done on both properties on a unit value basis so we will have the ability to juggle.

Mr. Kealoha asked whether the owners had agreed on the value for the property, regardless as to how long ago the appraisal was made?

Mr. Detor said, no. The appraisal is what they are looking at but there has been no agreement or set price before hand.

The last appraisal was three years ago at \$5 million and the negotiation begins January, 1987. Mr. Kealoha asked, "will they require a new appraisal or will it remain at \$5 million dollars?"

Mr. Detor said that for the one we are discussing today a new appraisal will be required.

Mr. Christopher Hart, Planning Director for the County of Maui representing Mayor Hannibal Tavares testified as follows:

"I am pleased to have the opportunity of testifying before you this morning regarding this much needed regional beach park for the people of Maui County and the State of Hawaii. As you are aware, the County of Maui, through its planning process has consistently supported the designation of this area as a park for public use. Therefore, we wish to reenforce this morning, our position in favor of acquisition of all parcels fronting the

ocean within the area identified as "Big Beach". With regard to the process of land acquisition, please be advised that the administration of the County of Maui favors acquisition by exchange of land or monetary payment of land by the State of Hawaii.

'Regarding the proposed exchange parcel (Old Kahului School Grounds) at the intersection of Kane Street and Kaahamanu Avenue, the Administration of the County of Maui will work together with the prospective new owners in resolving the issue of a suitable location for the Maui Economic Opportunity Program in order to maintain its vital communitywide identity.

'We truly believe that "Big Beach" is a natural resource of Statewide importance and this Administration pledges its full support and cooperation in the acquisition and permit approval process for ultimate establishment of the area as a State Regional Beach Park."

Mr. Arisumi asked Mr. Hart if the County would be willing to help finance this project.

Mr. Hart said that he had discussed this with the Mayor. A million dollars has been appropriated by the County of Maui. In the context of negotiating a purchase of property, yes, they would be willing to participate with regard to that appropriated amount.

Mr. Arisumi asked if the present MEO people would be taken care of.

Mr. Hart said that negotiations have already been initiated. They realize that MEO is a vital part of the human service provisions to the community of the County of Maui therefore they really want to work with them to maintain the identity and viability that they have with the community.

Regarding the funding, Mr. Ono asked, "the latest bond sale made, wasn't this appropriation included in the bond sale?"

Mr. Hart said that he really did not know whether that amount was actually a part of the bond but he does know that the appropriation by the County has been identified and that wherever the source is that the county would be willing to participate.

Mr. Ono said that he would have staff check to see whether the Maui County bond sale included this particular project.

Mr. Arthur Fernandes, representing Maui Economic Opportunity, testified that MEO does not want to move and they are not in favor of the land exchange.

Mr. Steve Nicholas, vice chairman for the group State Park of Makena, speaking from a personal standpoint, said that he has been working to save the area known as "Big Beach Makena" now for over five years. He believes that the community will support an appropriate move for the MEO to facilities that will satisfy their needs. He summarized by saying that he does support this project.

Mr. Anthony Rankin, an attorney in Wailuku and a member of the group "State Park of Makena" speaking on behalf of the organization, gave the board a brief background of their organization, which includes some 4000 dues-paying members. Their organization supports the acquisition of land for Big Beach.

Mr. Bob Cole, general partner in Makena Beach Investors who owns the last third of Big Beach, approximately 1300 feet of shoreline, said that they have owned the property for almost 12 years now and have been discussing a possible exchange for many, many years. With regard to the MEO discussion,

he said that it was his understanding that the MEO is on the College School site without any authorization. This is a good opportunity at this time for the County and everyone else to find a permanent home for the MEO. He said that he has had personal discussions with the Mayor and key council members and diagonally across the street from Kahului School the County Planning has set aside approximately 145 acres for the Kahului Regional Park. He feels this would be a better place for the MEO. They also discussed funding with the Maui Representative in the Legislature who has said that when the time arises he will find the funds to relocate MEO. He said that should they end up with the property they have no desire to immediately move everybody out. It will take two years before they will figure out what they will actually do with the property.

Mr. Ono asked Mr. Cole, "what would be your preference -- value of the Kahului property in total and whatever difference which needs to be made up we make it up in cash, or dunk all the cash down and make up the difference with portion or all of the Kahului property?"

Mr. Cole said that they are flexible. They can go either way depending on how the appraisals go.

ACTION

Mr. Arisumi moved to approve as submitted.

Mr. Ing asked whether there would be another opportunity for the board to review the final terms of the land exchange sale.

Mr. Detor said, if the board wishes.

Mr. Arisumi amended his motion with the added condition that the board be allowed to review the final terms of the land exchange. Seconded by Mr. Ing, motion carried unanimously.

ITEM H-5

CDUA FOR POWER LINE REALIGNMENT, WAAHILA RIDGE, MANOA, HONOLULU, OAHU.

Mr. Evans said that should the board approve this request staff would like to modify their conditions by deleting Condition No. 3 which deals with public lands. This entire project is within private lands.

ACTION

Mr. Ing moved to approve as amended. Seconded by Mr. Arisumi, motion carried unanimously.

ITEM H-6

CDUA FOR FOUR (4) COMMERCIAL MOORING USES ON SUBMERGED LANDS OFFSHORE OF THE WHALER'S VILLAGE AT KAAHAPALI, MAUI.

Mr. Evans said that the Department of Health expressed serious reservations about sewage disposal from the use of the boat. Staff's analysis and subsequent follow-up with the applicant, they found that the sewage will not be a problem with the major boats inasmuch as the sewage will actually be disposed of on-shore. The boats themselves are self-contained.

Another major concern was expressed by the Department of Transportation. The proposed location of these moorings was not in accordance with the maps which were done with the administrative rules. As a result DOT expressed concern. The applicant, however, got together with DOT and since relocated the moorings such that they would complement DOT's administrative rules. DOT also said that they want people who will be having permanent moorings be adjacent landowners or have a commercial onshore business.

Mr. Evans pointed out that DOT's rules state that they expect a total of ten permits to be issued. The permit they are talking about is a permit to operate commercially and not to put in a mooring.

Mr. Ono asked whether this would require legislation decision of any sort.

Mr. Evans thought this might be subject to disapproval of the legislature.

Mr. Ono said if this is the case then it would be better to include such a statement for everybody to understand.

Mr. Detor said that this would require the adoption of a resolution by the Legislature. In the case of Manele Bay and Hulapoi Bay a permit was issued during the interim.

Mr. Kealoha said that it should be made known to the applicant at the onset of the hearing process that he has to go to the legislature so that the applicant is aware of the process.

Mr. Evans said that they have in the past told the applicant that there is another follow-up action but did not indicate to them that there may well be legislative action. However, staff will change this.

Mr. Ing felt that the application form could be changed. A lot of people don't understand when you say, "it's for the use only and that disposition requires follow-up." They don't understand how that relates to whether or not they can actually use the property.

Mr. Evans felt this to be a good suggestion and said that they would look into it.

ACTION Unanimously approved as submitted. (Arisumi/Kealoha)

ITEM B-1 REQUEST FOR APPROVAL TO CONDUCT A PUBLIC HEARING TO AMEND THE DEPARTMENT'S ADMINISTRATIVE RULES, CHAPTER 89, MAKING CONSISTENT FEDERAL AND STATE SPINY LOBSTER REGULATORY MEASURES FOR THE NORTHWESTERN HAWAIIAN ISLANDS.

ACTION Unanimously approved as submitted. (Kealoha/Zalopany)

ITEM C-1 OUT-OF-STATE TRAVEL REQUEST FOR RONALD L. WALKER TO ATTEND THE FEDERAL AID COORDINATORS WORKSHOP, OCTOBER 7-9, 1986, IN SACRAMENTO, CALIFORNIA.

ACTION Unanimously approved as submitted. (Kealoha/Zalopany)

ADDED ITEM C-2 FILLING OF HALF-TIME CLERK-TYPIST II, POSITION NO. 35712, ISLAND OF MAUI.

ACTION Mr. Zalopany moved to approve the appointment of Ms. Pamela T. Nakamura to fill Position No. 35712. Seconded by Mr. Kealoha, motion carried unanimously.

ADDED ITEM C-3 RESUBMITTAL -- CLARENCE F. T. CHING REQUEST FOR RIGHT-OF-ENTRY TO KANIAKAPUPU, THE SUMMER PALACE OF KAMEHAMEHA III AT LUAKAHA, NUUANU WITHIN THE CLOSED WATERSHED PORTION OF THE HONOLULU WATERSHED FOREST RESERVE.

Mr. Landgraf said that this item had been deferred at the September 12, 1986 meeting pending a field inspection of the site by members of the Board. This inspection has been completed.

Mr. Ing asked if this area was in the conservation district and, if so, was a CDUA submitted.

Mr. Landgraf said that it probably is.

Mr. Ing said that we should make it clear in this approval because of what was attached to Mr. Ching's letter. He did not want them to have the misunderstanding that we are allowing them to go in to stabilize and maintain the structure. The board is just allowing them to go in to study what would

be required to stabilize and maintain the structure. It should be absolutely clear that the board is not allowing them to go in and start cutting trees, clearing and things of that nature until such time as they acquire a CDUA. Accordingly, he asked Mr. Landgraf to have the wording of the recommendation changed. Mr. Ing said from his conversation with the group all they want to do is make a study and then come back with a plan.

Mr. Landgraf said that staff would have to issue a right-of-entry so they could put that language in the right of entry.

Mr. Ing said that if any work is to be done they must apply for a CDUA. They should also be told up front that they would have to get the disposition if they intend to manage the area, etc. on a permanent basis.

Mr. Landgraf said that what he would like to propose is that when we go through the CDUA process to do the whole thing at one time at that hearing to remove that and turn it over to Mr. Nagata's jurisdiction.

Mr. Ono said that we would then need to have a master designated for the withdrawal.

ACTION

Mr. Ing moved to approve with the following amendments:

1. That the approval be for the purpose of inspecting and preparing a report for stabilizing and maintaining the structure on the subject site.
2. With respect to Condition No. 1 that we insert a sentence right after the first sentence indicating that a CDUA will be required for any work to be performed on the site and also for subdivision to remove the parcel from the jurisdiction of the Division of Forestry.

Motion carried unanimously with a second by Mr. Kealoha.

ITEM D 1

USGS GEOLOGICAL DIVISION CLUSTER MEETING - OCTOBER 28-31, 1986, PORTLAND, OREGON.

ACTION

The board unanimously approved the out-of-state travel for Manabu Tagomori to attend the USGS Geologic Division Cluster Meeting in Portland, Oregon on October 28-31, 1986. (Ing/Arisumi)

ITEM D-2

COOPERATIVE AGREEMENT WITH U. S. GEOLOGICAL SURVEY FOR WATER RESOURCES INVESTIGATIONS, FY 1986.

ACTION

Unanimously approved as submitted. (Ing/Kealoha)

ITEM D-3

PERMISSION TO ENTER INTO A CONTRACT WITH UNIVERSITY OF HAWAII FOR A DROUGHT STUDY, STATEWIDE.

ACTION

The board voted unanimously to authorize the Chairperson to enter into a contract with the University of Hawaii for a drought research project and for a contract amount not to exceed \$25,000. (Kealoha/Zalopany)

ITEM D-4

FILLING OF POSITION NO. 22697, GENERAL LABORER I, WB2, MOLOKAI IRRIGATION SYSTEM, ISLAND OF MOLOKAI.

ACTION

Mr. Arisumi moved to approve the one-year temporary appointment of Oscar Ignacio to fill Position No. 22697. Seconded by Mr. Zalopany, motion carried unanimously.

ITEM E-1 REQUEST PERMIT FOR THE USE OF AINA MOANA STATE RECREATION AREA TO HOLD THE PATTY SMITH MEMORIAL FUN RUN.

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

ITEM E-2 ALLOCATION OF HISTORIC PRESERVATION GRANTS-IN-AID.

ACTION The board voted unanimously to authorize the Chairperson and another member of the Board to negotiate and execute contract agreements with the two proposed subgrantees, subject to the Attorney General's approval as to form. (Arisumi/Ing)

ITEM F-1 DOCUMENTS FOR CONSIDERATION.

Item F-1-a GEORGE FERNANDES APPLICATION FOR REVOCABLE PERMIT, WAILUA, KAUAI FOR PASTURE PURPOSES COMMENCING AS SOON AS POSSIBLE. RENTAL: TO BE DETERMINED BY STAFF APPRAISAL.

Mr. Ono said that he has some problems with allowing a permit to be issued once the board has authorized sale of a lease.

Mr. Detor said that a concurrent resolution at the last session asked DLNR to make a study of giving direct leases to persons who hold permits or land that are already under lease. This report is to be presented to the next session of the legislature. The resolution also asked DLNR to freeze any dispositions that were in this category.

Mr. Kealoha asked Mr. Detor how soon an auction could be held.

Mr. Detor said, three months.

ACTION Mr. Kealoha moved to defer this item, staff to proceed with sale of this lease.

Item F-1-b KENNETH PERREIRA REQUEST FOR CONSENT TO ASSIGN G. L. NO. S-5032 TO R. ELECTRIC, INC. LOT 65, KOKEE CAMP SITE LOTS, WAIMEA, KAUAI.

Item F-1-c SARGE KOBAYASHI REQUEST FOR CONSENT TO ASSIGN G. L. NO. S-4683, TO HAWAII CULTURAL FARMS, INC., LOT 4, KEAHOLE AG. PARK, NO. KONA, HAWAII.

Item F-1-d ROBERT REED AND THOMAS CARPENTER APPLICATION FOR REVOCABLE PERMIT COVERING SUBMERGED LAND AT KANEOHE BAY, KANEOHE, OAHU FOR BOAT DECK PURPOSES COMMENCING OCTOBER 1, 1986. RENTAL: \$11.00 PER MO.

Mr. Ono asked whether this item needed to go to the Legislature.

Mr. Detor said it would if staff went ahead with an easement.

Mr. Ono asked if staff's intent is to keep it on a permit.

Mr. Detor said that there are so many so what staff would like to do is get them all together and proceed at one time instead of feeding them in piecemeal.

Item F-1-e HENRY NOA APPLICATION FOR REVOCABLE PERMIT FOR PARKING PURPOSES. RENTAL: TO BE DETERMINED BY APPRAISAL.

In answer to Mr. Ono's question, Mr. Detor said that it would be very difficult for the permittee to operate without a parking lot.

Mr. Ono asked that the area be appraised accordingly should he decide to go commercial. Mr. Ono had no concerns if this is a non-profit situation.

Item F-1-f HONOLULU THEATRE REQUEST FOR CONSENT TO SUBLEASE PORTION OF G. L. NO. S-4411, KAPAHULU, HONOLULU, OAHU.

Item F-1-g EDWARD CARVALHO APPLICATION FOR REVOCABLE PERMIT, MAKAWAO, MAUI, FOR GENERAL AGRICULTURAL PURPOSES COMMENCING OCTOBER 1, 1986. RENTAL: \$11.00 PER MO.

Item F-1-h CLYDE MUKAI APPLICATION FOR REVOCABLE PERMIT, HANAPEPE, WAIMEA, KAUAI FOR SINGLE-FAMILY RESIDENCE USE ONLY COMMENCING OCTOBER 1, 1986. RENTAL: \$122.00 PER MO.

Mr. Ono asked Mr. Detor who put up the building.

Mr. Detor said that the building was not put up by the State but we have it now.

Mr. Ing felt that we should find out what condition the house is in.

Mr. Detor said he would check.

ACTION Mr. Ono asked that this item be deferred.

Going back to Item F-1-b, Mr. Ing said that they have indicated in their affidavit that the bidder paid \$15,000 for assignment of the lease. He asked Mr. Detor what our position has been on this.

Mr. Detor said that a law was passed saying that we can now up the rent on a transfer but the question has come up for example when the buyer pays a considerable amount of money and then gets their rent raised for their pains -- how do you figure out what the rent should be based on the consideration.

Mr. Ing asked, "how do we know that it's not speculation?"

Mr. Ono asked that this item be deferred and staff check to see what went into that \$15,000 figure.

ACTION Mr. Ing moved to approve Items F-1-c, d, e, f and g and deferral of Item F-1-b in addition to F-1-a and F-1-h. Seconded by Mr. Zalopany, motion carried unanimously.

ITEM F-2 COUNTY OF MAUI REQUEST FOR EXECUTIVE ORDER SETTING ASIDE LAND FOR PUBLIC PARKING LOT PURPOSES, PUAKO, LAHAINA, MAUI.

ACTION Unanimously approved as submitted. (Arisumi/Kealoha)

ITEM F-3 STAFF RECOMMENDATION FOR AMENDMENT TO PREVIOUS BOARD ACTION (5/29/81, AGENDA ITEM F-9) AUTHORIZING SALE OF RAILROAD EASEMENT AT LAHAINA, MAUI.

Mr. Detor asked that the board amend its action of May 21, 1981 by changing the disposition to a term easement instead of a perpetual easement. Staff is recommending this change to be consistent with a forty-year term easement which was granted earlier to the railroad company for right-of-way purposes covering portions of this same railroad track which runs from Kaanapali to Lahaina.

ACTION Unanimously approved as submitted. (Arisumi/Zalopany)

ITEM F-4 MAUI ELECTRIC COMPANY, LTD. AND HAWAIIAN TELEPHONE COMPANY, INC. APPLICATION FOR TRANSMISSION LINE EASEMENT, KAHAKULOA VALLEY, WAILUKU, MAUI.

ACTION Unanimously approved as submitted. (Arisumi/Arata)



ITEM F-5 STAFF RECOMMENDATION FOR ACQUISITION OF LAND REQUIRED FOR MAKENA-LA PEROUSE STATE PARK BY EXCHANGE AND/OR PURPOSE, MAUI.

(See Page 4 for Action.)

ITEM F-6 MAUI ELECTRIC COMPANY, LTD. APPLICATION FOR EASEMENT, WAILUKU, MAUI.

Mr. Detor asked that the following condition be added to the submittal:  
. Authorize petition to the Land Court for designation of easement.

ACTION Unanimously approved as amended. (Arisumi/Zalopany)

ITEM F-7 MEI-LI TELLER APPLICATION TO PURCHASE REMNANT PARCEL AT WAIMANALO, OAHU.

ACTION Unanimously approved as submitted. (Ing/Zalopany)

ITEM F-8 HONOLULU DISPOSAL SERVICE REQUEST FOR ADDITIONAL SPACE, REVOCABLE PERMIT NO. S-6188, SAND ISLAND, HONOLULU, OAHU.

Mr. Ono voiced concern as to whether what remains of the property is o.k. with next person in line for a permit.

Mr. Detor could not answer and felt that maybe the board should defer this until he has had a chance to check this out.

ACTION Deferred. Mr. Ono asked that Mr. Detor check out the above.

Mr. Ing said that another question is whether when someone vacates an adjoining lot if people may be allowed to increase the size of their lots by consuming portions of that vacated area.

ITEM F-9 CITY AND COUNTY OF HONOLULU REQUEST FOR EXECUTIVE ORDER SETTING ASIDE SOLID WASTE COLLECTION SITE AT WAIMANALO, OAHU.

Mr. Detor stated that the DLNR and the Windward Soil and Water Conservation District entered into a watershed agreement dated August 17, 1982 with the U. S. Department of Agriculture to construct certain works of improvements for the Waimanalo Watershed.

One of the improvements was the construction of a Solid Waste Collection site on 1.64 acres of State land at Waimanalo, Oahu. The Council of the City and County of Honolulu by Resolution No. 84-124 dated April 18, 1984, authorized the administration of the City and County of Honolulu to enter into an agreement with the DLNR to operate and maintain the solid waste collection site. Accordingly, the Division of Water and Land Development has requested that the Board set aside the collection site for the City and County of Honolulu.

Mr. Ono asked if the DLNR would get involved in the operation and maintenance of the site.

Mr. Detor said that we will set this area aside to the City and County of Honolulu and they will maintain the site.

Mr. Kealoha asked whether this action would remove any permittee.

Mr. Detor did not think so.

Referring to the third paragraph of the first page, Mr. Ono said that it seems as though DLNR will be involved in the operating and maintenance of the site.

Mr. Detor said that the language may be a little unclear but DLNR will not maintain the area, the City will. By setting it aside to the City by executive order puts it under their jurisdiction and responsibility.

Mr. Ono asked that the minutes clearly show that this action in no way obligates the State to operate this solid waste collection site.

ACTION Mr. Kealoha moved to approve with the following amendment:

That Item F-9, paragraph 3 sentence 2 where it says "of the City and County of Honolulu to" that from the word "enter into" until the word "to" be deleted so that portion would read "Administration of the City and County of Honolulu to operate and maintain the aforementioned solid waste collection site."

Motion carried unanimously with a second by Mr. Zalopany.

ITEM F-10 COUNTY OF KAUAI REQUEST FOR AMENDMENT OF PREVIOUS BOARD ACTION (7/26/85, AGENDA ITEM F-6) AUTHORIZING GRANT OF WATER LINE EASEMENT AT LIHUE, KAUAI.

ACTION Mr. Zalopany moved that the Board amend its previous action under agenda item F-6 dated July 26, 1985 by conveying the easement in question to the Board of Water Supply, County of Kauai, subject to the terms and conditions then approved. Seconded by Mr. Arisumi, motion carried unanimously.

ITEM F-11 REUBEN OHAI APPLICATION TO PURCHASE ABANDONED RAILROAD RIGHT OF WAY SEGMENT, KAPAA, KAUAI.

ACTION Unanimously approved as submitted. (Zalopany/Kealoha)

ITEM F-12 STAFF RECOMMENDATION FOR CANCELLATION OF G. L. NO. S-3956, KAPAA, KAUAI.

Mr. Detor said that this land is improved with a single-family residence constructed by the lessee. The remainder of the property, once used as a banana farm, is in poor condition since the death of the lessee's husband several years ago.

Mr. Detor said that the present lessee, Mrs. Debra Williams, now lives in Kaneohe and would like to transfer her interest in G.L. No. S-3956 to Mr. James Hackett. A letter from staff to Mrs. Williams dated April 8, 1986 asked for Mr. Hackett's qualifications because under the law you will have to be a qualified farmer to hold that lease. Secondly, staff found out that he was already on the property and he had some horses there but was not farming the area. Accordingly, staff wrote Mrs. Williams and asked what was he doing there but there was no response. Mr. Detor said that Mrs. Williams did come into the office yesterday saying that she did send us a letter dated May 16. However, neither the Kauai nor the Honolulu office had a copy of this letter. Mrs. Williams left a copy of said letter but the letter does not address the questions asked by staff.

ACTION Mr. Zalopany moved to cancel G. L. No. S-3956.

In fairness to the lessee, Mr. Detor said that she did ask that the board defer action on this submittal inasmuch as she could not come to this meeting. She asked if the board could hold off on their decision until the October 24th meeting in Honolulu at which time she will have a letter from Jim Hackett laying out plans and what he intends to do on the leased property.

Mr. Ono asked why a sale provision was not included in this submittal and suggested that it be included.

Mr. Zalopany amended his motion to include the sale provision. Seconded by Mr. Kealoha, motion carried unanimously.

<u>ITEM F-13</u>	GEORGE FERNANDES REQUEST FOR WAIVER OF PERFORMANCE BOND REQUIREMENT, G. L. NO. S-4939, WAILUA, KAUAI.
ACTION	Unanimously approved as submitted. (Zalopany/Arisumi)
<u>ITEM F-14</u>	OFFICE OF THE LIEUTENANT GOVERNOR REQUEST FOR ACQUISITION OF LEASE COVERING SPACE AT 1250 NIMITZ HIGHWAY, HONOLULU, OAHU.
ACTION	Mr. Ing was concerned with the high rental -- \$1.42 a sq. ft. for storage space. He felt that we must have something somewhere for storage at a lower rental. Deferred. Staff to find out why rate is so high and also to find out what physical conditions are needed to store books.
<u>ITEM F-15</u>	OFFICE OF THE LIEUTENANT GOVERNOR REQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE IN THE ROYAL QUEEN EMMA BUILDING, HONOLULU, OAHU.
ACTION	Unanimously approved subject to the review and approval of the lease agreement by the Office of the Attorney General. (Ing/Zalopany)
<u>ITEM F-16</u>	RESUBMITTAL - DSSH REQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE IN THE J. WALTER CAMERON CENTER, WAILUKU, MAUI.
ACTION	Unanimously approved subject to the review and approval of the lease agreement by the Office of the Attorney General. (Arisumi/Zalopany)
<u>ITEM F-17</u>	FILLING OF POSITION NO. 27732, CLERK-STENOGRAPHER II, KAUAI DISTRICT, LIHUE, KAUAI.
ACTION	Mr. Zalopany moved to approve the appointment of Mrs. Wallis K. Fernandes to Position No. 27732. Seconded by Mr. Arisumi, motion carried unanimously.
<u>ITEM H-1</u>	PERMISSION TO CONTRACT WITH THE UNIVERSITY OF HAWAII TO CONTINUE THE MARINE SHRIMP AQUACULTURE RESEARCH PROGRAM.
ACTION	Unanimously approved as submitted. (Zalopany/Ing)
<u>ITEM H-2</u>	APPROVAL TO PROCEED WITH SINGLE AUDIT OF THE DEPARTMENT'S FEDERAL AID PROGRAM.
ACTION	Mr. Arisumi moved to authorize the Chairperson to obtain approval from the State Comptroller to allow the Department of Land and Natural Resources to proceed with the single audit of our federally assisted programs for the fiscal year ended June 30, 1986. Seconded by Mr. Kealoha, motion carried unanimously.
<u>ITEM H-3</u>	CDUA FOR LIGHTING IMPROVEMENTS AT KULANI CORRECTIONAL FACILITY, SO. HILO, HAWAII.
ACTION	Mr. Evans said that the Hawaii Institute of Astronomy recommended the use of low pressure sodium lights. Their concern was that the more lighting you have the more difficult it is to see the stars and the less valuable the astronomy program becomes. Staff does feel this is a reasonable request and recommends approval accordingly. Mr. Ono asked about how the Department of Accounting and General Services felt. Mr. Evans did not know. He said that these recommendations were sent to DAGS and no reaction was received.

Mr. Ono asked when these comments were sent to DAGS.

Mr. Evans said, Monday.

ACTION

It was moved by Mr. Arata, seconded by Mr. Ing that this item be deferred to the next Hilo meeting. Motion carried unanimously.

ITEM H-4

CDUA FOR AFTER-THE-FACT COMMERCIAL MOORING OFFSHORE OF KAAPALI, MAUI.

Mr. Evans said that as a part of the Agency review, two specific concerns were expressed.

First, from the Department of Health. They recommended denial based upon disposal problems. Staff went back to the applicant with that concern and specifically asked how they expected to handle this disposal problem. In this particular boat that will be used, the applicant informed staff that there is no provision for on-board storage of waste to be handled on an on-site facility. The applicant proposes that the boat has to go out to sea and dump the sewage overboard.

Secondly, staff reviewed DOT's rules and it specifically states that they would not allow moorings offshore of Kaanapali with two exceptions. The first exception being that if you are an adjacent landowner, the second being if one has a commercial business immediately adjacent to the water and the rationale on behalf of the Department of Transportation's thinking is that the people who are on-site essentially having these kinds of operations that could be exempted because should there be an emergency of some nature that these people would be immediately aware of this and take action to move the boat to prevent any damage to either the public lands or the public.

Mr. Evans said that staff has recommended denial based on the above two concerns.

Mr. Evans said that a letter was received from Congressman Akaka asking that consideration be given to this applicant in terms of approval of the permit.

Mr. Ono asked whether any contact was made with DOT subsequent to receipt of Congressman Akaka's letter.

Mr. Evans said that staff did consult with DOT. The question posed was that our understanding was that the permits that they were going to issue under their rules was for surface commercial use only. They informed us that our understanding of their rules was indeed correct.

With respect to applications in general, there is this standard Recommendation "C" which says that in the event of failure on the part of the applicant to comply with ..... etc., Mr. Ono asked if this was the same as a cease and desist order. After the 60th day assuming the applicant doesn't comply, does it have the same affect as the cease and desist order.

Mr. Evans said, no. When this board turns the matter over to the A.G. for appropriate action, the attorney general's office can follow up with what they deem to be appropriate action. When this board issues a cease and desist order, once that order is placed in the hands of the person, that's considered a written notification to stop. Once that has been given, then rather than a \$500.00 total fine being involved what is enacted is a potential \$500.00 per day fine.

Mr. Ono said that was his concern. If we follow this format there is no way that we can invoke the \$500 a day fine because the cease and desist order was never issued. Assuming the person flagrantly violates our rules, turning it over to the A.G. sounds good but there is no where in the process to go after the person and say that from today on you will be fined \$500.00 a day.

Mr. Evans told Mr. Ono that by using the concept as suggested it would probably give the A.G. a much stronger hand in terms of his determination as to what is appropriate action.

Mr. Ono reiterated that he was not talking about the present applicant but applications in general. He wanted some way where if the board had to move fast the \$500.00 a day fine could still be invoked.

Mr. Evans said that this particular application could be amended to incorporate that. Staff could also change its format where in the future when staff comes before the board it will be automatically included.

Mr. Ono was not sure whether he wanted it included in this application but at least work with the A.G.'s office to come up with a format that will continue to give the board some authority over the place.

Mr. Arisumi remarked that there were two things which the applicant did not comply with. One was the health problem and the other was approval from the landowner. As far as mooring, if they can moor in front of the Whaler's Village then they can moor in front of the Hyatt.

Mr. Evans said that when the DOT adopted the statewide mooring plan that plan set aside specific areas for mooring. However, if a person did not want to go to one of those areas set aside then that person could come in and go through the CDUA process and have that CDUA considered on its own merits -- in other words, on a case-by-case basis.

Mr. Ono asked, "how would this board determine whether there are enough mooring facilities in a given area. Are we going to rely on DOT or are we going to rely on our office?"

Mr. Evans said that hopefully the board would be relying on staff.

Mr. Ono asked, "in the present case heavy reliance is placed on DOH and DOT's concerns."

Correct, said Mr. Evans. Were those two objections to be removed then the question is what would staff do? Staff would probably seriously consider a recommendation for denial to force them to use the mooring areas that DOT has approved.

Mr. Ono asked, "the application acted on earlier for Whaler's Village, we never had that kind of objection expressed by any of the reviewing agencies, is that correct?"

Mr. Evans said, correct. The major difference between the two applications were the objections by DOT and DOH.

Because one applicant was given permission to moor, Mr. Arisumi felt that this applicant should also be given an opportunity to moor after paying his fine, getting clearance from the Health Department and given permission from the hotel.

ACTION

Mr. Arisumi made a motion to approve with the understanding that the applicant get his health clearance and permission from the landowner to operate in front of the Hyatt Regency Hotel and also let him retain the mooring and pay the fine of \$500.00.

Mr. Zalopany seconded.

Mr. Ing said that he could not tell from the submittal whether the applicant was inside the zone or outside the zone. He felt that he would have to be outside the zone in order to be consistent with the DOT regulations. Understanding what Mr. Arisumi's concerns are, Mr. Ing said that we must act on this application today and if we go along with Mr. Arisumi's recommendations it would need to be put as conditions and when those conditions are satisfied Mr. Wagner come back to the board so we can then place further conditions of approval with regard to the exact location of the mooring in relationship to the DOT zone.

Mr. Arisumi said that he had no objection to Mr. Ing's suggestions.

Mr. Ing said that it would have to be made clear to Mr. Wagner that this is not the last approval. Like in the prior ones you have the land disposition aspect to go through, there is a question of back rent, etc. Mr. Ing said that we need to find out when he put the mooring there and whether he obtained Coast Guard, Corps of Engineer permits for the mooring, etc. He said that he makes a distinction between someone who went through the right process the first time around and one who just put it in there and then kind of backed his way into it.

Mr. Ono asked Mr. Wong whether if the board does not act on this CDUA today and it becomes an automatic approval if we could attach major conditions to an approval action and consider that an action?

Mr. Wong felt we could. It would be consistent with the Chairman's authority to impose conditions.

Mr. Ono said that previously we were advised that the 180 days is sacred.

Mr. Wong asked what type of conditions are we talking about.

Mr. Ing said, "we need to satisfy DOH's requirements for sewage disposal.

Mr. Arisumi said we can give them to October 7th to get these approvals. If he doesn't comply by that time then it will be disapproved.

Mr. Ono said that Mr. Arisumi's motion did not require DOT's approval and DOT in this case is the principle.

Mr. Arisumi had no objection to adding this to his motion.

Mr. Ono said that the motion has been further amended to include DOT's clearance as well.

Discussion. Mr. Ing said that as it stands now the motion is for approval of the CDUA based upon the applicant satisfying three additional conditions by October 7th:

1. That he obtain some agreement with the Hyatt for concession;
2. That he comply with DOH's requirements for disposal system.
3. That he obtain DOT approval by October 7th.

If the above requirements are not met by October 7th then the use is disapproved and Conditions B & C remain.

Mr. Kealoha felt we should have a time of the day otherwise it could go to midnite.

Mr. Ing said, 1:00 p.m.

Mr. Ono called for a second.

Mr. Ing asked, "if he satisfies those conditions by that date we have a process to put in our standard conditions like we did in the prior mooring. He asked how were going to accomplish this.

Mr. Evans said that staff could tell him in their letter that if he meets Section A then he is required to come back to the board for additional conditions.

Mr. Ono said that this is the area we have not fully acted upon. We still have some conditions attached and we have to come back to the board. If that additional step is required whether we in fact have acted on it. The applicant may say that you did not give a definite yes or no by the 180 days so it is an automatic approval.

Mr. Wong said this is why we have to say that this is disapproved if he doesn't comply within that 180 days. This way he cannot come back and say that we approved it.

Mr. Ono asked, "what if he meets all of the conditions set forth this morning and then he comes back and the board imposes additional conditions. This would be too late. He would say automatically, I'm in.

Mr. Ing asked, "what if we made it subject to the terms and conditions of H-6?"

Mr. Kealoha said that this was the only problem he had with the motion. The motion is to approve pending.....personally he would rather have it disapproved unless all these deadlines are met.

Mr. Arisumi asked if it would take care of everything if we disapproved if he did not comply.

Mr. Wong felt that it would be better if the board disapproved unless he complies. This way he cannot say that his application was approved.

Mr. Ono requested that the approval or concurrence of the Department of Health, the Department of Transportation and the Hyatt should be in writing.

Mr. Ono asked if the site was where the current mooring is sticking out.

Mr. Ing was also concerned. He did not know whether the mooring was in the zone or out of the zone.

Mr. Evans said when you're saying DOT has to approve we're injecting another variable in there.

Once you do that, said Mr. Ono, then all other agencies will have to take another crack again at reviewing it because the review was conducted on a specific location so this may require another CDUA.

Mr. Kealoha said that the recommendation for Part A and Part B does not have "other terms and conditions by the Chairman."

Mr. Evans said that is because approval is not being recommended. It is only added when approval is recommended.

Mr. Kealoha said that now the motion is different. We may need to put in other conditions later e.g. where the guy is moored now as opposed to where it would be permissible.

Mr. Evans said that this would be picked up in H-6.

Mr. Ono asked if everyone was clear on the motion.

Mr. Ing said as it stands now the submittal is disapproved with the following condition that if he satisfies the three requirements in writing by the October 7th, 1:00 p.m. deadline then the use is allowed, subject to the Conditions of Item H-6.

Mr. Ono asked, "if it's disapproved because he did not meet all or some of these additional conditions then the "fine" portion still stands?"

Mr. Ing said, "the fine stands regardless."

Mr. Ono called for the vote. Motion carried unanimously.

ITEM H-5 CDUA FOR POWER LINE REALIGNMENT, WAAHILA RIDGE, MANOA, HONOLULU, OAHU.

(See Page 4 for Action.)

ITEM H-6 CDUA FOR FOUR (4) COMMERCIAL MOORING USES ON SUBMERGED LANDS OFFSHORE OF THE WHALER'S VILLAGE AT KAAHAPALI, MAUI.

(See Page 5 for Action.)

ITEM H-7 TIME EXTENSION OF CDUA FOR PERIODIC MAINTENANCE AT VARIOUS STREAM MOUTHS.

The City & County of Honolulu requested that this item be deferred.

ACTION Deferred to the October 24, 1986 meeting.

ITEM J-1 OPERATION OF THE AUTOMOBILE PARKING FACILITIES AT GENERAL LYMAN FIELD, HAWAII.

ACTION Unanimously approved as submitted. (Arata/Arisumi)

ITEM J-2 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4221 AND 4207, AIRPORTS DIVISION.

ACTION Unanimously approved as submitted. (Ing/Zalopany)

ITEM J-3 AMENDMENT TO LICENSE NO. 86, HARBORS DIVISION, PIER 38, HONOLULU HARBOR, OAHU (CHEVRON U.S.A. INC.).

ACTION Unanimously approved as submitted. (Ing/Kealoha)

ITEM J-4 ISSUANCE OF VENDING MACHINE AGREEMENT, HARBORS DIVISION, ALA WAI AND KEEHI BOAT HARBORS, HONOLULU, OAHU (SONNIE-GAY, LTD.).

ACTION Unanimously approved as submitted. (Ing/Kealoha)

ITEM J-5 ISSUANCE OF REVOCABLE PERMITS, HARBORS DIVISION, PIERS 13 & 14, HONOLULU, OAHU (AMERICAN WORKBOATS, INC.).

ACTION Unanimously approved as submitted. (Ing/Kealoha)

ITEM J-6 ISSUANCE OF REVOCABLE PERMITS, HARBORS DIVISION, KEWALO BASIN, HONOLULU, OAHU, VARIOUS APPLICANTS.

ACTION Unanimously approved as submitted. (Ing/Kealoha)



- ITEM J-7 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, LAHAINA BOAT HARBOR, MAUI (LUAKINI MARINE, INC.).
- ACTION Unanimously approved as submitted. (Arisumi/Kealoha)
- ITEM J-8 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEEHI SMALL BOAT HARBOR, HONOLULU, OAHU (JOHN C. AND JEANNE L. DOWNS).
- ACTION Unanimously approved as submitted. (Ing/Kealoha)
- ITEM J-9 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NAWILIWILI SMALL BOAT HARBOR, KAUAI (ISLAND ADVENTURE, INC.).
- ACTION Unanimously approved as submitted. (Kealoha/Arisumi)
- ITEM J-10 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEEHI COMMERCIAL SUBDIVISION, HONOLULU, OAHU (STEINKE BROS., INC.).
- ACTION Unanimously approved as submitted. (Ing/Kealoha)
- ITEM J-11 CONTINUANCE OF REVOCABLE PERMITS 8-84-1160, ETC., HARBORS DIVISION.
- ACTION Mr. Kealoha moved to approve as submitted. Motion carried with a second by Mr. Arisumi.
- Mr. Ing was excused from voting on this item.
- ITEM J-12 ISSUANCE OF REVOCABLE PERMIT, AIRPORTS DIVISION, LIHUE AIRPORT (MID-PACIFIC (AIRLINES)).
- ACTION Unanimously approved as submitted. (Kealoha/Arisumi)
- ADJOURNMENT: There being no further business, the meeting was adjourned at 11:50 A.M.

Respectfully submitted,

*LaVerne Tirrell*

Mrs. LaVerne Tirrell  
Secretary

APPROVED:

*S. Ono*

SUSUMU ONO  
Chairperson

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