

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

DATE: November 21, 1986
TIME: 9:00 A.M.
PLACE: Kalanimoku Building
Room 132, Board Room
1151 Punchbowl Street
Honolulu, Hawaii

ROLL
CALL

Chairperson Susumu Ono called the meeting of the Board of Land and Natural Resources to order at 9:10 A.M. The following were in attendance:

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

Absent & Excused

Mr. Herbert Arata

STAFF: Mr. Libert Landgraf
Mr. Manabu Tagomori
Mr. Ralston Nagata
Mr. James Detor
Mr. Mason Young
Mr. John Corbin
Mr. Roger Evans
Mrs. Anne Furuuchi
Mr. Glen Taguchi
Mr. Maurice Matsuzaki
Mrs. LaVerne Tirrell

OTHERS: Mr. Edwin Watson, Deputy A.G.
Mr. Peter Garcia, D.O.T.
Messrs. Alan Kawada and Oswald Stender,
(Item F-2)
Messrs. Larry Zenker & Muramoto (Item F-4)
Ms. Keala Ako, Mr. Richard Murakami,
Mr. Steve Santangelo, Representative Mike
Crozier, Mr. Richard Kelley, Mrs. Donna Wong,
Mr. Paul Aoki, Ms. Kathleen Ishii,
Mr. Patton Carol (Item F-12)
Mr. Minakami (Item H-5)
Messrs. Ben Kudo and Bill Yuen (Items F-8 & H-7)
Mr. Frederick Titcomb (Item H-8)
Mr. Tanouye (Item H-10)
Mr. Carl Morton (Item H-11)

ADDED
ITEMS

It was moved by Mr. Ing, seconded by Mr. Kealoha, that the following items be added to the Agenda:

- Item B-1 -- Filling of Temporary Secretary I, Position No. 24652 in the Division of Aquatic Resources (Oahu)
- Item B-2 -- Amendment to Board Resolution No. 33 - Relating to Appointment of Masters to Hold Public Hearings.
- Item C-4 -- Request for Leave of Absence Without Pay, Position No. 26773, Clerk-Stenographer II, Oahu.
- Item E-5 -- Filling of Historic Sites Specialist II, Position No. 19472E and 5054E Historic Sites Program, Oahu.

Item G-1 -- Request to Fill Limited Term Appointment Position No. 24159, Clerk Typist I, Oahu.

Item H-13 -- Filling of Position No. 9912, Account Clerk III, Administrative Services Office, Oahu.

Item I-4 -- Revocation of License Agent

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

Mr. Ono said that the board would allow people in the audience to comment on any of the items on the Agenda. However, he asked that they keep these comments short and to the the point.

ITEM F-12

RICHARD KELLY, ET AL, APPLICATIONS TO PURCHASE OLD DIAMOND HEAD BEACH ROAD SEGMENTS, KAALAWAI, DIAMOND HEAD, HONOLULU, OAHU.

Before beginning F-12 and, inasmuch as his law firm does represent various landowners at the subject area, Mr. Ing asked to be excused from participating on this particular item.

Mr. Detor explained that there is a strip of land referred to as the "Old Diamond Head Beach Road" which abuts private property. The road lies between the beach itself and approximately sixteen abutting owners. These owners have applied to either purchase or lease those segments of the old road which abut their properties. A survey was made which shows the extent of encroachment by the abutting owners. (These areas were pointed out to the audience by Mr. Detor from a map on the wall.)

Mr. Detor said that the board held an informational meeting on the subject on August 7, 1987 at which time considerable testimony was presented. Since that time, not only has the survey been made, but staff also looked into the ramifications attendant to this particular problem.

Mr. Detor said that the submittal indicates that we have a request from the City Administration that the land be turned over to the City. The write-up also says that the City Council was considering a resolution. At the time this submittal was written they had not acted finally on it. However, they did act on said resolution on Wednesday, November 19, 1986. Resolution 86-79 basically asks the board not to sell or lease to private parties the stateowned land known as the old government road and it urges the department to insure that the public is provided access to and transit along the shoreline through the right of public passage across the top of any state land which has been filled in or otherwise obstructed by private landowners. And, if necessary, urges that the DLNR to sell or lease the property to the City at a nominal sum. Mr. Detor said that staff has taken this into consideration in their deliberations.

Mr. Detor said that there are a number of disposition alternatives which could be considered in resolving the matter, among them the following:

1. Retain the old road under DLNR jurisdiction, remove or cause the encroachments to be removed and clear and open up for public use.
2. Turn the land over to the City for public use.
3. Sell to the respective abutting owners.
4. Lease to the respective abutting owners (with public purpose withdrawal provisions).
5. Issue revocable permits to the respective abutting owners.
6. Sell or lease a part of the old road segments to the abutting owners.

There are probably other alternatives but these are the ones that come to mind.

Staff's feeling was that since we have applications pending from the respective abutting owners to purchase or lease, that staff should take a look at this proposed course of action first. As previously stated, the old road is located between the beach and the private properties. The beach itself is not wide and, as a matter of fact, during periods of high tide, sections of the old road are either very close to or immediately front on the water. Taking this into consideration and the fact that the beach area is limited, staff does not feel that the property should be sold or permanently disposed of. It should be kept for ultimate public use.

Mr. Detor said that there are other considerations which they feel should be examined first before any permanent resolution is reached. Many questions have come up. First of all, is there any money available either with the City or the State to undertake any development. How about parking? What effect, if any, would removal of the rock walls have on the beach? Would erosion occur? It is staff's feeling that more information should be gathered before a final decision is reached. The situation has existed for a number of years so more time to develop this information will not cause irreparable damage. Accordingly, in the interim, so that the State can at least be compensated for use of the land, it is suggested that revocable permits (month-to-month tenancies) be issued to the respective abutting owners, the rental rates to be set by appraisal. In this connection, it is recommended that these permits be terminable upon twelve (12) months' prior written notice (Section 171-55, HRS, limited permits to one year unless continued by the Board).

Mr. Detor realizes that this is not a permanent solution. In a sense we are buying time. How long it will take to develop this, he really couldn't say at the moment but, hopefully, in a short time.

Mr. Arisumi asked whether they had any beach right-of-way at the present time.

Mr. Detor said that there are four rights of way to the beach -- two of them are private and you will need a key to go through. At each end there is public access. One is at Kulamanu Place and the other from the foot of Diamond Head Beach Park.

Mr. Arisumi asked if there were any parking spaces in the area.

Mr. Detor said, no, not along the beach area.

Mr. Ono said that staff's recommendation does not specify who would be responsible for removing the wall. Assuming a permit is issued and then cancelled after due notice, who removes the existing improvements?

Mr. Detor felt that it would be difficult to specify that now because staff does not know whether we are going to require all of those walls to be removed at that time because of the erosion aspect.

Assuming it will be advantageous from the public's standpoint to remove the walls, who would be responsible to do this, asked Mr. Ono?

Mr. Detor said that we would specify that the permittee be responsible for that. This would be incorporated in the permit. He made it clear that he was talking about walls on public lands. He did not think that we could specify that whatever walls are on private land can be taken off.

Mr. Kealoha asked, "you are going to require the permittee to take the wall down even though it is on public lands?"

Mr. Detor said that they would ask that the permittee remove the wall if it is decided that the wall is to come down.

Mr. Kealoha asked, "what if the permittee says he didn't build the wall so why should he take it down?"

Mr. Detor said that when he signs the permit, we have a clause in there which says that the wall may have to be removed and he agrees to it, then he is bound to remove the wall.

"Assuming that the walls there were constructed, do you know whether or not Land Management checked with the City to see if any permits were issued for the construction of any fence or any wall", asked Mr. Kealoha?

Mr. Detor said that to their knowledge, the only construction that has taken place in the last number of years is the replacement of a fence by one of the property owners. Beyond that, they are not aware of any other construction.

Mr. Kealoha asked, "for that fence that was constructed, do you know whether or not any permit was issued by the City?"

Mr. Detor said, "it was issued."

Mr. Kealoha asked if staff knew why they permitted the construction without notifying Land Management.

Mr. Detor said that they were notified and a permit was issued. There was kind of a mix-up on that deal.

Several questions were raised by Mr. Kealoha as to when certain dwellings were constructed.

Mr. Detor did not have this information.

Mr. Ono asked about the third parcel which has improvements on State land.

Mr. Detor explained that this is a concrete patio, a portion of which protrudes into the right-of-way. There is also a concrete wall fronting all three lots.

Mr. Arisumi asked, "how many of those homes or patios are within the State land?"

Mr. Detor said, talking strictly patios, there are several -- about five. Some of the houses are very close, but he did not think that any of them protruded into the right of way.

Mr. Zalopany asked, "why is that only now we have found these discrepancies?"

Mr. Detor said that this came to light a number of years ago with the Supreme Court Decision of 1968. It just recently surfaced insofar as becoming a controversy.

Coming back to staff's recommendations, Mr. Ono said that one of the recommendations call for issuance of permits with twelve months notification. He asked if there was a outer limit as to how long the permit could last.

Mr. Detor said that the way the law reads, permits are a month-to-month tenancy which can be revoked at the discretion of the board with as little as thirty days notice. As far as how long they can last, the law states that a permit is only good for one year unless renewed by the board.

Mr. Ono did have concerns about there being no limit. If it is an open-ended kind of a permit although it is subject to review annually, there might not be enough pressure to put on the the City or State or combination of the City and State to move forward in clearing the beach area.

Mr. Detor agreed. Conceivably a permit could continue for many, many years.

Mr. Ono asked, "then there is nothing to prevent this board from spelling out its intent within x-number of years this could be terminated?"

Mr. Detor said, this is true.

Representative Crozier testified that there is support in the legislature to do something about resolving this problem. He asked that staff's recommendation be rejected and go ahead and ask the people to remove their improvements. He said that he would work as hard as he can to get the necessary monies or, if need be, getting the land swapped so that the area could be turned into a City and County park.

Mr. Kealoha stated, "Representative Crozier, you said that you will work as hard as you can, but our problem is now. We have to make a decision now. Our thoughts are that by a step-by-step process, we can take this action, put it on the books and put this issue to rest that would give us hopefully a year to get together with the Legislators, the City and County and the State people to come up with a long-term plan and included in that program would be the funding and the actual implementation of a program."

Representative Crozier felt that if a decision is delayed for one year, you delay putting the owners on their back. If a decision is made now, they go into session the third week in January and it will be their responsibility to resolve the problem and he is willing to take that responsibility.

Mr. Kealoha said that staff's recommendation is to cap this in twelve months giving all parties in the government agencies time to resolve a long term program but that does not preclude that the Legislators will not have the pressure. They will have the pressure from the Land Board, probably the owners and the so-called public. He felt that the step-by-step approach that staff is recommending is a good approach to this problem. It has been hidden for a number of years.

Representative Crozier said that the people want to use this area so let's do it. He did not feel that we had to postpone it. The first thing to do is tell the landowners to move back and remove the improvements. If it's been there for thirty to forty years even the City or State could remove the improvements. He reiterated the Legislature could handle the responsibility, turn it over to them. As Mr. Detor said, it could go on year after year.

Mrs. Donna Wong of the Kailua Neighborhood Board, but representing herself, said that they have a distinct interest in the matter of the "Old Government Roads" and their ownerships. At the present time they have a ruling pending in the Attorney General's Office for the Maunawili "Old Government Road". They use as a reference the Supreme Court Ruling of 1968 on the Kelley Case that the old government road in Maunawili is public property. They really don't understand why they are here today since the ruling has already been established. Why is there any question or discussion with regard to the road status? Is the State trying to set a new precedence to show the Supreme Court public land rulings are negotiable? Should the private landowner be rewarded for encroaching upon public lands? Should landowners be given the option to lease or purchase land after they have been discovered already encroached upon them? She thinks not. A recent example of public land ownership is shown by the action taken against the beach people by the City

government. The City gave the beach people a deadline by which to vacate public property peacefully. When the deadline was not met, those who remained were physically removed. Why is the State holding their public lands negotiable when the City's public lands are deemed public? In conclusion, she feels that by negotiating and not abiding by set laws, the State is placing State public lands in jeopardy of private takeovers.

Mr Richard Kelly, landowner in the area, testified that he had reviewed the report by the Land Management Administrator and felt that he should be complemented for his work which represents a great deal of effort and study. He said that he was disappointed that the Administrator did not recommend a sale but, under the circumstances, would agree to settle the matter in the manner set forth. He said that the history of the Kaalawai area dates back to the 1800's when a large tract of land was acquired by King Lunalilo. He felt that it was important to know that the King acquired this land as a private citizen. After his death, the property was subdivided and conveyed to various property owners in 1885. The Lunalilo Estate reserved a small strip of land along the beach which was used by the various property owners as an access to their lots. In 1902, some 84 years ago, when Diamond Head Road was opened, this strip of land was no longer needed for access to the lots. Gradually, it was made part of the abutting owner's kuleanas. Seawalls were erected to demarcate the land from the beach and to prevent erosion as a topography being on the slopes of Diamond Head is rather steep. Little has changed in the area in the past 84 years.

Mr. Kelly said that he has personally lived there since 1942 and know the area well. The seawalls are the same as they have always been. The abutting property owners were told and believed that their property boundaries included this abandoned easement right up to the existing seawalls and the fences along the makai edge. In fact, Mr. Kelly said that when he built his house in 1963, they held the Land Court title to the property, including the seawall. The location of his house was decided upon relying upon that fact. The total amount of land in question is some 50,000 square feet. It varies in width from one feet to approximately 45 feet. In most areas, it is significantly elevated above the beach, sometimes by as much as six to eight feet. It is really not part of the beach but it is a part of people's front yards and he hopes that it can continue to be that way.

If at this late date the land is to be changed to be a part of the beach a great deal of work will have to be done. To make it accessible, the land and the old walls will have to be bulldozed down and new walls constructed to protect the adjacent owners' land to prevent erosion and contamination on the sands. Regulations require the erection of restroom facilities. The long sewer runs would be a problem. There is also a need for lighting and parking would have to be provided. Estimates of the cost of converting this property to park use are in excess of \$8 million based on todays prices. There would be the cost of maintenance in the future. This is estimated to be in excess of \$150,000.00 annually. The value of this property is estimated at \$100 per sq. ft. and this would be a total of \$5 million. Add to this the \$8 million needed to convert to park use and it becomes a \$13 million item for the State. The cost benefit, ratio and the priority of such a project must be considered. To develop a park in that area would primarily benefit the nearby residents of Kahala. Is this really needed? The beach is not crowded and there is adequate area now for sunning and swimming. Lateral access is not a problem. DLNR's inspection of the site has confirmed this. By contrast, there are many areas on all islands, throughout the State, where this amount of money could be better spent. There are many areas where park facilities need assistance, either for maintenance of existing facilities or expansion. Those areas are far more heavily used and serve a greater number of people than the strip of land in question and in those areas there is better access, better parking and better facilities that need expansion or improvement to accommodate the public. Thus, Mr. Kelley urged that the board

consider all of the priorities, the needs of the homeowners and the needs of all of the State. It is a delicate balance and the board has an important responsibility, but when all is examined, Mr. Kelly hoped that the board would find that the remnant in question should be sold to the property owners and the funds used for better, more important projects, elsewhere.

Mr. Kealoha asked Mr. Kelly if he knew of any landowners building after 1968.

Mr. Kelly said that as far as he knows, all of the seawalls have been the same. He started living there since right after the start of World War II so he knows everyone of those walls there.

Mr. Kealoha asked about the dwellings.

Mr. Kelly said that the dwellings have come and gone. He started his house in 1963.

Mr. Steven Santangelo, owner of the Isles of Diamond Head Beach, which is the property in question because they erected a new fence along the seawall. This has been a controversial project since he acquired the property in 1979. He said that he lived on the site himself for five years and for five years until the present time that beach has been very, very seldom used. If you go down during the week time and find more than five or six people at any one time, it's an exception.

Mr. Santangelo said that originally they were in violation for not having building permits when they renovated the existing Patterson cottages. When he found out they were in violation it took them 18 months after they had gone to the City and requested information as to whether they needed a building permit for the type of work they were doing and they were told no. The only difference is that they did more than one cottage and maybe not realizing that they were doing more than one cottage even though it was called the Patterson cottages. They were in violation so 18 months later they did obtain their building permit and finished remodeling the cottages. At that time they were going to go into a timesharing program on the six cottages and the existing two homes. The neighbors in the area voiced their concern that they did not want timesharing, that they wanted single-family residences so they abandoned their plans for the timesharing and the amount of money which they expended for the renovation of the cottages, which was \$700,000.00, went down the drain. So, to comply and make the neighbors happy they decided to put up the six homes.

They built the six homes and they relied heavily on a letter which they received from DLNR in 1979, as a result of an existing encroachment on one of the cottages, and once that cottage was removed the encroachment ceases, stating that sometime they would either sell the land to us, lease the land to us, or leave as it is. Anyone of those alternatives were fine. With that reliance they built six beautiful homes. In the event that they were to lose the frontage of these homes which goes to their seawall, which he naively thought was his property all along, knowing that the property line stopped where the existing seawall was, at least they thought it did, they built these homes and six months was placed into laying out the homes and making sure that each one of these future homeowners would have a view of the ocean.

Mr. Santangelo said that erosion is a problem on this beach at present. There are several times a year when the entire beach disappears and all that you have down there is rocks.

Mr. Santangelo said that he spent \$13 million building a project that he relied on a letter that he received in 1979. He is now in foreclosure on this project because certain individuals feel that these properties should be removed, the fences should be removed and no one is willing to buy one of

these houses with this uncertainty. They lost three sales because of the impending action on this property. He said that he is losing his property because of the events that are taking place right now. He has tried to be a good citizen, tried to make his neighbors happy in the area, tried to build a project that they could be proud of, but as a result of a couple of individuals who went out to obtain signatures from every tourist, beachgoer and whatever with no reliance on whether they were property owners or whether they were renters or what in the area. It doesn't make any difference, the beaches are sacred to all of us but we, as citizens, also have rights. He said he relied on getting proper permits -- he went to DLNR, he went to the City. He followed every rule and regulation. When he built these homes and the fence he had all the proper permits.

Mr. Santangelo reiterated that this is a piece of property that should be sold or given to the property owners and that is what he relied on heavily to the point of a \$13 million investment. As it stands right now he stands to lose his development because of certain individuals who have a hate campaign going on for some reason he does not understand. In the last four months since this has surfaced dead animals have been thrown on their property, dead birds have been thrown on their property, their swimming pool has been filled with mud that has been thrown over the fence into their property. If this is the type of individuals that can dictate policy in our community then he is sadly mistaken that this is the type of community that we should want to live in. These are the people that are spearheading this fight.

Mr. Ono questioned Mr. Santangelo, "you mentioned that you naively thought that the land all the way up to the shoreline was your property. Being a developer, don't you normally check whether you are entitled to the land before you start any work on a piece of land?"

Mr. Santangelo said that he did and then found out where the 40-foot setback was and designed the project with that in mind. They also did get a permit to erect the fence on the seawall. The seawall has been there for about 50 years.

Mr. Ono did not feel that his question was answered.

Mr. Santangelo said that they had three surveys since. As a result of these surveys, one of which was just completed about 4-5 months ago, their land is not what was sold to them. Even with the surveys -- nobody really knows where its at. When you walk on the property your first impression is that the property goes all the way to the fence.

Mr. Richard Mirikitani said that he represented the group which he believed Mr. Santangelo referred to as the group heading the hate campaign. He stated that they are the group who discovered the wrong-doing of the beachfront owners which has been existing for eighteen years.

Mr. Mirikitani said that Messrs. Santangelo and Kelly have tried to make out a case of emotional plea of hardship and this is the concept he has trouble understanding. Where the beachfront owners have had eighteen years since the Supreme Court decision to adjust to the fact that they simply did not own this land. A case of hardship in a case like this he felt is like saying --killing your parents and then throwing yourself upon the mercy of the court because you are an orphan. They caused their problems.

With reference to Mr. Santangelo's reliance, Mr. Mirikitani understood that Mr. Detor, in the presence of two State legislators, specifically informed Mr. Santangelo that he may have to remove his fence. As for Mr. Kelly's comments, he found it offensive that he applies his own cost benefit analysis in bargaining away our State beach lands. He felt that there is no dispute that the beach lands are a precious and limited resource in Hawaii and are

valued by residents and visitors alike. In summary, Mr. Mirikitani objected to these lands being sold to the private landowners. He stated that the State should immediately declare that these lands are public lands and that they are currently accessible and that the State specifically, or actually intends to reclaim these lands in totality as soon as possible and to show the State's good faith in this regard the State should set a deadline for instituting action in this regard or turning the property over to the City because the City has already given it's commitment that it would like to turn this into a park. In conclusion, he said that it is the legal and moral obligation he believed of the State to act with all due haste.

Ms. Keala Ako, representing the Office of Hawaiian Affairs, said that a letter was sent to DLNR dated September 11, 1986 requesting that sale or lease of the old government road at Diamond Head be delayed until all the legal issues involving the adjoining landowners and the encroachment on public land is resolved. The Board has agreed to support the position of the Save Our Beach Community Group with respect to the disposition and administration of this public property. Ms. Ako went on to read OHA's letter of September 11, 1986 strongly objecting to the sale of these lands.

Mr. Patton Carol, trustee for one of the residential landowners, stated that their residential association urges the step-by-step procedure that Mr. Detor outlined in the submittal mainly because the Kaalawai Bay to them is quite a treasurer. It has magnificent surfing breaks, fishing, etc. They are doing a documentary showing the beauty of the bay and its importance. Because of the many beautiful things that can be done with this area is the reason they ask that DLNR go step-by-step.

Mr. Paul Aoki, an attorney representing Mr. Jack Magoon, one of the abutting property owners who has applied to purchase a part of the remnant of the old road that abuts his property. He stated that they appreciate Mr. Detor's report and felt that he has done a good job and asked that the board give consideration to his last option which is a consideration of the equities of the homeowners on an individual basis and a partial basis. The board may not be disposed to convey or lease the entire portion of the road abutting each homeowner but he felt that the board has clearly the statutory authority or moral obligation to give consideration to the homeowners who abut this property. The board could, if they wish, sell or lease portions of the road to alleviate hardship to the owners. They request that if the board is not disposed to lease or sell the entire parcel that the board consider that. He felt that the statutory authority is absolutely crystal clear as referenced in Mr. Detor's report as Chapter 171, HRS that authorizes in black and white the requirement to sell the portions of a remnant road in whole or part to abutting homeowners. He said that several people have used the word "legal" in reference to his client and his neighbors. He did not think this is correct or fair and has some bearing on what the board has to decide.

Mr. Aoki said that reference was made to the use of the part of the road that some of the homeowners have made as being illegal based on the 1968 Kelly Decision in the Hawaii Supreme Court. He suggested that the decision be read carefully. The decision applies to Mr. Kelly's application in the Land Court. There were two applications in the Land Court that was decided by the Land Court regarding Kaalawai before the Supreme Court Decision. The other one was on an application by the Trustees of the Lunalilo Trust who claim to own the rest of the strip. They applied as did Mr. Kelly to get Land Court title to this strip of land. The Land Court ruled in favor of the homeowners, Mr. Kelly and the abutting homeowners in the second application. The State appealed Mr. Kelly's decision, the State did not appeal the decision in the application filed by the Lunalilo Trust. So, to this day, the final court ruling on the beach property or the old govt. road that abuts his client's property and his neighbors, with the exception of Mr. Kelly, is a Land Court decision saying that they are the property owners of this land.

The Hawaii Supreme Court Decision and Kelly, although limited in legal effect, did talk about the other properties as well and it could be argued that the same decision would apply if this other had been appealed at the same time or taken up again. He just wanted it made clear that nobody appealed the decision that controlled his client's property and so to this day the Land Court Decision is in his client's favor. This is why he did not think anyone should say that they have done anything illegal until they do something about that decision.

Mr. Aoki stated that what they are asking to do is to purchase from the DLNR. The fact that there is a Land Court decision in their favor does reinforce the equities which he thinks are critical to the board on behalf of the landowners. These people have lived there a long time -- not just them but their families before them. These improvements which they have built were built in justified reliance that it was their property. This was before the 1962 decision and the 1962 decision upheld their position. In light of all of this, Mr. Aoki asked that the board balance the equities in favor of these people.

Mr. Kealoha asked Mr. Aoki whether Mr. Magoon had any structures over the boundary line.

Mr. Aoki said that he has no structures over the boundary line. However, his home is very close to the property line as drawn by the State surveyors. If the board were willing he would like to purchase a portion of this so that he could retain a bumper zone between himself and this park that is contemplated.

Ms. Kathleen Ishii, speaking as a private citizen, said that she is frightened by the dangerous precedence that may be set. She felt that we have no right to tell people they cannot use the beaches.

What's before the board, said Mr. Detor, is application by a number of property owners to purchase the various segments of the old road that abut their properties. Staff's recommendation is number one to deny the application to purchase and number 2 to instead authorize the issuance of revocable permits to each respective abutting property owner at a monthly rate to be set by appraisal and the appraisal subject to review and acceptance by the Chairman and that these permits be terminable upon twelve months prior written notice, together with such other terms and conditions that the Chairman may wish to prescribe to carry out the intent of the Board.

As indicated earlier, Mr. Detor said that the rationale behind the recommendation is to give sufficient time to come in with recommendation for a permanent resolution to the problem, taking into consideration the various concerns which were mentioned in the written submittal to the board.

ACTION 1.

Mr. Kealoha moved that the board accept the recommendation prescribed by staff and that is to deny the purchase in fee but accept the month-to-month permit with a cap to end December 31, 1987 rather than use the term twelve months and that the staff get together with the city to come up with a long term solution to this problem. He's not sure how the board can prescribe the avenues and the vehicles to the Legislators for the necessary fundings and other prescriptions to maintain the prescribed property but he is sure the cost analysis should be considered between now and the next twelve months.

Mr. Zalopany seconded.

Mr. Ono, for clarification purposes, raised several questions.

Mr. Ono asked Mr. Detor, "if anyone of the abutting owners -- cause he does not want a permit -- are we ready to take it back immediately? At least that parcel."

Mr. Detor felt this could be handled administratively. For instance, someone says I don't want a permit and you guys do what you want, staff can handle that administratively. He did not think that action by the board was needed.

Mr. Ono asked, "assuming that one or more homeowners take that position, again, do we ask the homeowner to remove the improvements at his or her cost?"

Mr. Detor said, yes but that he would like to qualify this to the extent that, if for example there is a seawall there, he didn't think we would want to ask them to get that seawall out of there without being sure that the removal of that seawall won't damage the beach. However, it could include that.

Mr. Ono said then we should be ready to accept to take back any portion of the beach because some of them may not want a permit.

Addressing Mr. Kealoha, Mr. Ono stated: "your motion saying the permit to expire December, 1987, is that with the understanding that there is no more extension?"

Mr. Kealoha said, no extension. That is why he would rather use December, 1987 rather than the term twelve months.

Mr. Detor said, you're saying December 31, 1987?

Mr. Kealoha said, yes.

Mr. Arisumi said that it was said by one of those people testifying at the public hearing that his window is on the boundary line. What happens in a situation like this.

Mr. Detor said that Mr. Kealoha is putting a limit to December, 1987. That does not mean that this has to wait till then to be resolved. Something could come in sooner. One of the concerns to be addressed is what you are talking about -- some guy with the line one foot outside of his window.

Mr. Ono did not understand the motion the same way.

What Mr. Kealoha is saying is that these permits will not extend beyond December, 1987 and that during that period some permanent resolution would be made which would include addressing these problems.

Mr. Ono said that he was not aware that this motion included the possibility of disposing any portion of the beach.

Mr. Kealoha said, "that is not a part of the motion." This motion is clearly not intended to sell a long term lease or the property in fee.

Mr. Arisumi said that he would like to amend the motion to take into consideration those people who built their homes close to the boundary line that they be allowed to buy for privacy purposes. If he owned the home he wouldn't want to see someone draw a line right below his window.

Mr. Kealoha said that he could not amend his motion to consider that.

Because Mr. Kealoha is not accepting the proposed amendment, Mr. Ono said that we could split the question and act on the motion that is on the table.

Mr. Kealoha asked, "what happens after that?"

Mr. Ono said that we can make another motion to amend for reconsideration.

Mr. Ono called for a vote on Mr. Kealoha's motion.

Motion carried.

Mr. Ing was excused from taking action on this item.

ACTION 2.

Mr. Arisumi then moved that some consideration be given to those people whose homes are directly on the boundary line.

Mr. Kealoha said that between today and the end of the permit period and the reassessment by the staff and the city and county, those questions arising could be taken up at that time. We don't know definitely today whether or not there are any portions of any buildings bordering the boundary. The first house we visited I understand was sold and the house torn down. Other than that one dwelling he did not recall any other dwelling with that same situation.

Mr. Arisumi said that if the board will look into that matter during the twelve month period and give these people some consideration, he will go along with that.

Mr. Zalopany seconded Mr. Arisumi's motion.

For clarification, Mr. Ono said that the motion is for the board, in the twelve month period, to consider alternatives to those former owners who have dwellings right up close to the State property line.

Mr. Ono called for the vote.

Motion did not carry for lack of a majority vote. Mr. Ono voted no. Mr. Arata was absent and Mr. Ing was disqualified from acting on this item.

So that there is no misunderstanding, Mr. Detor asked, "the situation now is that these permits will be issued and they will run to no longer than the end of next December, 1987 and that during that period a permanent resolution for public use will be formulated?"

Mr. Kealoha said, yes.

As far as the line is concerned it is set by the first motion made by Mr. Kealoha, stated Mr. Ono.

Mr. Ono said that if there is any change, it will require a separate action at another time.

ESTATE OF JAMES CAMPBELL APPLICATION FOR DIRECT LEASE OF GEOTHERMAL RESOURCES ON RESERVED LANDS TO THE FEE OWNER AND OCCUPIER, KILAUEA MIDDLE EAST RIFT ZONE, PUNA, HAWAII.

ITEM F-2

Mr. Detor said that this is a follow-up of a Conservation District Use Application which was approved by the board. This goes back to an exchange of lands with the Campbell Estate which was a part of that whole process which even involved a resolution of the Legislature. What we are talking about is 9,000 acres designated as the Kilauea Middle East Geothermal Resources Subzone.

Mr. Detor said that the applicant has asked for all 27,000 acres. Staff is asking that 9,000 acres be covered by the lease. The reason being that the subzone adopted by the board covers only 9,000 acres. Whether it's possible to go beyond that Mr. Detor didn't know. They were advised by the Attorney General's office that they should confine themselves to the 9,000 acres.

Mr. Ing said that the mining lease covers areas shown on the paper however, he asked if externally they could withdraw geothermal fluids from an area outside of the area.

Mr. Tagomori said that they have interpreted that question in terms of surface waters -- regulation provides for a setback of 100 feet from the property line so if they should come down on a direct line drilling they would determine that point to be a setback up to the surface line area.

Mr. Ing said that in the CUDAs process the board increased that setback and created an additional buffer. This is the surface area -- where the surface activities could take place in relation to the subzone boundaries.

Mr. Ing said that his question is that if they are given an area larger than the subzone would that allow them to withdraw outside of the subzone boundary.

Mr. Tagomori said that they have benchmarked the subzone boundary to be the outer limit.

Mr. Oswald Stender of Campbell Estate said that they submitted a letter to outline what they felt regarding the opinion -- whether it was legal or illegal to issue the mining lease outside of the subzone area and their research indicates that there is no legal condition for that. They also note that mining lease have been issued to others that are outside of the subzone. They accept the fact that the mining activity can only take place within the subzone area and they would not be able to mine outside of the subzone area. They understand that if they determine that there is an opportunity to mine outside the subzone area that they must get a CUDAs and go through that process and they are willing to commit to that if it is unclear in the minds of the board.

Mr. Stender said that there have been many years of hearings over this whole process and all they are trying to do is try to eliminate other opportunities for delay and they don't see that the sublease gives them anymore than to fix the terms of the sublease for the entire area and they understand that they can mine outside of the subzone area.

Mr. Ing asked, "you refer to others that have the geothermal mining lease outside of the subzone area, but in that case issuance of the lease preceded the legislation which created the subzone."

Mr. Stender said, correct, but it did not invalidate the lease. They could not find any legal basis for supporting the AG's opinion that the State is not allowed to issue a mining lease outside of the subzone.

Mr. Ing said that the procedure is that the State has always taken the position that you have to determine the use before you allow the disposition.

Mr. Stender said that this is one of the reasons that they are concerned that they are going to proceed with exploration and if they find the resource, which would be identified within the area which they do mine, there is an opportunity that the State under a different circumstance might not want to issue a sublease to them who have discovered the resource. The law does provide that the State may bid out for the mineral resource so they feel they might be penalized for making the discovery and then lose the opportunity to mine outside the subzone area. That is their real concern.

Mr. Ono asked, "doesn't the surface owner have to give consent?"

Mr. Stender said that the State could condemn the property like they do for water. If the Board of Water Supply finds a resource on their property they can come in and condemn and take the water out.

Mr. Detor said that as a surface owner they can get a direct lease which is what we are talking about here. The board can also go the public auction route but they would be entitled to any compensation for damages caused.

Another concern of Mr. Ing's was that during the CDUA process when the lines were drawn with regards to where the activities would take place, one of the reasons it was drawn that way was to create a buffer. He could not see the State ever allowing geothermal activity in the area. While he could understand why Campbell Estate would want to pre-empt the right of anyone else to come in on your land it would be very difficult for the State to allow those activities where the boundaries were drawn specifically to prevent those activities in those areas.

Mr. Stender said that the reason for concern is that, say, they accept the boundaries and the CDUA controls where they can actually mine and they confine their activities within those boundaries and the State may well extend the subzone mauka and the buffer is along the perimeter but then there is at least another 15,000 acres which they stayed away from -- the perimeter boundary.

Mr. Detor said that what they are asking for is an option on the remaining acreage.

Mr. Ing said that he would be reluctant to go beyond the CDUA boundaries in certain areas, particularly where we have the residential/ag lots.

Mr. Ono asked Messrs. Detor and Watson, "what does the opinion say?"

Mr. Detor said that they don't have anything in writing. However, a question was asked of Bill Tam as to whether they could go the whole 27,000 acres and the answer was no because of these two considerations -- the fact that the subzone was only 9,000 and also that the CDUA only covered 9,000.

Mr. Ing said then if there is no problem, we could take action on the 9,000 acres and go into discussion on the rest.

ACTION

Mr. Ing moved to approve the direct award of a geothermal resources mining lease on reserved lands to the owner-occupier of the subject 9,014-acre land, subject to the conditions listed in the submittal. Seconded by Mr. Zalopany, motion carried unanimously.

ITEM F-1-c

KAUAI RESORT HOTEL, INC. REQUEST FOR CONSENT TO ASSIGN G. L. NOS. S-3831, S-3840, AND S-4647, WAILUA, KAUAI TO CHARLES RIVER HAWAII, LTD.

Mr. Detor asked to make the following amendments:

1. On the top of page 1, where it shows that the Assignee is a Massachusetts partnership, it should be changed to "Hawaii" limited partnership qualified to do business in Hawaii.
2. On page 2 under REMARKS it says that the consideration for the three leases is \$10,000,000. It should read \$9,000,000.

ACTION

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

ITEM H-10

CDUA FOR A SINGLE FAMILY RESIDENTIAL USE AT KAALAEA, OAHU (M/M TANOUYE).

Mr. Ing asked whether the applicant had reviewed the submittal.

Mr. Evans said that staff called all the applicants and delivered submittals to them prior to the meeting.

Mr. Tanouye said that the eleven recommendations looked alright to him.

ACTION

Unanimously approved as submitted. (Ing/Kealoha)

ITEM H-12

REQUEST FOR TIME EXTENSION FOR AN APPROVED CDUA FOR HUALALAI REFLECTOR SITE IMPROVEMENT (HTC).

Mr. Evans recommended approval of this request.

Mr. Ing asked, "what is the recommended time extension?"

Mr. Evans replied, one year, subject to the same conditions which were originally imposed by the board.

Mr. Ono asked, "one year from when?"

Mr. Evans said, "one year from board approval".

ACTION

Mr. Ing moved for approval of this item with a further clarification that the extension is for a period of one year commencing November 21, 1986. Seconded by Mr. Arisumi, motion carried unanimously.

ITEM H-6

REQUEST TO MODIFY CONDITIONS OF APPROVAL IMPOSED BY THE BOARD ON CDUA NO. HA-1860 FOR CONSOLIDATION AND RESUBDIVISION OF THREE LOTS AT KA'U, HAWAII (BELL & YUEN).

Mr. Evans presented this to the board with a recommendation that the applicant's request to amend Condition 10 be approved in part but that the applicant's request to amend Condition 11 be denied.

Mr. Kealoha asked that Mr. Evans explain the change requested for Condition 11.

Mr. Evans said that the applicant had asked that rather than remain with this why don't staff remove it with the understanding that should there be a future request for additional subdivision we would be willing again to go through the CDUA process. Staff felt that one of the major factors of consideration in the board approving the original application was based on the fact, "alright all your representations are made to us, we will approve this subdivision one time and that's it." Considering that, staff felt that condition should remain.

With respect to Condition 10, Mr. William Yuen said that he had no objection to language suggested by staff. However, with respect to Condition 11 it was understanding that the bodies who represent some of the other undivided interest in the property would like to say something.

Mr. Yuen asked if he could modify his proposed suggestion for Condition 11 to say that no further subdivision of that portion of the properties classified from time to time in the conservation district will be permitted, deleting from that a phrase "without the consent of the board of land and natural resources or other applicable authority" as long as it is understood that if they go to the Land Use Commission they would have to come back to subdivide the non-conservation portion from the conservation portion.

ACTION

Mr. Ing moved to approve as recommended but with the following amendments:

1. That Item B. of the Recommendation be amended to read as follows:

- B. That no subdivision of that portion of the property classified from time to time in the conservation district will be permitted except for lands to be dedicated to the public for public purpose.

Seconded by Mr. Arisumi, motion carried unanimously.

ITEM H-5

CDUA FOR PIPELINE AND ITS EASEMENT FOR THE LULUKU 500 RESERVOIR AT KOOLAUPOKO, OAHU (BWS).

Mr. Evans said that this item was deferred at the November 7, 1986 meeting due to a question regarding possible archaeological sites in the proposed area of improvement. The board asked staff to get together with the Board of Water Supply to develop a map to see where, if anywhere, the line would affect the archaeological site. Staff is back with basically the same recommendation but with a map which indicates that it is a discontinued archaeological district, that both the 12" main and the 16" main will not disturb any of the identified archaeological sites in the area.

In answer to Mr. Ing's question as to who had prepared the map, Mr. Evans said he understood that it was prepared by the Board of Water Supply.

Mr. Ing asked whether the Division of Historic Sites had a chance to review the map.

Mr. Evans said, no. He just received the map today.

Mr. Minakami of the Board of Water Supply said that they had hired an archaeologist and their archaeologist and our archaeologist went out to the site to identify the subject sites so it was coordinated with our office.

Mr. Ono asked, "who from our staff was there."

Mr. Minakami did not know.

Mr. Nagata said that our archaeologist was Wendall Kam. The Board of Water Supply consultant was Ron Barrera.

Mr. Ing asked Mr. Nagata, "then Historic Sites Division concurs with this.?"

Mr. Nagata said that he did not review what staff had stated on this but he was aware of this -- the relationship between this and the rest of the reservoir sites.

ACTION

Mr. Ing moved to approve as submitted. Seconded by Mr. Kealoha, motion carried unanimously.

ITEM F-1-e

GEORGE ILAE APPLICATION FOR REVOCABLE PERMIT, WAIMANALO, OAHU.

Mr. Detor said that this is a settlement of a suit which is pending at the present time. This a long-standing matter and the suit has been continued pending coming to the board for consideration of a settlement proposal that involves issuance of a permit.

What is involved here is a lease covering one of the Waimanalo Ag lots. It was cancelled a number of years ago, the permittee remained on the premises, there is back rent involved and a suit is pending. First Circuit Court Judge Edwin Sasaki continued the case pending the Board's consideration of a settlement proposal that a revocable permit be issued the Ilaes subject to certain conditions.

Mr. Detor said that staff is recommending approval of the proposed settlement and issuance of the revocable permit for the following reasons:

1. We will clear off an old pending case.

2. Staff feels it is a reasonable settlement to the case.
3. Income will be realized by the State and the permittees will be maintaining the premises until the State is ready to utilize the premises.
4. The Court indicated that although it would rule that the cancellation of the lease was proper and valid, it would also allow the permittees to remain on the premises pending an appeal of the Court's decision.

Mr. Kealoha asked when payment would be expected.

Mr. Watson said that the commencement date of the permit is scheduled for January 1 allowing the individual to submit a check and the permit is issued on the condition that the check is tendered first.

Mr. Kealoha asked, "what happens if you don't get the check?"

Mr. Watson said then the individual does not get the permit.

Mr. Ono said, "right now there is a review of all permits and leases going on, especially in the Waimanalo area -- should the legislature grandfather in permittees to become lessees (long term leases being awarded), would this particular permit be eligible to be grandfathered?"

Mr. Detor said that it would depend on how far-reaching the Legislature would be.

Mr. Watson said that one of the conditions of this proposal which he would insert into the permit is that the permit will not entitle the permittee to any rights to a long term lease in the event the legislature so acts. This permit does not fall into that category.

Mr. Ono asked if the permittee would be eligible to bid once it goes on the market?

Mr. Watson said that he would be eligible to bid at such time as the property is ready for public auction or for disposition by the future board for some other public purpose.

Referring to Condition No. 2, Mr. Kealoha asked, "what happens if all the junk, debris is not removed from the premises by January 31, 1987?"

Mr. Watson said, "then the permit is cancelled."

Mr. Kealoha said that we need to be clear as to what needs to be removed.

Mr. Ono asked if we could be specific as to what is expected to be removed in the permit itself.

Mason Young didn't think there would be any problem in determining what needs to be removed.

Mr. Kealoha asked Mr. Young whether he had an inventory of what is there now.

Mr. Young said that pictures were taken of the area.

Mr. Kealoha suggested that staff get an inventory real quick.

Mr. Ono asked the applicant if he had any comment.

A representative of the applicant asked for clarification: The lease purpose says agriculture, poultry husbandry/residential purposes and it is his understanding that it is going to be general agriculture/residential which would include the poultry but would not be restricted to poultry? He just wanted to make sure that the permit reflects that understanding. As far as other concerns they are taking steps to make the payments and they have no inventory being worked out for removal.

ACTION

Mr. Ing moved to approve as clarified. Seconded by Mr. Kealoha, motion carried unanimously.

ITEM E-2

REQUEST FOR AUTHORITY TO EVICT TWO FAMILIES FROM KAHANA VALLEY, OAHU, AND DEMOLISH THE DWELLINGS.

Mr. Nagata said that the board on November 8, 1985, authorized the issuance of 27 revocable permits in Kahana Valley for general agriculture and/or residential purposes. Two dwellings were intentionally withheld from this action; (1) the Huilua Fishpond keeper's house and (2) the former Cestaire's house. Staff is recommending that the family using the fishpond keeper's house be evicted immediately and that Ms. Tehada-Foster be evicted as soon as she can find housing outside Kahana, and both houses be demolished.

Mr. Ing asked if staff was going to wait to demolish after Tehada-Foster finds housing.

Mr. Nagata said, yes.

Mr. Ing asked if a time limit of three months would be sufficient.

Mr. Nagata felt that time to be too short -- they would need more like 180 days.

Mr. Ing said that the permits issued by the board for those who they felt were bonafide residents was over a year ago. At that time they made a conscientious decision not to issue permits to these residents.

Mr. Nagata said these two were left out originally because there were questions raised. However, they were to come back to the board later with additional justification. This was provided and staff felt this action was appropriate.

Mr. Bob Stauffer of the Kahana Advisory Council said that after reviewing all reports he would recommend putting a limit on the Tehada-Foster matter. A year ago when Tehada was excluded the board left the door open for further information. That was submitted in February and there was no direct response or action on it. He verbally told Tehada that he did not think the board decision would be changed and that she should contact her case officer of DSSH. However, there was no question that the fishpond keeper's house should be vacated.

With respect to the Tehada case, Mr. Watson suggested:

1. That a time limit be set. This way DSSH will be given time to look for new housing.
2. That a letter be sent informing her of the Board's action and have her sign it. If she doesn't sign it, then he would be hesitant in giving her whatever time where we are going to wait down the road and at that time she's going to get legal counsel to enjoin us from the eviction. If that is going to be the case, he would rather have it in court today rather than wait six months down the line. By her signing the letter we will have an indication of what her position is going to be.

ACTION

Mr. Ing moved to approve with the following amendment:

1. With respect to Tehada-Foster, that she be evicted immediately unless she accepts and acknowledges terms of a letter which would allow her an additional time period up to and including April 15, 1987 within which to relocate. If she is unable to relocate by that time that she be evicted and that the Division of State Parks work with the Attorney General's office in getting that letter to her.

Mr. Ono suggested that another part of the motion be that staff work with the Department of Social Services to assist.

Mr. Ing so moved. Seconded by Mr. Kealoha, motion carried unanimously.

ITEM H-7

CDUA FOR SUBDIVISION AT O'OMA II, HAWAII ON TMK: 7-3-9:4.

Mr. Evans presented this request by Kahala Capital Corporation with a recommendation for approval subject to the conditions listed in the submittal.

Mr. Evans said that we did receive a letter from Representative Isbell in opposition. Staff was also informed by the Department of Transportation that they have serious reservations about this application and they do wish to express their concerns.

Mr. Garcia said that they would like to go on record as having concerns. The potential use of the property is for resort, condominium and residential development and it is close to the Keahole Airport. Based on preliminary findings of the Airport's Division, the property is in an aircraft noise impacted area and certain controls need to be placed upon the type of use of the land. Updating of the Keahole Airport Master plan reflect existing and proposed airport use.

Mr. Ono asked whether the DOT had taken a position when the public hearing was held.

Mr. Garcia said that, as far as he knew, they did not.

Mr. Ono asked Mr. Evans if he knew why comments were not solicited from the Airport's Division.

Mr. Evans said that they did inform the Department of Transportation Highways Division but not specifically the Airport's Division.

Mr. Ono stated that this is one of the reasons he has reservations about targeting our correspondence to any one division. He felt that it is up to the department to decide who they would want to solicit comments from.

Mr. Ben Kudo, attorney for the applicant, pointed out from a map the areas affected. He said that DOT has made a recommendation in the Land Use Commission proceedings for an adjacent resort to their resort basically saying they are prohibiting residential use not any other type of uses. The HOST park people intend to use the area for aquaculture which is compatible with the Airport's comments. The rationale for this land exchange really is complementary to the Airport's concern about putting residential uses as far away from the runway as possible.

Mr. Ono had questions about DOT's earlier comments. He asked, "isn't this going to make this more consistent with the DOT's design?"

Mr. Kudo felt it would. Mr. Kudo explained that the rationale to alleviate the DOT's concern is to acquire a multi-parcel to get their land which they presently own on the north side of the property away from the airport. The proposed land exchange did take into account some of the concerns anticipated from the Department of Transportation.

Mr. Garcia said that he was only made aware of this submittal yesterday and the only thing he could address at the moment is that the Airport's noise study is going on right now and they do not know what the impact is going to be.

Mr. Detor said the the concern that DOT has is not really with the 85 acres that the State will be picking up under the exchange and presumably using it for the HOST Park. Their concern is with the private development which is about a mile from the airport.

ACTION

Mr. Kealoha moved to approve as recommended by staff. Motion carried with a second by Mr. Arisumi.

Mr. Ing was excused from voting on this item.

ITEM F-8

HIGH TECHNOLOGY DEVELOPMENT CORP. REQUEST FOR EXCHANGE OF LANDS BETWEEN THE STATE OF HAWAII AND THE KAHALA CAPITAL CORP., KEAHOLE, NO. KONA, HAWAII.

Mr. Detor said that the land to be conveyed is under executive order so he would like to amend the submittal by adding a condition wherein recommendation would be made to the Governor for withdrawal of the land to be conveyed from the executive order.

ACTION

Mr. Kealoha moved to approve as amended. Motion carried with a second by Mr. Arisumi.

Mr. Ing was excused from voting on this item.

ITEM H-8

CDUA FOR A NONCONFORMING SINGLE FAMILY RESIDENTIAL USE AT WAILUA, OAHU (TITCOMB).

Mr. Evans presented this item with a recommendation to deny for the several reasons listed in the submittal. He said that the day before yesterday staff was given new information which they have not had an opportunity to review and evaluate.

Mr. Ono asked about the additional information which was submitted.

Mr. Evans said that it had something to do with separate deeds for Parcel 37. He said that in the application form the applicant did state that the parcel involved was 37 containing 18,000 sq. ft. The tax records indicated that at one time Parcel 37 was 18,000 sq. ft. but it is now a 20,807 sq. ft. parcel.

On this nonconforming use, Mr. Kealoha asked if it qualifies to construct a residence.

Mr. Evans said, "if the four criteria spelled out in the submittal are met then nonconforming use provision allows a single family house to be built. In this case staff's review indicates that Lot 37 in 1986 consist of 20,000 sq. ft. Lot 37 in 1964 consisted of approximately 18,000 sq. ft. It is not the same lot of record.

Mr. Kealoha asked, "do you know why it is different?"

Mr. Evans said that in 1967 about 2,000 sq. ft. was added to Parcel 37.

Mr. Ono asked, "how do you interpret this to be a new lot just because of the difference in the square footage.

Mr. Evans said that staff's conclusion was that this is not the same lot in 1986 as it was in 1967 because in 1967 the lot was 18,000 sq. ft. and in 1986 the lot is 20,000 sq. ft.

Mr. Ono could not understand the logic that just because the square footage changes this is a new lot.

Staff's review, remarked Mr. Evans, indicated that the additional 2,000 sq. ft. was purchased from a relative and added to this.

The applicant, Frederick Titcomb, said that with respect to the disposition taken by staff, he requested that the board reject their recommendation for the following reasons:

Concerning the land in issue, he first acquired it in 1940 when he was 17 years of age and that was a part of a larger piece owned by his grandparents who lived in the area now known as the Dillingham Airstrip. He continued to own that property in 1940 but because he was a minor he held title as a beneficiary. His mother had the title as trustee. In 1943 he turned 21 and began paying property taxes on Parcel 37. He pointed out from a map the original parcel 37 which he acquired back in 1940 and it comprised of 18,528 sq. ft. He has owned it since then. In 1967 the front property was a strip of land only 40 feet wide which was an old OR&L right of way and when they gave up their line they decided to sell this property. Most property owners did not purchase. However, because he feared someone else might purchase it and deny him ingress and access he purchased it because he did have an easement over the old OR&L property but he did not want problems with the new owner. It was never consolidated. He has two separate deeds -- one from his aunt and one from OR&L. The real property division dumped this parcel into parcel 37. This was an un-numbered parcel. He said that his petition is for nonconforming of parcel 37. He has no intention to join the use.

Mr. Ono asked Mr. Titcomb if there would a problem if this item was deferred in order to allow our attorneys and staff to look at the documents.

Mr. Titcomb had no objection.

ACTION Deferred to the December 19, 1986 meeting.

ITEM F-14 STAFF RECOMMENDATION FOR AMENDMENT OF PREVIOUS BOARD ACTION (12/28/84, AGENDA ITEM F-19) AUTHORIZING LEASE OF LAND TO THE KAAWA UNITED METHODIST CHURCH, KAAWA, OAHU.

the Mr. Detor said that the applicant had problems with some of the conditions in submittal and wanted to discuss same with staff. Accordingly, he asked if this could be withdrawn.

ACTION Withdrawn.

ITEM H-11 AMENDMENT CDUA TO DEVELOP A MICROWAVE RELAY SITE AT WAIMANALO RIDGE, OAHU, (TEL-NET).

Mr. Evans said the board had previously approved an application for the development of this site and what was incorporated into the approval was two steel shipping containers. What has since transpired is that the applicant would like to replace the two steel shipping containers which were about 8' wide by 20' long by one concrete block building. The building would be 10' in height and two feet taller than the shipping containers. Staff reviewed this and there seems an expansion in terms of the amended CDUA. The facility was going to be about 1% larger than the proposed 900 sq. ft. site.

Staff feels that this hollow tile structure is a reasonable one and recommends approval to construct subject to the original conditions and also with a condition that no further expansion of the site be permitted under this application.

Mr. Ing voiced two concerns, one is the public hearing aspect and the use to be made of the facilities by others.

Mr. Evans was not sure about the public hearing question. However, insofar as the structure, he said that it would be shared by two other users.

Mr. Ono asked whether the original set of conditions included landscaping.

Mr. Evans said that it may not have included landscaping as a separate condition but it would have been included as a part of staff's standard condition.

Mr. Ono felt this to be a critical question since this will be a permanent structure.

Mr. Carl Morton, representing Tel-Net, said that the reason for changing from the containers to the building is because the containers did not supply enough space to accommodate those interested in using those facilities. The reason for accepting other users at their facilities was to satisfy the board's desire to consolidate these types of facilities and, the landowner, Bishop Estate, had the same concerns.

Mr. On asked Mr. Morton if he would have any problems if landscaping was required.

Mr. Morton said that he had no problem with this except that they are in an area that he didn't know what it would accomplish since there is high vegetation around the area.

Mr. Ing asked whether there had been problems with allocation of the space for facilities such as this.

Mr. Morton stated that at times there have been problems with the competition. If a competitor came in and the site was controlled by someone who was the competition with the newcomer, there have been restrictions. Because it was their property it was their prerogative as to what tenants they wanted.

Mr. Ing said that once this site is licensed from the Bishop Estate and approval was received from the Land Board, in effect you would control who would be allowed or not allowed to come in and share space within this facility.

Mr. Morton said that they could exclude someone on a technical basis because of incompatibility of existing users. However, Bishop Estate would be the one who would actually provide the license.

ACTION

Mr. Ing moved to defer this matter to the December 5, 1986 meeting. He felt that he needed time to think about the priority situation as to how these people control other potential users. Also, since this went to public hearing once with one set of facts, despite the fact that Tel-net may also be a public utility, he felt that this should be re-examined.

Seconded by Mr. Arisumi, motion carried unanimously.

Mr. Ono asked that staff report back to the board as to whether or not a public hearing is required and also that a landscaping condition be added.

RESUBMITTAL - OFFICE OF THE A.G. REQUEST FOR ACCEPTANCE OF CONVEYANCE OF LANDS AT NORTH AND SOUTH HILO, HAWAII.

Mr. Detor said that this was deferred because there was a question as to what would happen to the parcels after the State took them over. Staff's recommendation is to accept them and then issue an executive order to the Department of Agriculture to turn the parcels over to them.

Mr. Ono asked about a concern that was earlier expressed by Mr. Detor.

Mr. Detor said that if they accept the lands then they become public lands. If this is turned over to the DOA by executive order then the question is, because they have talked about renting or selling these lands to get some income, whether in the disposition process would they be free to just sell the land. Section 171 limits the ability to sell lands.

Mr. Ing asked whether the board could place restrictions.

Unless the action is merely to accept the conveyance of the land, he didn't know.

Deputy A.G. Larry Zenker, in answer to questions about use of the property, stated that through a series of long negotiations they were able to complete a very favorable settlement for the State in this annual collection process in bankruptcy. They did negotiate the conveyance of six parcels of property to the State of Hawaii so they feel the Department of Agriculture is in the best position to manage the control of those parcels of ag lands at this time and they wish to do so. They feel that once the properties are disposed of that the proceeds should be returned to the Agriculture Loan Fund. The Revolving Fund of the DOA was used to pay off the liens of the property.

Mr. Ing asked what amount was in arrears from the Ag loans that were made.

Mr. Muramoto replied, "we're looking at a million dollars."

Mr. Ing asked whether the loans made were secured by these properties.

Mr. Muramoto said, "not entirely." He said that when they filed suit to collect on the loans they filed for bankruptcy and, in the bankruptcy court they were able to negotiate transfers of these properties in lieu of actual monies.

Deputy A.G. Watson said that first of all we need to accept the land as payment for the loans that were made. Under existing law, DOA cannot dispose of the land it has to be the Land Board. Perhaps a provision is needed which says that whenever lands are obtained as payment on foreclosure loans that DLNR may sell these lands on behalf of that agency and the money can then go back into the special fund. Mr. Detor is saying that he is governed by Section 171 once you obtain the land.

Mr. Zenker said that 171-11 provides that upon disposition of public lands the proceeds are to go into the general fund or to an appropriate account. He felt that 171-11 envisions that in situations like this where we have a special fund which is used to make a loan, the special fund which was used to pay off the liens on these particular parcels of property which was received in settlement, that the legislature in passing this contemplated that by the use of the term "special fund" that the proceeds would go back into the DOA revolving fund.

Mr. Watson felt that if we amended the recommendation wherein the board would accept the six parcels of land as being monies obtained for the foreclosures then the board, pursuant to law, can dispose of it with the money going back to the fund.

Mr. Detor said that his problem was not so much with the fund but the ability to sell the fee title.

Mr. Watson stated that was the reason he wanted it noted that the land is being accepted as payment for foreclosures of the loans pursuant to bankruptcy proceedings and then we talk about disposal with the funds going back into the special funds.

Mr. Watson suggested the following language for part 2.

"Upon disposition of the lands, by sale or otherwise, that the funds put back into the appropriate account."

Mr. Zenker said the appropriate fund is the agriculture revolving fund. The DOA would like to sell the property to generate funds to replenish the funds and then re-let the money. He said that they are in the business of circulating and making loans.

ACTION

Mr. Kealoha moved to approve as follows:

1. Accept conveyance of the six (6) parcels listed in the submittal as payment for foreclosures of the loans pursuant to bankruptcy proceedings and, upon disposition of the lands, by sale or otherwise, that said funds be put back into the appropriate account.

Motion carried unanimously with a second by Mr. Zalopany.

ADDED
ITEM B-1

FILLING OF TEMPORARY SECRETARY I, POSITION NO. 24652 IN THE DIVISION OF
RESOURCES, OAHU.

ACTION

Mr. Ing moved to approve the appointment of Mrs. Cheryl A. Wong to Position No. 24652. Seconded by Mr. Arisumi, motion carried unanimously.

ADDED
ITEM B-2

AMENDMENT TO BOARD RESOLUTION NO. 33 -- RELATING TO APPOINTMENT OF MASTERS
TO HOLD PUBLIC HEARINGS.

ACTION

Mr. Ing moved to approve with the amendment that the Resolution, as attached, be amended to add Alvin Katekaru to the resolution. Seconded by Mr. Arisumi, motion carried unanimously.

ITEM C-1

AWARD OF CONTRACT, PROJECT NO. DOFAW-87-21, RUSTPROOF PAINTING OF ONE (1)
METAL STRUCTURE AT THE DLNR KAHULUI BASEYARD, KAHULUI, MAUI.

ACTION

Mr. Arisumi moved to award the contract to the lowest valid bidder, March Painting. Seconded by Mr. Zalopany, motion carried unanimously.

ITEM C-2

FILLING OF POSITION NO. 10944, WILDLIFE MANAGEMENT ASSISTANT III, ISLAND OF
MAUI.

ACTION

Mr. Arisumi moved to approve the appointment of Paul R. Chang to Position No. 10944 effective December 8, 1986. Seconded by Mr. Zalopany, motion carried unanimously.

ITEM C-3

FILLING OF POSITION NO. 11307, FORESTER V, ISLAND OF OAHU.

ACTION

Mr. Ing moved to approve the appointment of Patrick Costales to fill Position No. 11307, such appointment to terminate upon the return of Edwin Petteys. Seconded by Mr. Arisumi, motion carried unanimously.

ADDED
ITEM C-4

REQUEST FOR LEAVE OF ABSENCE WITHOUT PAY, POSITION NO. 26773, CLERK-STENOGRAPHER II, OAHU.

ACTION

Mr. Ing moved to grant a leave of absence without pay to Mrs. Leila Gregory-Brown for child care purposes from March 23, 1987 to December 21, 1987. Seconded by Mr. Arisumi, motion carried unanimously.

ITEM D-1

CENTRAL MAUI SOIL AND WATER CONSERVATION DISTRICT DIRECTORS, MAUI.

ACTION

Upon motion by Mr. Arisumi and a second by Mr. Zalopany, the board voted unanimously to appoint and certify the following persons for the terms shown to serve as Directos of the Central Maui Soil and Water Conservation District:

<u>NAME</u>	<u>Elected/ Appointed</u>	<u>Term to Expire</u>
Michael Banfield	Elected	6/30/89
Doug MacCluer	Appointed	6/30/89
Robert Warzecha	Elected	6/30/88

ITEM D-2

RESUBMITTAL - PERMISSION TO HIRE AN ENGINEERING FIRM TO PREPARE PLANS AND SPECIFICATIONS FOR KAHANA TUNNEL BULKHEADING PROJECT, KOOLAUPOKO, OAHU.

ACTION

Unanimously approved as submitted. (Ing/Arisumi)

ITEM D-3

APPROVAL FOR AWARD OF CONTRACT - JOB NO. 62-MM-B, IMPROVEMENTS TO POLIPOLI ACCESS ROAD, KULA FOREST RESERVE, KULA, MAUI.

ACTION

Mr. Arisumi moved to award the contract for the subject project to Haituka Brothers, Limited for their low bid of \$378,498.00, subject to release of funds by the Governor. Seconded by Mr. Ing, motion carried unanimously.

ITEM D-4

APPLICATION FOR A STREAM CHANNEL ALTERATION PERMIT, WAI AHOLE AND WAI ANU STREAM, WAI AHOLE, KOOLAUPOKO, OAHU.

ACTION

Mr. Ing moved to approve with an amendment to Condition No. 1 that the construction be completed within two years from the date of approval. Seconded by Mr. Arisumi, motion carried unanimously.

ITEM E-1

REQUEST PERMISSION TO USE PORTION OF THE ROYAL MAUSOLEUM GROUND FOR THE ANNUAL MEMORIAL SERVICE TO HONOR OUR FOUNDER THE HONORABLE MR. CHARLES REED BISHOP.

Mr. Ing asked why they were asking that the liability insurance be waived.

Mr. Nagata thought that the request to waive liability insurance was listed in the submittal in error.

ACTON

Mr. Ing moved to approve with the added condition that the applicant obtain the necessary liability insurance. Seconded by Mr. Zalopany, motion carried unanimously.

ITEM E-2

REQUEST FOR AUTHORITY TO EVICT TWO FAMILIES FROM KAHANA VALLEY, OAHU, AND DEMOLISH THE DWELLINGS.

(See Page 19 for Action.)

ITEM E-3

REQUEST OR A SIX-MONTH LEAVE OF ABSENCE WITHOUT PAY.

Mr. Arisumi questioned why Ms. Lani was not being paid while on leave inasmuch as her reason for leave is because of a back injury.

Mr. Nagata said that DPS has denied her request for pay pending investigation because there seems to be some discrepancy in the information provided.

Mr. Ing felt that it should be stated in the submittal that the reason it's being requested without pay is because there is a dispute whether or not the injury was work related.

ACTION Deferred to the 12/19/86 meeting of the board with the understanding that staff will work with the Personnel Services office to answer some of the questions raised by Mr. Arisumi.

ITEM E-4 THE STREET BIKERS UNITED REQUESTS PERMISSION TO USE A PORTION OF THE PARKING LOT AT AINA MOANA STATE RECREATION AREA (MAGIC ISLAND).

After speaking to the group, Mr. Nagata suggested to them that, rather than cord off several areas of parking at the Aina Moana State Recreation Area that a perimeter of the parking lot be set aside for their use -- this is the red, no parking zone. He suggested that this group also do the same thing and the submittal be amended accordingly.

ACTION Mr. Kealoha moved to approve as amended. Seconded by Mr. Zalopany, motion carried unanimously.

ADDED
ITEM E-5 FILLING OF HISTORIC SITES SPECIALIST II, POSITIONS NO. 19472E AND 5054E HISTORIC SITES PROGRAM, OAHU.

ACTION Mr. Ing moved to approve the exempt appointment of Dr. Joyce Bath and Agnes Griffin to fill Positions No. 19472E and 5054E, respectively. Seconded by Mr. Zalopany, motion carried unanimously.

ITEM F-1 DOCUMENTS FOR CONSIDERATION.

Item F-1-a BERNARD CARVALHO, SR. REQUEST FOR CONSENT TO ASSIGN G. L. NO. S-4941, LOT 36, KAPAA HOMESTEADS, 1ST SERIES, KAPAA, KAUAI TO EDWIN MARTINS.

Item F-1-b JAMES JUNG, JR. ET AL, REQUEST FOR CONSENT TO ASSIGN G. L. NO. S-4396, LOT 153, KAPAA HOMESTEADS, 2ND SERIES, NO. AND SO. OLOHENA, KAWAIHAU, KAUAI TO TERRY WELLS AND CAROLE WELLS and LELAN NISHEK AND BARBARA NISHEK.

Item F-1-c (See Page 14 for Action.)

Item F-1-d WAHIAWA PAVING & GRADING CO., INC. APPLICATION FOR REVOCABLE PERMIT FOR MANUFACTURING OF CONCRETE PRODUCTS AND STORAGE OF CONSTRUCTION EQUIPMENT AND MATERIAL PURPOSES COMMENCING JANUARY 1, 1987, SAND ISLAND, HONOLULU, OAHU. RENTAL: \$895.00 PER MO.

Item F-1-e (See Page 18 for Action.)

Item F-1-f ERNEST NUNES APPLICATION FOR REVOCABLE PERMIT FOR PASTURE PURPOSES COMMENCING NOVEMBER 1, 1986. RENTAL: \$26.00 PER MO.

Mr. Detor asked that Item F-1-f be considered together with F-10. (See Page 27)

Item F-1-g ROY SATO REQUEST FOR CONSENT TO ASSIGN G. L. NO. S-4418, PAHOA AG. PARK, KEONEPOKO IKI, PUNA, HAWAII TO INOUE, INC.

Item F-1-h MASAJI KAWAZOI REQUEST FOR CONSENT TO ASSIGN G. L. NO. S-4620, PAHOA AG. PARK, KEONEPOKO IKI, PUNA, HAWAII TO GORDON E. INOUE.

Item F-1-i JAMES MCCULLY, TRUSTEE FOR BIG ISLAND GROWERS, LTD. REQUEST FOR CONSENT TO ASSIGN G. L. NO. S-4804, PAHOA AG PARK, KEONEPOKO IKI, PUNA, HAWAII.

<u>Item F-1-j</u>	JAMES MILES CONSTRUCTION, INC. REQUEST FOR CONSENT TO ASSIGN G. L. NO. S-4664, WAIAKEA, SO. HILO, HAWAII TO JAMES E. MILES.
ACTION	Mr. Kealoha moved to approve Items F-1-a, b, d, g, h, i & j as submitted. Motion carried unanimously with a second by Mr. Zalopany.
<u>ITEM F-2</u>	ESTATE OF JAMES CAMPBELL APPLICATION FOR DIRECT LEASE OF GEOTHERMAL RESOURCES ON RESERVED LANDS TO THE FEE OWNER AND OCCUPIER,, KILAUEA MIDDLE EAST RIFT ZONE, PUNA, HAWAII.
	(See Page 14 for Action.)
<u>ITEM F-3</u>	DEPARTMENT OF TRANSPORTATION REQUEST FOR CONSTRUCTION RIGHT OF ENTRY AND SET ASIDE OF FAST AND SUBMERGED LANDS FOR WAILOA RIVER CHANNEL IMPROVEMENTS, HILO, HAWAII.
ACTION	Unanimously approved subject to the conditions listed in the submittal. (Arisumi/Zalopany)
<u>ITEM F-4</u>	RESUBMITTAL - OFFICE OF THE A.G. REQUEST FOR ACCEPTANCE OF CONVEYANCE OF LANDS AT NORTH AND SOUTH HILO, HAWAII.
	(See Page 24 for Action.)
<u>ITEM F-5</u>	HAWAII ELECTRIC LIGHT CO., INC. AND HAWAIIAN TELEPHONE CO. APPLICATION FOR UTILITY EASEMENT, AHUALOA HOMESTEADS, HAMAKUA, HAWAII.
ACTION	Unanimously approved as submitted. (Kealoha/Arisumi)
<u>ITEM F-6</u>	FRED BENDER APPLICATION TO PURCHASE ROAD REMNANT AT KAUMALUMALU, NO. KONA, HAWAII.
ACTION	Finding the subject area to be physically unsuitable for development as a separate unit because of its size and shape, upon motion by Mr. Arisumi and a second by Mr. Zalopany, the board voted unanimously to approve subject to the conditions listed in the submittal.
<u>ITEM F-7</u>	HAWAIIAN TELEPHONE CO. APPLICATION FOR UTILITY EASEMENT, WAIOHINU, KAU, HAWAII.
ACTION	Unanimously approved as submitted. (Ing/Arisumi)
<u>ITEM F-8</u>	HIGH TECHNOLOGY DEVELOPMENT CORP. REQUEST FOR EXCHANGE OF LANDS BETWEEN THE STATE OF HAWAII AND THE KAHALA CAPITAL CORP., KEAHOLE, NO. KONA, HAWAII.
	(See Page 20 for Action.)
<u>ITEM F-9</u>	COUNTY OF MAUI APPLICATION FOR FIRE HYDRANT EASEMENT, HANA, MAUI.
ACTION	Unanimously approved as submitted. (Arisumi/Zalopany)
<u>ITEM F-10</u>	HERBERT KINORES REQUEST FOR REVISION OF AREA, REVOCABLE PERMIT NO. S-5105, LAHAINA, MAUI.
<u>ITEM F-1-f</u>	ERNEST NUNES APPLICATION FOR REVOCABLE PERMIT, LAHAINA, MAUI.
	Mr. Detor said that Mr. Kinores asked that 35 acres be withdrawn from his permit. This 35 acres will be given to Mr. Nunes.
ACTION	Mr. Arisumi moved to approve both Items F-10 and F-1-f as submitted. Seconded by Mr. Kealoha, motion carried unanimously.

- ITEM F-11 LENOKONA DEVELOPMENT, LTD. APPLICATION TO PURCHASE REMNANT PARCEL AT KALIHI-KAI, HONOLULU, OAHU.
- ACTION Unanimously approved as submitted. (Ing/Kealoha)
- ITEM F-12 RICHARD KELLY, ET AL, APPLICATIONS TO PURCHASE OLD DIAMOND HEAD BEACH ROAD SEGMENTS, KAALAWAI, DIAMOND HEAD, HONOLULU, OAHU.
- (See Pages 1, 11 & 12 for Action.)
- ITEM F-13 STAFF RECOMMENDATION FOR TERMINATION OF G. L. NO. S-4131, WAIANAE VALLEY, WAIANAE, OAHU.
- ACTION Unanimously approved as submitted. (Ing/Arisumi)
- ITEM F-14 STAFF RECOMMENDATION FOR AMENDMENT OF PREVIOUS BOARD ACTION (12/28/84, AGENDA ITEM F-19) AUTHORIZING LEASE OF LAND TO THE KAAAWA UNITED METHODIST CHURCH, KAAAWA, OAHU.
- Withdrawn. (See Page 21)
- ITEM F-15 DEPARTMENT OF TRANSPORTATION REQUEST FOR EXECUTIVE ORDERS AND RELATED LAND DISPOSITIONS, SAND ISLAND ROAD WIDENING PROJECT, HONOLULU, OAHU.
- Mr. Detor requested the following amendment:
- With reference to Pages 4, 6 and 7 -- wherever boundary "M" is mentioned, change to boundary "G" and wherever boundary "N" is mentioned, change to boundary "M".
- ACTION Mr. Ing moved to approve as amended. Seconded by Mr. Kealoha, motion carried unanimously.
- ITEM F-16 ERNEST HANG HUI APPLICATION TO PURCHASE RECLAIMED LAND AT KANEOHE BAY, KOOLAUPOKO, OAHU.
- ACTION Unanimously approved subject to the conditions listed in the submittal. (Ing/Arisumi)
- ITEM F-17 GLENN ALQUIZA EXTENSION OF TIME WITHIN WHICH TO SATISFY IMPROVEMENT REQUIREMENT, G. L. NO. S-4946, HANAPEPE, KAUAI.
- ACTION Mr. Zalopany moved to extend the improvement requirement deadline from November 19, 1986 to November 20, 1987, subject to the terms and conditions listed in the submittal. Seconded by Mr. Arisumi, motion carried unanimously.
- ITEM F-18 ANNUAL REVIEW AND CONTINUATION OF REVOCABLE PERMITS, STATEWIDE.
- Mr. Detor explained that the law requires that permits be good only for one year unless continued by the board. The first part of staff's recommendation is that the board allow these permits to continue.
- The second part involves rent. Staff is suggesting that a 4% to the nearest dollar increase be approved. One change he would like to recommend is that as far as the Sand Island permits are concerned, the recommendation listed is to increase the open storage by 1¢ and the covered space by 2¢ per month, which comes to a lot higher than 4%. The present rate is 6¢ per sq. ft. per mo. for the open space and 12¢ for covered. Mr. Detor asked to change the recommendation for Sand Island to 1/4¢ for the open space and 1/2¢ for covered.
- Mr. Kealoha said that the board would need to review the increase in rent.

Mr. Detor suggested that the board o.k. the continuance of the permits and take up the rental question separately.

Mr. Arisumi had a lot of questions and asked that staff do a report on carrying capacity.

Mr. Detor said that this would take a while inasmuch as it would also require land inspections.

Mr. Arisumi said that he would like to accompany Mr. Yanamura when he inspects the lands on Maui.

ACTION

Mr. Kealoha moved as follows:

1. Continue all permits listed except for those who are arrears in rent. Anyone who is delinquent will be considered at the December 19, 1986 meeting.
2. Effectively approve the new rates.
3. Bring this back in six months at which time the board will review the carrying capacity for pasture lands and agricultural lands.

Seconded by Mr. Ing, motion carried unanimously.

ITEM F-19

DEPARTMENT OF SOCIAL SERVICES & HOUSING REQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE IN THE ASHIKAWA BUILDING II, KEALAKEKUA, SO. KONA, HAWAII.

ACTION

Unanimously approved subject to the review and approval of the lease agreement by the Office of the Attorney General. (Kealoha/Zalopany)

ITEM F-20

DEPARTMENT OF LABOR & INDUSTRIAL RELATIONS RQUEST FOR ACQUISITION OF LEASE COVERING OFFICE SPACE AT 94-230 LEOKANE STREET, WAIPAHU, OAHU.

ACTION

Unanimously approved subject to the review and approval of the lease agreement by the Office of the Attorney General. (Ing/Arisumi)

This being Mr. Detor's last meeting, he wanted to express his thanks to the board for being so nice to him. He said that he was very proud to be a part of this team.

On behalf of the board, Mr. Ono expressed his thanks to Mr. Detor, personally and as chairman, for his dedicated public service over the years.

Adding to the Chairman's comments, Mr. Ing said that he certainly enjoyed working with him. His knowledge about the Land Management transactions -- state lands in general -- unsurpassed anyone he's known.

ADDED
ITEM G-1

REQUEST TO FILL LIMITED TERM APPOINTMENT POSITION NO. 24159, CLERK TYPIST I, OAHU.

ACTION

Mr. Ing moved to approve the appointment of Mrs. Dolores L. Nunes to Position No. 24159. Seconded by Mr. Arisumi, motion carried unanimously.

- ITEM H-1 PERMISSION TO CONTRACT WITH THE UNIVERSITY OF HAWAII TO CARRY OUT A PROGRAM OF AQUACULTURE EXTENSION.
- Mr. Corbin asked that the term in the permit be changed from December 31, 1986 to December 31, 1987.
- ACTION Unanimously approved as amended. (Ing/Arisumi)
- ITEM H-2 REQUEST FOR AUTHORIZATION TO CONTRACT WITH THE UNIVERSITY OF HAWAII TO CONTINUE A PROJECT ON EFFECTS OF LOW DENSITIES OF SILVER CARP ON PRAWN PRODUCTION, WATER QUALITY, AND WATER USE IN FRESHWATER PONDS IN HAWAII.
- ACTION Mr. Ing moved to authorize the Chairperson to negotiate and, subject to the Governor's approval, enter into a contract with the University of Hawaii for the project. Seconded by Mr. Arisumi, motion carried unanimously.
- ITEM H-3 PERMISSION TO CONTRACT WITH THE UNIVERSITY OF HAWAII COLLEGE OF TROPICAL AGRICULTURE AND HUMAN RESOURCES TO CARRY OUT A PROJECT IN AQUACULTURE ENGINEERING EXTENSION.
- ACTION Unanimously approved as submitted. (Arisumi/Zalopany)
- ITEM H-4 PERMISSION TO CONTRACT WITH THE RESEARCH CORP. OF THE UNIVERSITY OF HAWAII TO ASSIST IN CARRYING OUT AQUACULTURE MARKET RESEARCH AND DEVELOPMENT.
- Insofar as the funding requested for this project, Mr. Corbin asked that it be corrected that the funds for this project will not exceed \$30,000.00.
- ACTION Unanimously approved as amended. (Ing/Kealoha)
- ITEM H-5 CDUA FOR PIPELINE AND ITS EASEMENT FOR THE LULUKU 500 RESERVOIR AT KOOLAPOKO, OAHU (BWS).
- (See Page 16 for Action.)
- ITEM H-6 REQUEST TO MODIFY CONDITIONS OF APPROVAL IMPOSED BY THE BOARD ON CDUA NO. HA-1860 FOR CONSOLIDATION AND RESUBDIVISION OF THREE LOTS AT KA'U, HAWAII (BELL & YUEN).
- (See Page 15 for Action.)
- ITEM H-7 CDUA FOR SUBDIVISION AT O'OMA II, HAWAII ON TMK: 7-3-9:4.
- (See Page 26 for Action.)
- ITEM H-8 CDUA FOR A NONCONFORMING SINGLE FAMILY RESIDENTIAL USE AT WAILUA, OAHU (TITCOMB).
- Deferred. (See Page 21.)
- ITEM H-9 CDUA FOR SINGLE FAMILY RESIDENTIAL USE WITH GUEST COTTAGE AT HAENA, MAUI (SEARS).
- ACTION Unanimously approved subject to the conditions listed in the submittal. (Zalopany/Arisumi)
- ITEM H-10 CDUA FOR A SINGLE FAMILY RESIDENTIAL USE AT KAALAEA, OAHU (M/M TANOUYE).
- Approved. (See Page 15 for Action.)
- ITEM H-11 AMENDMENT CDUA TO DEVELOP A MICROWAVE RELAY SITE AT WAIMANALO RIDGE, OAHU (TEL-NET).
- Deferred. (See Page 22 for Action.)

ITEM H-12 REQUEST FOR TIME EXTENSION FOR AN APPROVED CDUA FOR HUALALAI REFLECTOR SITE IMPROVEMENT (HTC).

(See Page 15 for Action.)

ADDED ITEM H-13 FILLING OF POSITION NO. 9912, ACCOUNT CLERK III, ADMINISTRATIVE SERVICES OFFICE, OAHU.

ACTION Mr. Ing moved to approve the appointment of Mr. Dan P. Saren to Position No. 9912. Seconded by Mr. Kealoha, motion carried unanimously.

ITEM I-1 APPOINTMENT OF HUNTER SAFETY INSTRUCTORS, ISLAND OF OAHU, MAUI.

ACTION Upon motion by Mr. Ing and a second by Mr. Kealoha, the board unanimously approved the appointment of the following individuals as volunteer hunter safety training instructors:

VOLUNTEERS: Oahu Larson, William Kenneth
 Maui Maberry, Michael Thomas
 Hawaii King, Keith
 Crisafi, Michael Moses

ITEM I-2 FILLING OF POSITION NO. 27101, CONSERVATION AND RESOURCES ENFORCEMENT OFFICER II, ISLAND OF MAUI.

ACTION Mr. Arisumi moved to approve the appointment of Dexter Tom to Position No. 27101 effective December 15, 1986. Seconded by Mr. Ing, motion carried unanimously.

ITEM I-3 APPOINTMENT OF VOLUNTEER CONSERVATION AND RESOURCES ENFORCEMENT OFFICERS, ISLAND OF MAUI.

ACTION Upon motion by Mr. Arisumi and a second by Mr. Ing, the following were appointed as volunteer conservation and resources enforcement officers:

VOLUNTEERS: Maui Gunderson, Clarence J. Jr.
 Awo, Randy
 Matsuoka, Milton M.
 Kepani, Herman Jr.

ADDED ITEM I-4 REVOCAION OF LICENSE AGENT, OAHU.

ACTION Mr. Ing moved to terminate Territorial Sporting Arms as a license agent of the department and that this matter be referred to the police department. Seconded by Mr. Zalopany, motion carried unanimously.

ITEM J-1 APPLICATION OF ISSUANCE OF REVOCABLE PERMITS 4234, ETC., AIRPORTS DIVISION.

ACTION Unanimously approved as submitted. (Zalopany/Arisumi)

ITEM J-2 USE OF HARBORS DIVISION FACILITIES, PIER 10 PASSENGER TERMINAL, HONOLULU, OAHU, DECEMBER 7, 1986 ONLY (GREG MUNDY).

ITEM J-3 USE OF HARBORS DIVISION FACILITIES, PIER 10 PASSENGER TERMINAL, HONOLULU, OAHU, DECEMBER 31, 1986 ONLY (GREG MUNDY).

ACTION Mr. Ing moved to approve as follows:

- . Item J-2 with the added condition that it will be the responsibility of the applicant to assure that no minors be served any alcoholic beverage.
- . Item J-3, approval of concert only. Serving of liquor will be considered.

Seconded by Mr. Kealoha, motion carried unanimously.

ITEM J-4

USE OF HARBORS DIVISION FACILITIES, PIER 10 PASSENGER TERMINAL, HONOLULU, OAHU (MAKE A WISH HAWAII, INC.).

ACTION

Unanimously approved as submitted. (Ing/Zalopany)

ITEM J-5

CONSENT TO ASSIGNMENT OF #DOT-A-84-2, LIHUE AIRPORT, KAUAI (WATASE TAXI & U-DRIVE, INC. - WAIMEA GARAGE, LTD. DBA RENT-A-WRECK OF KAUAI).

Mr. Garcia said that since the writing of the submittal word was received from the Attorney General's Office that they wanted to change language shown under REMARKS. Accordingly, Mr. Garcia asked that the language be amended as follows:

REMARKS: The State, by its Department of Transportation (DOT), and Watase² Taxi & U-Drive, Inc., entered into that certain Lease dated February 10, 1984, being DOT Lease No. DOT-A-84-2 for the purpose of a rent-a-car concession at Lihue Airport. Watase Taxi & U-Drive, Inc. is requesting consent to assign the Lease to Waimea Garage, Ltd. since they would suffer an extreme economic hardship by continuing to do business at the Airport. The DOT favors this lease assignment and recommends that the Board of Land and Natural Resources concurs in and approves the Consent to Assignment by the DOT in the public interest.

This action is in accordance with the DOT State Functional Plan. The document has been reviewed and preliminarily approved as to form by Deputy Attorney General, Lane Ishida.

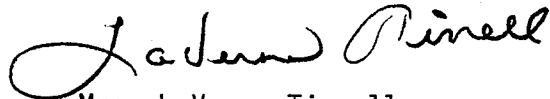
ACTION

Unanimously approved as amended. (Zalopany/Ing)

ADJOURNMENT:

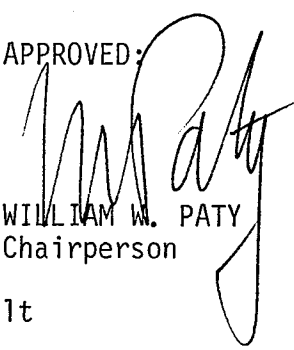
There being no further business, the meeting was adjourned at 2:45 p.m.

Respectfully submitted,



Mrs. LaVerne Tirrell
Secretary

APPROVED:



WILLIAM W. PATY
Chairperson

lt