

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

DATE: November 17, 1989
TIME: 8:30 a.m.
PLACE: Kauai County Council Chambers
4396 Rice Street
Lihue, Kauai

ROLL CALL: Chairperson William W. Paty called the meeting of the Board of Land and Natural Resources to order at 8:30 a.m. The following were in attendance:

MEMBERS: Mr. Moses Kealoha
Mr. William Yuen
Mr. Herbert Apaka
Mr. Herbert Arata
Mr. William W. Paty

ABSENT: Mr. John Arisumi

STAFF: Mr. Libert K. Landgraf
Mr. Michael Buck
Mr. Roger C. Evans
Mr. Mike Shimabukuro
Mr. Samuel Lee
Ms. Dorothy C. Chun

OTHERS: Mr. Johnson Wong, Deputy A.G.
Mr. Peter Garcia, Dept. of Transportation
Mr. Gregory Gillette (Item H-4)
Mr. Manuel Godinez (Item H-1)
Ms. Anne Layton (Item H-1)

ADDED ITEMS Upon motion by Mr. Apaka and a second by Mr. Kealoha, the following items were added to the agenda:

- B-1 -- Request for Filling of a Temporary Fishery Aid Position No. 32691 in the Division of Aquatic Resources (Oahu)
- B-2 -- Request for Filling of a Temporary Fishery Aid Position No. 32692 in the Division of Aquatic Resources (Oahu)
- I-1 -- Filling of Position No. 33298, Conservation and Resources Enforcement Officer III, Island of Oahu

Items on the Agenda were considered in the following order to accommodate those applicants and interested parties present at the meeting.

ITEM C-1 ADVERTISE FOR CONSTRUCTION OF WATERLESS COMPOSTING TOILET SYSTEM, MOKULEIA, OAHU

ACTION Unanimously approved as submitted. (Yuen/Kealoha)

ITEM C-2 OUT-OF-STATE TRAVEL REQUEST FOR GLENN SHISHIDO, DISTRICT PROTECTION FORESTER, MAUI DISTRICT, DIVISION OF FORESTRY AND WILDLIFE

ACTION Unanimously approved as submitted. (Yuen/Kealoha)

ITEM C-3 PERMISSION TO ENTER INTO A CONTRACT TO CONDUCT AN ARCHAEOLOGICAL SURVEY IN THE WAIMANU NATIONAL ESTUARINE RESEARCH RESERVE

ACTION Unanimously approved as submitted. (Yuen/Kealoha)

ITEM J-3 CONSENT TO ASSIGNMENT OF LEASE NO. DOT-A-78-9, HONOLULU INTERNATIONAL AIRPORT, SOUTH RAMP, OAHU (AIR MOLOKAI, INC.-ALOHA ISLANDAIR, INC.)

ACTION Unanimously approved as submitted. (Yuen/Kealoha)

ITEM J-4 CONSENT TO ASSIGNMENT OF LEASE NO. DOT-A-72-29, HONOLULU INTERNATIONAL AIRPORT, OAHU (PAN AMERICAN WORLD AIRWAYS, INC.-UNITED AIR LINES, INC.)

ACTION Unanimously approved as submitted. (Yuen/Kealoha)

ITEM J-5 AMENDMENT NO. 3 TO LEASE NO. DOT-A-72-29, HONOLULU INTERNATIONAL AIRPORT, OAHU (UNITED AIR LINES, INC.)

Mr. Garcia explained the purpose is for the construction and operation of a special facility building. He then outlined the terms and purpose of the amendment.

ACTION Unanimously approved as submitted. (Yuen/Kealoha)

ITEM H-5 BOARD ACTION ON REQUEST FOR CONTESTED CASE HEARING, DETERMINATION OF PARTIES, FOR CDUA FOR COMMERCIAL GOLF COURSE AT LIHUE, KAUAI.
APPLICANT: HEMMETER/VMS KAUAI COMPANY V

Mr. Evans presented the request for Board action for a decision for a contested case hearing and the determination of parties relative to a Conservation District Use Application, the Hemmeter application for the commercial golf course at Lihue within the limited subzone.

Mr. Apaka asked if the County was still firm on their request for a contested case.

In reply, Mr. Evans said he did not know if the County was firm or not, but that they had sent in their application which followed their verbal request. Since then there has been no communication from the County relative to that action.

ACTION Mr. Apaka moved for approval. Motion was seconded by Mr. Arata and carried unanimously.

In response to the Board, Mr. Evans said the tentative target date is between January 20-23, 1990.

ITEM F-2 RESUBMITTAL--PROPOSED LAND EXCHANGE INVOLVING GRANT 2023 AT AWAKEE (TAX MAP KEY 7-2-04:03) AND STATE LAND OF MANINIOWALI AND KUKIO 2ND (TAX MAP KEY 7-2-04:PORTION 17), NORTH KONA, HAWAII

Mr. Shimabukuro said the board deferred this item at a previous meeting but did give the Kahala Capital Corporation a right-of-entry into the State land involved in this proposed exchange. This was necessary for them to enter to do the study. He said that staff's recommendation was for the proposed exchange in concept only and should the Board approve this submittal, then staff would proceed with the appraisal and try to work out a configuration for the exchange.

Mr. Shimabukuro then pointed to a bulletin board with a map of the area. Mr. Landgraf then proceeded to point out the areas involved in the conceptual plan and some features of the Division of State Parks and Outdoor Recreation ideas.

Chairperson Paty again emphasized that the recommendation as stated here is simply to take a look at the overall evaluation of the parcel and details and exchange if they're developed to the satisfaction of both parties would then come before the board for approval, so what is being presented here today is not an understanding or agreement of any

particular line drawing but hopefully something that would be of benefit to the State as well as the land owners that would afford us the opportunity to develop along the lines of a major park system that is so vitally needed on that side of the island to accommodate those particular local residents and visitors.

Mr. Shimabukuro said that statutes on exchange requires that the exchange be made on an equal value basis if not acreage, equal or better. That's the reason an appraisal process will be needed to find out the value of the private property as well as the State property that is proposed for the exchange.

With that explanation, Mr. Arata said he did not have any further questions.

Mr. Yuen had questions as to the character of the property to be exchanged and any timetable involved.

Questions were answered by Mr. Shimabukuro.

Mr. Kauhane added that they understand the whole process is one that requires flexibility and each has their own common interest to guard and they would appreciate favorable consideration by the Board whereby they can begin this process.

Mr. Chris Yuen an attorney in Hilo who has been working on land use issues in West Hawaii and Kona said that it is essential we set aside large tracts of coastal open space that will be preserved into the future. He said that he felt the board should act favorably on this request for a land exchange in principle with the understanding that the specific boundaries are still to be negotiated.

ACTION

Mr. Arata moved for approval. Motion was seconded by Mr. Apaka.

Before the question, Mr. Kealoha asked the Chair to consider the recommendation made by staff, that the Board approve the conceptual land exchange. He also asked that in the recommendation that the board is not limited or limit itself to the land exchange only, but entertain the thought of direct acquisition by whatever method is available. Also, he would like to see the department or division label this so called land exchange concept for this large tract of land in a priority order for the purpose of building a wilderness park.

Chairman called for the question, motion carried unanimously.

CDUA FOR A WATERLINE FROM WAIHANAU STREAM TO MEYER LAKE, APPLICANT:
TIMOTHY J. STACK, PRESIDENT OF R. W. MEYER, LTD;
AGENT: GREGORY C. GILLETTE AND ASSOCIATES

ITEM H-4

Mr. Evans said that Item H-4 was a resubmittal of an application that was withdrawn earlier this year. He then outlined the proposed use of the applicant. He said that the County of Maui, Planning Department has issued a determination that the project is not within a Special Management Area and therefore does not require an SMA permit and this proposal does not lie within the shoreline management area.

Mr. Kealoha clarified with Mr. Evans that previously the Hawaiian Homes Commission's position was only directed at the point of intake, rather than the actual use of the pipeline.

Mr. Yuen had concerns with condition no. 1, and felt that it should be amended that applicant obtain necessary permits from the Commission on Water Resource Management prior to beginning any construction.

Mr. Kealoha voiced his concern that applicant had already been held up for more than a year due to errors of the County of Maui and the Hawaiian Homes' objection. He felt that the application was for the use which means laying of the pipeline. He expressed concern that the board should not hold up the construction of a pipeline because the applicant needs the approval of the Water Commission to approve the intake as the application is for the land use.

With this explanation, Mr. Yuen withdrew his suggestion as he was not aware of the history of this application.

Mr. Gregory Gillette, Agent for R.W. Meyer said he was in agreement with staff's conditions. They have been in contact with the Department of Hawaiian Home Lands and will also be meeting with them early next week to discuss the water issue and they have also met with Mr. Tagomori of the Water Commission on this issue.

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ADDED
ITEM B-1 REQUEST FOR FILLING OF A TEMPORARY FISHERY AID POSITION NO. 32691 IN THE DIVISION OF AQUATIC RESOURCES (OAHU)

ACTION Unanimously approved the appointment of Ms. Denise Ellis to the Temporary Fishery Aid Position no. 32691. (Yuen/Apaka)

ADDED
ITEM B-2 REQUEST FOR FILLING OF A TEMPORARY FISHERY AID POSITION NO. 32692 IN THE DIVISION OF AQUATIC RESOURCES (OAHU)

ACTION Unanimously approved the appointment of Mr. James Acopan to the Temporary Fishery Aid Position No. 32692. (Yuen/Apaka)

ITEM D-1 PERMISSION TO HIRE CONSULTANTS TO PREPARE CONSTRUCTION PLANS AND SPECIFICATIONS FOR DIVISION OF WATER AND LAND DEVELOPMENT PROJECTS

ACTION Unanimously approved as submitted. (Arata/Yuen)

ITEM D-2 PERMISSION TO HIRE CONSULTANT FOR JOB NO. 94-KP-C, WAILUA RIVER STATE PARK, FERN GROTTO COMFORT STATION, KAUAI

ACTION Unanimously approved as submitted. (Apaka/Arata)

(Above items B-1, B-2, D-1 and D-2 were presented to the Board by Mr. Shimabukuro.)

ITEM F-1 DOCUMENTS FOR CONSIDERATION.

Item F-1-a ISSUANCE OF LAND LICENSE TO THE COUNTY OF KAUAI FOR REMOVAL OF SOIL MATERIAL FOR LANDFILL COVER, KEKAHA, KAUAI (GENERAL LEASE NO. S-4222 TO KEKEHA SUGAR CO.).

Item F-1-b CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-5039, LOT 84, KOKEE CAMP SITE LOTS, TAX MAP KEY 1-4-04:55, WAIMEA (KONA), KAUAI.

Item F-1-c ISSUANCE OF REVOCABLE PERMIT TO XPRESS TRUCKING, INC., IWILEI PRODUCE CENTER SITE, HONOLULU, OAHU.

Item F-1-d ISSUANCE OF REVOCABLE PERMIT TO ENDO PRODUCE AT IWILEI PRODUCE CENTER SITE, IWILEI, HONOLULU.

Item F-1-e CONSENT TO ASSIGNMENT OF GRANT OF EASEMENT AT KEOKEA, WAILUKU, MAUI; RICHARD C. AND SHERI DORI OCCHIPINTI, ASSIGNORS TO WILLIAM W. AND TERESA H. LEE, ASSIGNEES, PERPETUAL EASEMENT FOR REPAIR AND MAINTENANCE OF CONCRETE SEAWALL.

- Item F-1-f ISSUANCE OF REVOCABLE PERMIT TO HUI O KUAPA, A HAWAII NON-PROFIT CORPORATION, UALAPUE FISHPOND, UALAPUE, MOLOKAI, TAX MAP KEY 5-6-01:01.
- Mr. Shimabukuro asked to amend this submittal, on page 5, Recommendation c. to read as follows: "Authorize cancellation of revocable permit No. S-5931 to Al Kovic and approve issuance of a new revocable permit to Mr. Al Kovic covering a 400 square feet area of Tax Map Key 5-9-03:01 for fish boat storage purposes at \$12.00 per month." The reason for this is because the existing permit to Mr. Al Kovic covers the entire area, a little over 12,000 square feet and he has no use for the entire area; he has use for only 400 square feet. Staff would like to cancel the existing permit and issue a new permit covering 400 square feet. The balance of the area would be covered by the permit to be issued to Hui O Kuapa for their project.
- Item F-1-g ISSUANCE OF REVOCABLE PERMIT TO SERVCO PACIFIC, INC. PORTION OF RECLAIMED LAND AT KEEHI LAGOON, OAHU, TAX MAP KEY 1-1-03:03
- ACTION Mr. Apaka moved that items under F-1-a, b, c, d, e, f-as amended, and g be approved. Motion was seconded by Mr. Yuen and unanimously approved. For the record, Mr. Kealoha voted on all documents except F-1-g.
- ITEM F-2 RESUBMITTAL -PROPOSED LAND EXCHANGE INVOLVING GRANT 2023 AT AWAKEE (TAX MAP KEY 7-2-04:03) AND STATE LAND OF MANINIOWALI AND KUKIO 2ND (TAX MAP MAP KEY 7-2-04:PORTION 17), NORTH KONA, HAWAII.
- ACTION Approved unanimously. See page 3.
- ITEM F-3 SET ASIDE OF LAND TO THE DEPARTMENT OF EDUCATION FOR THE NEW PAHOA ELEMENTARY SCHOOL AT PUNA, HAWAII, TAX MAP KEY 1-5-09:PORTION 09.
- ACTION Unanimously approved as submitted. (Arata/Kealoha)
- ITEM F-4 PUBLIC AUCTION SALE OF LEASE FOR WATER TANK SITE USE, MOOLOA, HONUOLA, MAKAWAO, MAUI, TAX MAP KEY 2-1-05:PORTION 77.
- Mr. Shimabukuro said he needed to amend this submittal on page 3, after Recommendation A, he would like to add Recommendation "A. 1. To authorize the withdrawal of the subject water tank site from revocable permit no. S-4371 without reduction in the permit rental." There is a need to withdraw it prior to the auction sale.
- ACTION Unanimously approved as amended. (Kealoha/Arata)
- ITEM F-5 DIRECT SALE OF NON-EXCLUSIVE PERPETUAL EASEMENT FOR ACCESS AND UTILITY PURPOSES AND CONSTRUCTION RIGHT OF ENTRY, HONOPOU, MAKAWAO (HAMAKUALOA), MAUI, TAX MAP KEY 2-9-03:PORTIONS OF 16, 17, 20 AND 39.
- ACTION Unanimously approved as submitted. (Kealoha/ Arata)
- ITEM F-6 DIRECT SALE OF NON-EXCLUSIVE PERPETUAL EASEMENT FOR ACCESS AND UTILITY PURPOSES AND CONSTRUCTION RIGHT OF ENTRY, HONOPOU, MAKAWAO (HAMAKUALOA), MAUI, TAX MAP KEY 2-9-03:PORTION OF 17.
- ACTION Unanimously approved as submitted. (Kealoha/Arata)
- ITEM F-7 REQUEST FOR EXTENSION OF LEASE TERM AND CONSENT TO MORTGAGE, GENERAL LEASE NO. S-4922, WAIMANALO AGRICULTURAL PARK, PHASE I, WAIMANALO, OAHU, LESSEE: KOUKEO VIXAYVONG, TAX MAP KEY 4-1-35:01.
- Mr. Shimabukuro said the terms and conditions which applicant must abide by for the extension are listed under recommendation A, 1-3.
- Mr. Kealoha expressed concern on the extension of the lease term of an additional twenty years and that applicant is only tied up for five years, meaning in the next five years he will be able to sell.

Mr. Shimabukuro explained that this was the standard provision used in all extensions; that applicant cannot assign the lease for the next five years. He also explained that this lease is based on the old law which provides, in case of an assignment, the Board has the right to increase the rent and premium.

Mr. Wong addressed the Chair saying in light of the request for an extension, can we not modify the original term to impose the new term for assignment?

Mr. Shimabukuro said that in prior cases, as a condition of the extension, the rental reopening becomes immediate, but in this case staff is not recommending it.

Mr. Wong clarified Mr. Kealoha's question, that in the event of an assignment in the future in the case of an extension, he thinks the Board has the right to ask that the new provision be inserted.

Mr. Shimabukuro then said that staff should amend the submittal to say that the new assignment provision will be incorporated on the extension. Added Condition No. 4. Incorporate the new assignment provision enacted under Act 104, SLH 1989, as part of lease condition.

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

ITEM F-8 CONSOLIDATION OF LANDS AND SET ASIDE THEREOF TO THE DEPARTMENT OF EDUCATION FOR KAIULANI ELEMENTARY SCHOOL PURPOSES, TAX MAP KEY 1-5-05:16 AND PORTION OF 03 AT KAPALAMA, HONOLULU, OAHU.

ACTION Unanimously approved as submitted. (Yuen/Kealoha)

ITEM F-9 DIRECT SALE OF PERPETUAL NON-EXCLUSIVE EASEMENT FOR ROADWAY AND UTILITY PURPOSES AT MOANALUA, HONOLULU, OAHU, TAX MAP KEY 1-1-63:14.

ACTION Unanimously approved as submitted. (Yuen/Kealoha)

ITEM F-10 STAFF RECOMMENDATION TO ADOPT POLICY ON ASSIGNMENT OF LEASE EVALUATION TO CONFORM WITH PROVISIONS OF ACT 104, SESSION LAWS OF HAWAII 1989.

Mr. Shimabukuro said that staff had worked with the Department of Transportation which also administers leases using the same statutes, on developing an Assignment of Lease Evaluation Policy.

Mr. Kealoha suggested that staff brief the board further on this matter as he noted quite a number of figures on the attachments.

Chairman Paty also felt that there be a special briefing of the board as this has been a matter of considerable concern and it's appropriate that we pull this policy approach and tie it in together with the procedures and practice of the Department of Transportation.

Mr. Yuen made a comment that one thing that he doesn't see is a formula for any consideration given to goodwill or allocation for goodwill or tangibles or businesses. He said that staff should make it clear to the applicant that the state would want the total consideration paid for the entire acquisition as opposed to giving them the ability to say, "all we paid for the land and the building was 'X' amount of dollars and not knowing what the rest of the deal was".

Mr. Shimabukuro explained that in Exhibit A, the policy was developed strictly by the wording of the language of the law. He said they may take the goodwill into consideration and see if it could be worked out in there.

Mr. Wong said their office would try to work out the language with staff regarding Mr. Yuen's concerns.

ACTION Chairman Paty declared with the Board's request, the matter will be deferred for a subsequent briefing .

ITEM F-11 AMENDMENT TO PRIOR BOARD ACTION OF APRIL 14, 1989, ITEM F-11 RE DIRECT SALE OF RECLAIMED LAND AT KANE OHE TO THE BANNER FAMILY TRUST.

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM F-11 AQUISITION OF LAND FOR ADDITION TO PUU O MAHUKA STATE MONUMENT, PUPUKEA KOOLAULO, OAHU, TAX MAP KEY 5-9-05:PORTION 04, PORTION 21 AND PORTION 23

Mr. Shimabukuro presented item F-11 to the board for approval. He also said he needed to make a technical amendment to the submittal on page 3, under Recommendation No. 4. by adding at the beginning, "Upon completion of the acquisition, "...

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

ITEM F-13 REQUEST FOR CERTIFICATE OF RELEASE OF RESTRICTION ON GRANT NO. S-12,711 TO CHARLES J. AND LILY Y. OKIMOTO, LOT 39, WAIMANALO FARM LOTS, WAIMANALO, OAHU.

ACTION Unanimously approved as submitted. (Yuen/Kealoha)

ITEM F-14 DIRECT SALE OF GOVERNMENT "POALIMA" REMNANT PARCEL SITUATE WITHIN LAND COMMISSION AWARD NO. 4964-B, AP. 5, ILI OF KAPALAOA AND KAHIWA, WAIPIO 3RD, ROYAL PATENT NO. 2783 TO KAIWEA, HAMAKUALOA, MAKAWAO, MAUI, TAX MAP KEY (2) 2-9-07:26.

Mr. Shimabukuro presented item F-14 to the board for approval. At the Chairman's request he gave the definition of the word "poalima", which is a small piece of land on which, in the olden days, the commoners would tend a garden for the chief but they were only allowed to work on it on Fridays.

ACTION Unanimously approved as submitted. (Yuen/Kealoha)

ITEM F-15 FILLING OF ABSTRACTING ASSISTANT V POSITION NO. 36520 FOR OAHU OFFICE, LAND MANAGEMENT DIVISION.

ACTION Unanimously approved the appointment of Ms. Elaine H. Pahio to fill the Abstracting Assistant V position No. 36520. (Yuen/Kealoha)

ITEM G-1 FILLING OF ABSTRACTING ASSISTANT V, POSITION NO. 154.

Mr. Shimabukuro presented item G-1 to the board for approval.

ACTION Unanimously approved the appointment of Cheryl N. Haia to position No. 154, Abstracting Assistant located in the Bureau of Conveyances, Land Court Registration Branch. (Yuen/Kealoha)

ITEM H-7 PERMISSION TO FILL THE POSITION OF INFORMATION SPECIALIST, POSITION NO. 38208, IN THE AQUACULTURE DEVELOPMENT PROGRAM, OAHU.

Mr. Shimabukuro presented item H-7 to the board for approval.

ACTION Unanimously approved the appointment of Ms. Yara Lamadrid-Rose to Position No. 38208, Information Specialist. (Yuen/Kealoha)

ADDED
ITEM I-1

FILLING OF POSITION NO. 33298, CONSERVATION AND RESOURCES
ENFORCEMENT OFFICER III, ISLAND OF OAHU

Mr. Shimabukuro presented item I-1 to the board for approval.

ACTION

Unanimously approved the appointment of Robert J. Fernandez to fill position no. 33298 effective December 1, 1989. (Yuen/Kealoha)

RECESS

10:25am - 10:43am

ITEM H-1

CDUA FOR COMMERCIAL KAYAK TOURS ALONG THE NA PALI COAST OF KAUAI
APPLICANT: MR. MIGUEL D. GODINEZ

Mr. Evans presented item H-1 to the board listing the applicant's requests, referred to comments received from government agencies as well as from the general public, referred to a public hearing held and to questions asked at that time. Mr. Evans also mentioned that there were two additional conditions to be added should the board sustain staff's recommendation. These two conditions were recommended by the Division of Aquatic Resources, Condition 25. Would read to the effect that, if required, that commercial marine fishing licenses for each tour guide is required if fishing activities are to occur, and Condition 26. Passengers would be warned that catching and consuming fish along the Na Pali Coast could be dangerous due to existing toxic condition. That toxic condition that's being pointed out is segutera that's been reported to occur in several species of fish from the Na Pali Coast area. Those two conditions would then give a full set of recommendations to the board.

Mr. Evans covered the concerns of the land and natural resources and former issues of carrying capacity along the Na Pali Coast, permitting system with Division of State Parks and methods and vehicles to get to the valley and the maximum number of people the valley can hold.

Mr. Evans said that staff is recommending approval and that the recommendation for approval goes relative to the Na Pali Coast and specifies when commercial landings can be, how many they can be and under no circumstances at this point in time are they recommending the carrying capacity of the valley be increased. Mr. Evans went over the possible landing and launching sites. He said that the County does not want the north end of the county park to be used. Staff is recommending that the launching pads at Black Pots, Hanalei be used. The reasoning behind the recommendation is that the Board has previously approved two CDUAs for launching at Black Pots.

Mr. Kealoha asked Mr. Evans if he was suggesting that based on this application, the recommendations are such that you accept the proposals and by trial and error of the time cut back of the number of users and uses ...

Mr. Evans said, "No, not per se." He said that they are suggesting this proposal be accepted and should the board approve it, staff is suggesting that at the end of the current time frame where people have permits, that the existing permits of the three commercial tour boat operators who are currently authorized to drop off along the Na Pali Coast, that the State Parks Division take a look at their master plan and make a statement that, what's going on is okay relative to the carrying capacity, we can allow more numbers in there, or we have to cut back.

Mr. Kealoha said he had a problem with the application because right at this moment the board does not know what State Parks has established or collection of details; what are the carrying capacities at Honopu and other proposed landing sites.

Mr. Kealoha voiced concern that there are not sufficient staff people to monitor and control permits issued. He felt with added activity the problem will be compounded affecting the environment.

Mr. Evans responded to Mr. Kealoha's concerns, 1) regarding monitoring or insufficient enforcement staff daily, staff feels that permitting can be enforced through the rules or revocable permit documents; 2) relative to studies, the only studies to date are the studies that were done relative to the carrying capacity and those are the studies staff based their bottom line on; and traditional fishing is going to be impacted there and staff may not be able to control it simply because they are not in control of the entire situation. While the Board can control the landings, there could be 2,000 boats in the water to go back and forth on the Na Pali Coast on tours out of Nawiliwili Harbor starting next month and DLNR would have no control.

Mr. Arata also commented that he was puzzled by staff's recommendation for approval when within the submittal there were unfavorable comments from the Office of State Planning, Divisions of Aquatic Resources, Forestry and Wildlife and Land Management. He asked if staff could answer the four agencies.

Mr. Evans said that it was done in the analysis.

Mr. Kealoha asked for explanation of the proposed rest stops by the applicant. Other concerns of the Board reflected upon public safety.

Mr. Apaka expressed a strong need for safety in the water lanes as kayaks, zodiacs and other boats will all be competing for the best sightseeing areas.

Responding to the board's concerns on drop offs and camping, Mr. Evans again stressed the tie would be the State Parks office in Lihue. He felt the permit requirement is where the consistency would be whether traveling by kayak, by boat or walking in. Relative to the hazard, the rules of the road question, staff agrees with the Board.

Chairman then called upon the applicant to come forward. He said that the Board and others have a lot of concern regarding over-usage of the Na Pali Coast by a wide variety of recreational and commercial boats; it's trying to pull this whole thing together that's a little bit of frustration. He invited them to comment or respond to the questions of the board.

Mr. Godinez responding to Mr. Apaka on the safety aspect, said that they believe just on the virtue of being a commercial venture it would be a lot safer than having kayakers going down the coast that are unfamiliar with the area and end up having to be rescued. When you have a noncommercial venture, it's like you say, everyone wants to go at different speeds, unless you have a guided venture.

Mr. Godinez responding to Mr. Kealoha on the landings, Kalalau and Ololo would be temporary landings. The back packer going in on the 10th or 11th, their gist would be to stop there briefly if someone needs a break as far as a 15-20 minute break actually their constraints would be more towards Milolii which wouldn't affect the back packers, in there they would only be affecting, say fishermen who would be coming in for permit or any other kayakers or any zodiac boat landings.

Ms. Anne Layton asked to say a few words. She said she was not connected with the applicant in any way except a customer and a friend. She said she was born and raised here in Hawaii and thus been in and around the ocean all of her life and just got into kayaking at the beginning of this past summer and has found it to be an unreal way to

intimately experience the Na Pali area from Makua Beach all the way around to Polihale with minimal environmental impact. She felt the issues of increased traffic on the ocean freeway, as it was put, is a sailing and wondered if the Coast Guard could get involved. She said that she has seen abuses and she was almost run over by a motorized tour boat in Milolii one day because he did not respect common sense rules of the road of operating a vessel. In the times that she has gone down the coast as part of a group of kayakers, both large and small, they have in fact taken most times a more out to sea course and very few times has she seen any zodiacs out that far and she thinks one reason that course is used is to stay out of the way of the zodiacs. The kayakers do tend to stay inasmuch as possible in a pack. With regards to going into the sea caves, what she's always liked to do is position herself or someone outside the entrance to the sea cave and they would paddle up in the air to warn other motorized boats that there are kayakers in the vicinity and she has seen them respect that, the zodiac type craft.

She said that she would like to encourage the use of and the enforcement of and overseeing of the small business people to act as the Board and DOCARE's kind of unofficial representatives to regulate that. That way the State doesn't have to appropriate extra manpower at its own expense.

Traffic is an issue on that coast and she's sensitive to it. She thinks the use of kayakers having negligible environmental impact, yes, are going to add traffic, but that is part of the bigger picture that they're all dealing on that particular coast right now and she would like to support the applicant's proposal to do this. This is a safe way of getting inexperienced people out in the ocean under safe supervised conditions.

Chairman Paty said that he thought there weren't any questions but that the Board concurs with you that kayaking is probably the safest and in many ways the most enjoyable way to move about our shores particularly down that area but again you get the feeling of a little bit of frustration that we have allowed this usage to proliferate to the point that it's a little out of hand and we feel very strongly that we need to try to bring into better focus with working with the Department of Transportation (DOT), this whole usage area along the Na Pali Coast and it's going to have to be addressed sooner or later. We feel that a number of areas in this resource is overused, under supervised and needs to be strongly addressed. The usage of tunnels down there for example is way over-utilized in terms that was originally contemplated by the Board when they first undertook to provide the permits. This problem is not an easy one to solve but he feels very strongly that they need to get a better handle on this and it may be that your operation may help us on this thing and maybe you'll have to defer a little time till we get it into focus.

Mr. Arata asked about liability coverage.

Mr. Godinez said he had a million dollar policy and he understood the State requires a half a million dollar policy.

Mr. Apaka commented that after listening to the applicant and his assistant that he believes that what they said is true. Under the present condition kayakers are not commercial, they are just another person down the line and in that recognition he believes that the zodiacs will give them some recognition. However, when you become a competition with them into their area, it might be an unfriendly situation after a while. When you come into commercial venture that's a different world by itself and for me to say yes that it's good, and condone to those conditions I don't think I like to live with it.

Mr. Godinez said when they first started this business five years ago, they would go out into Hanalei Bay and people would call the Coast Guard on them. Finally people realized that they didn't need a large motor and the media on the mainland began pushing kayaking more and more and that it was a safe and viable way to do it.

Ms. Layton commented again that there would be more crafts and bodies out there but they will be better regulated and controlled and it will ultimately be safer for everybody. She said that Na Pali is a can of worms and to her it really boils down to a jurisdictional issue.

Chairman Paty said that he thinks the State is going to have to consolidate its jurisdictional efforts if they're ever going to bring the whole picture on the Na Pali Coast into focus.

Mr. Apaka said that until all these concerns were worked out it would be hard to say yes especially since he represents the island of Kauai and he would go into a situation that's not very popular with everybody.

Mr. Apaka asked if a motion could be made to deny without prejudice and to give them a chance to come back at a later date when concerns are worked out.

Applicant asked if there was any way there could be a temporary licensing instead of a flat refusal. In other words, like a year or six months or however long the Board feels it would take to resolve these issues and at that time once it takes for these issues to be solved then come back to the Board for a re-analysis. Say when they found an over population, the zodiacs will have to cut back, the kayakers listed can only do one company with four boats and then instead of a flat refusal.

Mr. Kealoha asked if this application was for twelve months.

Applicant said no, it would be for the summer season.

Mr. Kealoha said staff needed to streamline and tighten up the application the way it was written. The main focus is kayaking, but the application is for commercial kayak tours and for a non-exclusive right of entry or revocable permit for beach transiting, loading, unloading, rest stops, and camping along the Na Pali Coast of Kauai. He commented that this is a good idea and probably the worst thing of this application is the timing. The board has approved so many kayaks and different kinds of surface activities in the past, that now he feels there are a few things to cure before proceeding, some mitigated measures taken, some correct actions taken and then consider what size of this operation should be considered seriously. Personally, I think you have a wonderful idea, but I feel I cannot vote in your favor based on the way it is written.

ACTION Motion was made by Mr. Apaka to deny this request. Seconded by Mr. Arata motion carried unanimously.

Chairman Paty commented that the opportunity to reapply is available at any time and the applicant has the sense of the support of the Board, but the concerns they have are on the overall proliferation of recreation and commercial activity on the northshore.

ITEM H-2 CDUA FOR A SUBDIVISION TO ESTABLISH THE WAIMANU NATIONAL ESTUARINE RESEARCH RESERVE; APPLICANT: NATURAL AREA RESERVES SYSTEM

ACTION Unanimously approved as submitted. (Arata/Kealoha)

For the record, Mr. Evans informed the Board that the SMA clearance has been received since the submittal was written up.

ITEM H-3 CDUA FOR A SINGLE FAMILY RESIDENCE AND FARM AT PUNA, HAWAII
APPLICANT: JON E. DANGORA

Mr. Evans informed the Board that they recently received the Special Management Area (SMA) Permit for this submittal. Staff would also like to add condition no. 10 to read, "No commercial sales of any product grown on the property."

ACTION Unanimously approved as amended. (Arata/Yuen)

ITEM H-4 CDUA FOR A WATERLINE FROM WAIHANAU STREAM TO MEYER LAKE; APPLICANT
TIMOTHY J. STACK; AGENT: GREGORY C. GILLETTE AND ASSOCIATES

ACTION Approved as submitted. See page 4.

ITEM H-5 BOARD ACTION ON REQUEST FOR CONTESTED CASE HEARING, DETERMINATION OF
PARTIES, FOR CDUA FOR COMMERCIAL GOLF COURSE AT LIHUE, KAUAI; APPLICANT
HEMMETER/VMS KAUAI COMPANY V

ACTION Approved as submitted. See page 2.

ITEM H-6 AUTHORIZATION TO APPOINT A PUBLIC HEARING MASTER TO HEAR CDUA
(LANAI, NOVEMBER 29, 1989)

ACTION Unanimously approved as submitted. (Arata/Apaka)

ITEM H-7 PERMISSION TO FILL THE POSITION OF INFORMATION SPECIALIST, POSITION
NO. 38208, IN THE AQUACULTURE DEVELOPMENT PROGRAM, OAHU

ACTION Approved as submitted. See page 7.

ITEM I-1 ADDED FILLING OF POSITION NO. 33298, CONSERVATION AND RESOURCES
ENFORCEMENT OFFICER III, ISLAND OF OAHU

ACTION Approved as submitted. See page 8.

ITEM J-1 LEASE - BASE FACILITIES, HONOLULU INTERNATIONAL AIRPORT, SOUTH RAMP,
OAHU (UNITED PARCEL SERVICE COMPANY)

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM J-2 SNACK BAR, RESTAURANT AND BEVERAGE CONCESSION, KEAHOLE AIRPORT, HAWAII

ACTION Unanimously approved as submitted. (Yuen/Arata)

ITEM J-3 CONSENT TO ASSIGNMENT OF LEASE NO. DOT-A-78-9, HONOLULU INTERNATIONAL
AIRPORT, SOUTH RAMP, OAHU (AIR MOLOKAI, INC.-ALOHA ISLANDAIR, INC.)

ACTION Approved as submitted. See page 2.

ITEM J-4 CONSENT TO ASSIGNMENT OF LEASE NO. DOT-72-29, HONOLULU INTERNATIONAL
AIRPORT, OAHU (PAN AMERICAN WORLD AIRWAYS, INC.-UNITED AIR LINES INC.)

ACTION Approved as submitted. See page 2.

ITEM J-5 AMENDMENT NO. 3 TO LEASE NO. DOT-A-72-29, HONOLULU INTERNATIONAL
AIRPORT, OAHU (UNITED AIR LINES, INC.)

ACTION Approved as submitted. See page 2.

ITEM J-6 CONSENT TO AMENDMENT OF SUBLEASE, EWA CONCOURSE, GROUND LEVEL,
HONOLULU INTERNATIONAL AIRPORT, OAHU (JAPAN AIR LINES COMPANY,
LTD, - DYN CORP./DYNAIR CORP.)

ACTION Unanimously approved as submitted. (Kealoha/Arata)

ITEM J-7 AMENDMENT NO. 16 TO LEASE NO. DOT-A-78-2, HONOLULU INTERNATIONAL AIRPORT, OAHU (MARRIOTT CORPORATION)

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM J-8 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4594, ETC., AIRPORTS DIVISION

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM J-9 RENEWAL OF REVOCABLE PERMITS 2725, ETC., AIRPORTS DIVISION

ACTION Unanimously approved as submitted. (Yuen/Kealoha)

ITEM J-10 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEEHI COMMERCIAL SUBDIVISION, HONOLULU, OAHU (ED YAMASHIRO, INC.)

ACTION Unanimously approved as submitted. (Yuen/Kealoha)

ITEM J-11 USE OF HARBORS DIVISION FACILITIES, PIERS 10 AND 11 SHED, IRWIN PARK AND SURROUNDING AREAS UNDER HARBORS DIVISION JURISDICTION, OAHU (HONOLULU MARATHON ASSOCIATION)

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM J-12 CONTINUANCE OF REVOCABLE PERMITS H-85-1212, ETC., HARBORS DIVISION

ACTION Unanimously approved as submitted. (Yuen/Kealoha)

RESOLUTION Chairman Paty said that the record should properly reflect the appreciation of the board to Mr. Mike Shimabukuro for a great many years of handling a wide range and long list of board items with clarity, with accuracy, and with composure and it goes without saying that you will not be easy to replace. He thanked him and said that it has been a pleasure having him work with the board.

The Board unanimously adopted a resolution of congratulations to Mr. Mike Shimabukuro on his retirement after more than 21 years of dedicated service to the State of Hawaii with the Department of Land and Natural Resources, Division of Land Management

The Board unanimously adopted a resolution congratulating Mr. Noboru Kaneshiro on his retirement after more than 22 years of dedicated service to the State of Hawaii with the Department of Land and Natural Resources, Division of Water and Land Development.

ADJOURNMENT There being no further business, the meeting was adjourned at 11:57 am.

Respectfully submitted,

Dorothy C. Chun
Dorothy C. Chun
Secretary

APPROVED:


WILLIAM W. PATY, Chairperson
Board of Land and Natural Resources