

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

DATE: January 12, 1990
TIME: 8:30 a.m.
PLACE: County Council Chambers
76 Aupuni Street
Hilo, Hawaii

ROLL CALL: Vice Chairman Moses Kealoha 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. John Arisumi
Mr. Herbert Arata
Mr. William Yuen
Mr. Herbert Apaka
Mr. Moses Kealoha

EXCUSED: Mr. William W. Paty

STAFF: Mr. Michael Buck
Mr. Edward Henry
Mr. Ralston Nagata
Mr. Mason Young
Mr. Carl Masaki
Mr. Linford Chang
Mr. Glenn Taguchi
Mr. Larry Okazaki
Ms. Dorothy Chun

OTHERS: Mr. Johnson Wong, Deputy Attorney General
Mr. Peter Garcia, DOT
Mr. Eric Guinther, Mr. Mark Almarez (Item F-5)
Ms. Sandra Schutte and Ms. Mililani Trask (Item F-10)
Mr. Tim Lui Kwan (Item H-1)
Mr. Steve Tompkins (Item H-2)
Ms. Deborah Ward (Item H-4)
Mr. William and Rita Cowell (Item F-7)
Mr. Kelvin Kai (Item H-3)
Mr. D. Rosecrans (Item F-17)
Mr. Anthony Ranken, Mr. Peter Rowley,
Mr. George Harker, Mr. Ronald Gresham and
Ms. Joan Best (Item E-1)

Mr. Arisumi moved that the minutes of the meeting of October 27, 1989 be approved as circulated, seconded by Mr. Arata motion carried unanimously.

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

- E-2 - Petition for a Contested Case Hearing Regarding State Park Rulemaking
- E-3 - Filling of Archaeologist Position for Hawaiian Home Lands Inventory Project, Oahu
- F-19 - Filling of Position No. 02733, Clerk-Stenographer II, Honolulu, Oahu

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

ITEM F-5

ATLANTIS SUBMARINES HAWAII REQUESTS NON-EXCLUSIVE EASEMENT COVERING OFFSHORE WATERS AND SUBMERGED LANDS FOR DIVE SITE FOR SUBMARINE TOURS, KAILUA-KONA, HAWAII

Mr. Young presented item F-5 to the board with staff's recommendation for approval. Upon request by the board he gave them the location of the site and presented pictures of the area.

Mr. Eric Guinther said he was with AECOS, agent for Atlantis Submarines in this matter and Mark Almarez, senior pilot for Atlantis were here today to answer any questions.

In answer to questions of the board, Mr. Guinther said that they have made application and submitted plans to the Office of Conservation and Environmental Affairs for the sinking of a vessel and would be constructing an artificial reef of concrete. Mark passed out pictures of the vessel to the members and said that they would need about 88 tons of ballast to hold the vessel down and explained how they planned to anchor it down. He said there were still some studies to be done.

Mr. Kealoha asked Mr. Young to be sure to check with the office of the Attorney General regarding the terms on the length of years on the lease whether this type of lease qualifies for terms as proposed.

Mr. Young then asked to amend the submittal item F-5 under Recommendation, "Term of lease subject to review by Attorney General."

Mr. Yuen asked the agent for AECOS what would happen if at the term of the lease if it were not renewed, would you be obligated to pull the ship up.

Mr. Guinther said under the conditions of the Cдуа he believed that Atlantis would have to remove it if requested. He felt that the State would probably want to assume that as an artificial reef as a benefit to the State.

ACTION

Mr. Arata moved for approval with the following conditions included:

Condition No. 6, That the applicant contact the Division of Aquatic Resources of DLNR to be sure that they have adequate personnel present at the time of scuttling; and

Condition No. 7, If at the expiration of the lease and the lease is not renewed, that the applicant may be required to remove said objects from the ocean floor at their own expense.

Seconded by Mr. Arisumi, motion carried.

ITEM F-10

YOTSUYAKEN CORPORATION AND WILLIAM ERNEST AND KAHALA-ANN TRASK GIBSON REQUESTS NON-EXCLUSIVE EASEMENTS FOR SEAWALL AND LANDSCAPING PURPOSES ALONG SOUTHERN SIDE OF KAMOA POINT, KAUMALUMALU, NORTH KONA, HAWAII, TAX MAP KEY: 7-7-04:SEAWARD OF 3 AND 9

Mr. Young presented item F-10 to the board with staff's recommendation. After a field inspection of the site by the Hawaii District Land Agent the recommendation is that the Board grant the easements. As part of the provisions of the easement, applicant will allow the public to continue to have access over and across the easement area.

Ms. Sandra Schutte, representing Yotsuyaken Corporation and Ms. Milliani Trask representing Mr. and Mrs. William Gibson were present. Ms. Schutte said that staff had adequately summarized their position. Her clients just want to rectify the problem with the illegal encroachment and this was the method recommended for resolving it. She also had photos of the area to show to the board members.

ACTION Mr. Arata moved for approval with a second by Mr. Yuen.

DISCUSSION Mr. Arisumi asked the applicants when was this wall built since it was after-the-fact.

Ms. Schutte said they were not certain when the wall was built. It was built some time before the Gibsons acquired their property and her client acquired their property within the last year and he only discovered it when they went to apply for a building permit to get a certified shoreline survey. The Gibsons have owned their property several years and it was already built when they acquired their property. They have suspicions of who built the wall but were not certain.

Ms. Trask said when the Gibsons tried to purchase this property in 1987, there were discussions regarding the wall and Mr. Romer, the seller, and his real estate agents presented an escrow, two documents; one was a letter signed by Albert Lono Lyman and a permit signed by Duane Kanuha for approval of rock wall construction. Those documents indicated that they came before the county to get permits in 1983. Based on those documents, the Gibsons believed that the necessary permits had been obtained. In 1989 when Yotsuyaken Corporation discovered the problem, they went back to the County to check the documents. The permit was issued but in looking at the file, the wall that was addressed, was not the seawall and it wasn't discovered till 1989. For that reason, they believe the wall may have been constructed about 1983.

Ms. Schutte explained that they believed that the former owner beforehand, Mr. Romer built several walls on the property and one was the seawall. Apparently he obtained permits to build the walls, except for the seawall. Her clients did not know about that and neither did the Gibsons.

Mr. Arisumi said that the wall must have been constructed in 1983 without the permission of the Land Board. He said he noticed that there was no recommendation for a fine in this submittal and as he recollects in the past, although the present owners did not build the wall, they were still responsible for an after-the-fact violation.

Mr. Arata amended his motion to add a condition no. 12, That the applicant be also fined a penalty of \$1,000.

Vice Chairman Kealoha said the method of disposition in this case could be rendered whereby the matter of the Conservation District violation, that that portion of the after-the-fact be referred to Mr. Evans' office, the Office of Conservation and Environmental Affairs for their investigation findings and come back on that matter to the Board, meanwhile you can act on the disposition on this matter being it is a land management matter.

Mr. Yuen asked for clarification. Vice Chairman Kealoha said that normally if the violation was in the conservation district, it would be handled by the Conservation office of the department.

Vice Chairman Kealoha called for a recess so that the Board could confer with legal counsel.

RECESS 9:10 am - 9:19 am

Mr. Arata requested to withdraw his motion, second was withdrawn by Mr. Yuen.

Mr. Young said that Land Management did have an over-sight and did not impose the continuity of encroachments and is therefore amending this submittal by recommending that the applicant's be fined \$500 each for the encroachment and upon the payment of the fine, the easements be granted to the applicants as per described in the submittal. This would be listed as condition no. 12.

ACTION Mr. Arata moved for approval as amended, seconded by Mr. Yuen, the motion carried unanimously.

RECESS 9:22 am - 9:30 am

REQUEST FOR TIME EXTENSION OF A CONSERVATION DISTRICT USE APPLICATION APPROVAL FOR A STORM DRAIN OUTLET AT KAA NAPALI BEACH, MAUI; APPLICANT: KAA NAPALI NORTH BEACH JOINT VENTURE; AGENT: CARLSMITH, WICHMAN, CASE, MUKAI AND ICHIKI

ITEM H-1

Mr. Henry present item H-1 to the board going over the contents of the submittal. He also explained that the applicant was having a problem in acquiring his SMA from the County as there were some problems with his Environmental Impact Statement (EIS). Thus, the applicant is requesting a time extension to comply with the CDUA conditions and County requirements.

Mr. Tim Lui Kwan representing the applicant said that staff had adequately presented their request and he would be available to answer any questions from the board.

ACTION Mr. Arisumi moved for approval. With a second by Mr. Arata, motion carried unanimously.

CDUA FOR A SINGLE FAMILY RESIDENCE AND OTHER PROPERTY DEVELOPMENT, ROUND TOP, HONOLULU, OAHU; APPLICANTS: RANDOLPH GALT, DONALD TAY KONG HO, MILDRED QUON HO

ITEM H-2

Mr. Henry went over the details of the application in the submittal. He also mentioned that the Department of Health had withdrawn their objections upon reviewing the revised construction plan of the applicant. Staff had also gone on a field inspection of the area and had assessed the comments from different agencies and found that most agencies had no objections of the project.

To clarify Mr. Yuen's question, Mr. Henry said that it had been past board practice to approve staff recommendations for residential developments in the General and Resource Subzones. If the property is in the Limited Subzone, staff looks at it real carefully as it could be along the shorelines or on slope lands where grading is significant. All single family residences are conditional uses unless they're nonconforming.

In answer to Mr. Arisumi's question, Mr. Henry said this application was submitted as a conditional use and not as non-conforming, there may be a question as to whether the applicant has non-conforming rights. The non-conforming structure is quite old, it's more like a cabin than it is a house itself. He continued to explain the difference on non-conforming.

Mr. Steve Tompkins said he was representing the applicants, the Galt's and the Ho's. In answer to the Board's questions he said he did not know of the relationship between the owners but that they have owned this property for some time. Presently, the daughter of Randolph Galt lives in the cottage. Upon completion of the construction, Mr. and Mrs. Tompkins and family will be living there as they are buying the property from the Galt's and the Ho's. The actual completion of the purchase of the property was conditioned upon the final approval of getting permission for them to build their residence.

ACTION Mr. Yuen moved for approval, seconded by Mr. Apaka, motion carried. Mr. Yuen also directed staff to make sure that any declaration which contains these conditions is placed on record prior to the transfer, so that it becomes an encumbrance on the property acquired by the Tompkins.

ITEM F-4 U.S. DEPARTMENT OF THE INTERIOR - NATIONAL PARK SERVICE REQUESTS PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ROADWAY AND UTILITY PURPOSES, KAWAIHAE 2ND, SOUTH KOHALA, HAWAII, TAX MAP KEY: 6-2-02:8(PORTION)

Mr. Young presented item F-4 to the board for approval with staff's recommendation.

ACTION Unanimously approved as submitted. (Arata/Arisumi)

ITEM F-7 WILLIAM E. AND RITA P. COWELL REQUESTS PERPETUAL, NON-EXCLUSIVE EASEMENT FOR WATER PUMP, WATER HOLDING TANK AND WATERLINE PURPOSES, HOMESTEADS ROAD AT KALAMAKUMU AND KALAMAKOWALI, SOUTH KONA, HAWAII, TAX MAP KEY: 8-2-10

Mr. Young presented item F-7 to the board with staff's recommendation. He also mentioned that Mr. and Mrs. Cowell were present to answer any questions.

ACTION Unanimously approved as submitted. (Arisumi/Arata)

ITEM F-2 DEPARTMENT OF HEALTH REQUESTS SET ASIDE OF STATE LAND AT WAIAKEA, SOUTH HILO, HAWAII FOR ENVIRONMENTAL HEALTH SERVICES FACILITY, TAX MAP KEY: 2-2-32:30

Mr. Young said a representative from the Department of Health was present to answer any questions. He said he also understood the lease was terminated

ACTION Unanimously approved as submitted. (Arata/Arisumi)

ITEM H-4 REQUEST FOR CONTESTED CASE HEARING ON KAUAI ELECTRIC'S CDUA FOR A 69KV TRANSMISSION CIRCUIT THROUGH KALIHIWAI, KAUAI

Mr. Henry said that item H-4 was a request for a contested case hearing on Kauai Electric's Conservation District Use Application for a 69KV transmission circuit through Kalihiwai, Kauai.

Mr. Apaka said in reviewing the opinion of the Attorney General, the correspondence dated December 27, 1989 which indicates that the parties asking for this contested case should be granted.

ACTION Mr. Apaka moved for approval as submitted. The motion was seconded by Mr. Arata.

Mr. Yuen asked if staff had received any other requests to hear as parties in a contested case as he recalled several people making requests at the public hearing held.

In answer to the board's questions, Mr. Henry said he understood that there were several requests made but a written response would be necessary. There may be intervenors in the application but the parties in the contestant case would be the Weisers, as the adjoining property owner. He did not know the deadline date for filing.

At this time Vice Chairperson Kealoha asked if there were anyone in the audience that would like to make a presentation in respect to this item.

Ms. Deborah Ward she wished to address the board briefly on behalf of some of the residents of Kauai, they are Tim King, Kelsey Maddox-Bell, David Silva, David and Linda Sproat, Cliff Bailey, Mike Kido, Beryl and Gary Blaich, Richard Texeira, Joan Conrow, Jeff Wall, Dale and June Stark, Kealii Holden, Bill Phillipson, Barbara Sloan, Phillip Ferreira and Randy Rogers. They were all concerned about the safety of the proposed lines passing close to many homes with a large increase in voltage. The Kalihiwai residents worry that the proposed line will adversely affect their welfare by being intrusively noisy at night, disrupt TV and radio reception and potential negative health effects from electromagnetic radiation emanating from the proposed 69KV line. She asked that the Board grant the petition for intervention.

It was clarified by the Vice Chair at this time that the petition for intervenors was not the issue at this time and that Ms. Ward should contact staff.

ACTION There was a motion on the floor for approval as submitted. Chair called for the question, motion was approved unanimously.

ITEM H-3 CDUA FOR AN ELECTRICAL TRANSMISSION CIRCUIT AT HANAIEI, KAUAI;
APPLICANT: KAUAI ELECTRIC DIVISION, CITIZENS UTILITY COMPANY

Mr. Henry presented applicant's request to the Board with a recommendation to deny the request. Subsequent to the preparation of staff submittal, the landowner, U.S. Fish and Wildlife Service withdrew their objection to the project. Therefore with the new information, Staff would like to amend the original submittal and recommend approval subject to the conditions listed in the addendum to item H-3, the most significant is that the area be surveyed by a qualified archaeologist to determine if any historic sites are present prior to proceeding with the project.

Mr. Kelvin Kai, representing Kauai Electric said that the area in question is not in a historic site. This 29 mile line project is running between Kapaa and Hanalei. Within the project are three CDUAs filed by Kauai Electric, one in the Anahola area, one in the Kalihiwai area and the third is in the application being heard today for Princeville-Hanalei area. He then presented the board with photos of the area and continued to point out areas in question and placement of the poles.

In answer to the board's questions, he said the poles would not be visible from the highway. Kauai Electric had cleared a small area for the proposed lookout by the Fish and Wildlife people and they realized the lines would not be in their view. He also mentioned that the proposed site is owned by Princeville and Fish and Wildlife would still have to obtain permission from the landowner prior to construction of a lookout.

ACTION Unanimously approved as amended. (Apaka/Arata)

ITEM H-5 ADDENDUM TO CDUA KA-2303 FOR A 69KV TRANSMISSION CIRCUIT THROUGH KALIHIWAI, KAUAI

Staff is requesting item H-5 be removed from the agenda. Due to the approval of item H-3 which confirms a contested case, it automatically extends the application another 90-day period.

ACTION Mr. Arata moved that item H-5 be removed from the agenda. Seconded by Mr. Arisumi, motion carried unanimously.

ITEM F-17 STAFF RECOMMENDATION TO TERMINATE REVOCABLE PERMIT NO. S-6392 TO WAIMANALO POLO CLUB, WAIMANALO, OAHU, TAX MAP KEY: 4-1-09:26

Mr. Young said that field inspections were conducted and the permittee was not complying with keeping the stream clear and staff recommended termination of the permit.

Mr. Young says that they have now received a letter from attorney Alan Holt saying that the permittee has started to comply by cleaning up the stream. They are requesting deferment on the part of the Board with respect to the cancellation of the permit so that they be given additional time in which to comply with the conditions as required of them as permittees. They have submitted the letter dated January 11th and photos showing the progress on the stream itself. Mr. Young said he visited the area last night and did see the progress as shown on the photos.

Staff is now recommending that the polo club be allowed to finish the cleaning project and the matter be deferred to the next meeting for appropriate action and progress report.

Mr. D. Rosecrans, Field Manager for the Waimanalo Polo Club explained that they have hired a tractor-type backhoe large unit in order to cut the banks on both sides of the stream in order to remove the growth within the stream. They have tried to comply and work with the State.

Mr. Kealoha said he understands their problem but they must keep in touch with our land agent in the Land Management Division of the problems before it gets more complicated.

Mr. D. Rosecrans said that in September they met with a DLNR representative and Gaspro Chemical Company. At that time it was recommended that an herbicide spray be used but Gaspro did not fulfill their contract. It was requested that they use the big equipment and re-do the stream. This was done in April of 1989 and presently they're doing the same thing and should be completed in two days.

Mr. Kealoha asked if that was ample time and Mr. Rosecrans said yes it was.

ACTION Mr. Arisumi moved that this item be deferred to the next Oahu meeting. Seconded by Mr. Yuen, motion carried.

ADDED
ITEM E-2 PETITION FOR A CONTESTED CASE HEARING REGARDING STATE PARK RULEMAKING

Mr. Nagata said added item E-2 was a petition for a contested case hearing regarding State Parks Rulemaking. Upon advice of the Office of the Attorney General, staff is recommending that the Board make the determination that a contested case hearing is not required in this instance and deny the Petition.

Mr. Apaka asked Mr. Nagata to read into the record the letter dated January 4, 1990 addressed to The Honorable William W. Paty from Linnel T. Nishioka, Deputy Attorney General, Regarding: Petition for contested case hearing, re: State Park Rulemaking. (Copy of the letter has been placed in the Departmental Board Folder in the Chairman's office.

Mr. Anthony Ranken, attorney, said he was from Maui representing Friends of Little Beach Association and was filling in today for attorney Isaac Hall. They are asking the board to consider the petition for a contested case. He and two others Dr. George Harker and Mr. Peter Rowley were here from Maui to offer brief input summarizing the proposed amendment and reasons for that.

Mr. Yuen interrupted and addressed the Chairman with a question regarding the matter of procedure, he asked if this agenda item was denied, there would be no reason that these people could not testify as to position when the Board takes up the main question itself. The discussion on this agenda item should be only on the contested case at this time.

Chairman Kealoha addressed Mr. Ranken who responded saying that it would be agreeable to them for the board to consider whether there will be a contested case or not.

ACTION

Mr. Yuen moved to deny the request for a contested case, seconded by Mr. Arata, the motion carried unanimously.

ITEM E-1

REQUEST FOR PERMISSION TO REPEAL RULES OF THE HAWAII STATE PARK SYSTEM, CHAPTER 13-145 HAWAII ADMINISTRATIVE RULES (HAR) AND ADOPTION OF REVISED AND UPDATED HAWAII STATE PARK SYSTEM RULES, CHAPTER 13-146, HAR

Mr. Nagata presented item E-1 to the Board for approval.

In response to Mr. Arisumi's questions, Mr. Nagata said petitions received all had addresses or some form of address and that is how staff determined the place of origin. Everyone who wished to testify at the public hearings held were allowed to speak.

Mr. Kealoha questioned under number 13, the intent of the posting of signs at State Parks regarding boating; Department of Transportation's jurisdiction on surface waters; prohibiting people from going across the land to launch in the water as he felt there would be a problem if the Board adopts this rule and it was unclear. Mr. Nagata said they could work with the Department of the Attorney General's office to work out the language and he would look into the matter if the sign were posted by DOT if it would be okay.

Mr. Anthony Ranken, Attorney, said they didn't get the State's recommendation till a few days ago and wanted to read a letter to the Board from his client on their proposed amendments by Friends of Little Beach, where it would amend the section on swimming and nudity in State parks. They would like to propose the amendment to read, 1) "except in clothing optional recreational areas as designated by the Board of Land and Natural Resources from time to time, the following State park beaches are designated clothing optional recreational areas, Puuolai on Maui, which is Little Beach in Makena, and leave it open for future designation of other beaches. Mr. Ranken continued to elaborate on the following: previous Supreme Court ruling; thousands of letters from proponents; manner of the way survey conducted and response; petitions shouldn't be given great weight; testimonies should count most, visitor views shouldn't be ignored, toplessness not validated by Supreme Court not lewd, but maybe genital exposure would be offensive; signs may not be clear and mentioned the trend toward permissiveness.

Dr. George Harker, Professor from Western Illinois University, McComb, Illinois said he's been a professor in the Department of Recreation, Parks, and Tourism Administration for 20 years and has studied the clothing options issue for 3-4 years now and has gained reputation of being an expert witness. He elaborated on different state laws on nudity and claims growing trend on clothing optional designated areas nationally. He then commented on the letters and petitions regarding this issue here in Hawaii giving numbers of letters pro and con. He concluded that the regulations proposed by the Friends of Little Beach now, still basically restricts nudity. It's not the intent to open up the parks from one end to the other to nude use. Said it's his professional opinion that the regulation as proposed by the Friends of Little Beach would save the State a lot of continuing hassle and be responsive to the needs of the majority of the citizens of Hawaii.

Mr. Peter Rowley, chairman of the Friends of Little Beach thanked the DLNR staff for their courteous help. He said he was disturbed that a lot of incredible input had not reached the department because of the feasibility problem. He said that Maui has 160 miles of shoreline and it includes 34 miles of sandy beaches, (Little Beach has only 450 feet in length) and Hawaii has 66 State parks with 25,000 acres, (Little Beach has only 1/3 acre). He continued on with numbers of people testifying in favor and against at the public hearings held; people using the beaches; recreational uses at the beaches; commented on DLNR's non-support; letter writing campaign; local newspaper write-up; excluding breast-feeding women; use of our beaches by out-of-State visitors; and lastly he talked about a group of citizens calling the public hearing process a "sham", claiming minds made up before the hearing, even Hawaiian activists.

RECESS

11:50 am to 12:00 pm.

Mr. Rowley wanted to bring to the Board's attention the State is already supporting the minority through the Forestry and Wildlife Division which is catering to hunters (a small number); it condones and even has brochures. Using this example, he feels that the Board should also allow their group their proposal.

Vice Chairman Kealoha said that there was a difference between the hunter and this issue because hunting is provided for in the Hawaii Revised Statutes. There are chapters relating to hunting and pasture lands making access for hunters to pass through, over or under to pass through the premises encumbered under a lease.

Mr. Ronald Gresham had a prepared response entitled, "Before unworthiness, nudity was. Is Nudity A Sin?," which he read to the Board. It spoke of the Hawaiian culture at one time walked worthy within their nudity; partial covering exploits sex and encourages lust; equal rights; free beaches; communicating in nude you receive satisfaction of freedom and worthiness; and requests more time to work things out.

Ms. Joan Best, attorney in Hilo, representing herself said that she was a person that likes to go to a secluded beach and swim without any clothes on and she would like to do that without being arrested.

Questions were then asked of Mr. Rowley, Mr. Gresham and Mr. Ranken by members of the Board.

Mr. Rowley said that Friends of Little Beach do not want to have nudity cropping up all over the islands, they are very opposed to that and the only solution they see is do not take away the option of Little Beach.

ACTION Mr. Yuen said he would like to move that the Board defer the matter until after the Board members have had an opportunity to visit Little Beach. Mr. Arata seconded the motion.

DISCUSSION Vice Chair Kealoha then instructed Mr. Nagata to make some kind of arrangement for a site visit. Also staff should review to see while on the site visit if conservation or urban lands involved and if a CDUA must be filed.

Before the question, Mr. Nagata asked if it would be possible to take action on the other aspects of the rules that are not under swimming and nudity, if the Board would like to take a second look at the provision and definition for swimming and nudity.

In response to Deputy Attorney General Wong, Mr. Nagata said that the deadline for the emergency rules had passed. The original rules have never been repealed but it will be questionable on the enforcement standpoint.

Mr. Yuen asked Mr. Wong if the rules could be adopted in part, and would it be required to go back to public hearings if this happened. Mr. Wong said he thought it would be possible to adopt in part. Staff would need to record with the Lt. Governor's Office, two separate portions of the rule. He also said he thought that this could be done without going to public hearing.

Mr. Yuen withdrew his motion and Mr. Arata withdrew his second.

In response to Mr. Arisumi, Mr. Nagata said that there is sort of an urgency to adopt the rules because of health and safety. Currently they are operating under Emergency Rules.

Vice Chair Kealoha then called for a recess to confer with staff and legal counsel.

RECESS 12:25 pm - 12:30 pm

Mr. Nagata asked to amend his submittal, under the Definition section, that only the definition of nude be deferred at this time and that the entire paragraph under Section 13-146-38 relating to swimming and nudity be deferred at this time and these two items to be taken up by the Board at a subsequent Board hearing after the Board has had an opportunity to make an on-site visit.

ACTION Mr. Yuen moved to approve this item as amended by Mr. Nagata. Motion was seconded by Mr. Arata and carried unanimously.

ITEM C-1 APPLICATION FOR F.Y. 1990 RURAL COMMUNITY FIRE PROTECTION FUNDS (KAUAI/MAUI/HAWAII COUNTIES AND CITY & COUNTY OF HONOLULU)

ACTION Unanimously approved as submitted. (Arisumi/Apaka)

ITEM C-2 REQUEST TO ENTER INTO A MASTER COOPERATIVE AGREEMENT AND SUPPLEMENT #1 TO THAT AGREEMENT WITH WAIMEA ARBORETUM

ACTION Unanimously approved as submitted. (Arata/Arisumi)

ITEM C-3 MAINLAND TRAVEL REQUEST FOR RONALD WALKER TO ATTEND THE 55TH NORTH AMERICAN WILDLIFE AND NATURAL RESOURCE CONFERENCE AT DENVER, COLORADO

ACTION Unanimously approved as submitted. (Yuen/Arata)

- ITEM C-4 FILLING OF NURSERY WORKER I, POSITION NO. 2929, DIVISION OF FORESTRY AND WILDLIFE, OAHU DISTRICT
- ACTION Unanimously approved appointment of Mr. Michael A. Young to fill Position No. 2929, Nursery Worker I, Oahu District. (Yuen/Arisumi)
- ITEM D-1 FILLING OF ENGINEER (CIVIL) VI, POSITION NO. 08747 DIVISION OF WATER AND LAND DEVELOPMENT, OAHU
- ACTION Unanimously approved appointment of Mr. George Miyashiro to Position No. 08747, Engineer (Civil) VI, effective January 16, 1990. (Yuen/Arata)
- ITEM D-2 FILLING OF ENGINEER (CIVIL) VI, POSITION NO. 09742 DIVISION OF WATER AND LAND DEVELOPMENT, OAHU
- ACTION Unanimously approved appointment of Mr. Dickey Lee to Position No. 09742, Engineer (Civil) VI, effective January 16, 1990. (Yuen/Arata)
- ITEM D-3 FILLING OF CIVIL ENGINEER VI, POSITION NO. 9745 DIVISION OF WATER AND LAND DEVELOPMENT, OAHU
- ACTION Unanimously approved appointment of Mr. Eric T. Hirano to Position No. 9745, Civil Engineer VI, effective February 1, 1990. (Yuen/Arata)
- ITEM D-4 PERMISSION TO HIRE CONSULTANT FOR JOB NO. 94-KP-B KOKEE STATE PARK, SEWER IMPROVEMENTS, KAUAI
- ACTION Unanimously approved as submitted. (Apaka/Arisumi)
- ITEM D-5 PERMISSION TO HIRE CONSULTANT FOR JOB NO. 4-OW-4 UPPER PALOLO VALLEY WATER IMPROVEMENTS, OAHU
- ACTION Unanimously approved as submitted. (Yuen/Arata)
- ITEM E-1 REQUEST FOR PERMISSION TO REPEAL RULES OF THE HAWAII STATE PARK SYSTEM, CHAPTER 13-145 HAWAII ADMINISTRATIVE RULES (HAR) AND ADOPTION OF REVISED AND UPDATED HAWAII STATE PARK SYSTEM RULES, CHAPTER 13-146, HAR
- ACTION See pages 8-10.
- ADDED
ITEM E-2 PETITION FOR A CONTESTED CASE HEARING REGARDING STATE PARK RULEMAKING
- ACTION See pages 7-8.
- ADDED
ITEM E-3 FILLING OF ARCHAEOLOGIST POSITION FOR HAWAIIAN HOME LANDS INVENTORY PROJECT, OAHU
- ACTION Unanimously approved the appointment of Carina Johnson to fill the exempt hire, temporary Archaeologist I, Position No. 25172E assigned to the Historic Preservation Program. (Yuen/Arata)
- ITEM F-1 DOCUMENTS FOR BOARD CONSIDERATION:
- Item F-1-a ISSUANCE OF A REVOCABLE PERMIT TO THE BRANTLEY CENTER, INC., COVERING GOVERNMENT LAND AT KAAO, HONOKAA, HAMAKUA, HAWAII, TAX MAP KEY: 4-5-01:PORTION OF 11
- Item F-1-b CONSENT TO LEASE, COUNTY OF MAUI, LESSOR, TO HANA DAY CENTER, INC., LESSEE, BUILDING F, ROOMS 1 TO 5, FORMER HANA HIGH AND ELEMENTARY SCHOOL, WANANALUA, HANA, MAUI, TAX MAP KEY: 1-4-04:28, 29 AND 30
- Item F-1-c CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-4279, PARCEL A, PORTION OF NANAWALE FOREST RESERVE, PART 3, KANIAHIKU, PUNA, HAWAII, TAX MAP KEY: 1-4-34:26

Item F-1-d CONSENT TO ASSIGNMENT OF GENERAL LEASE NO. S-3163, LOT 30, OCEAN VIEW LEASE LOTS, SECOND SERIES, WAIAKEA, SOUTH HILO, HAWAII, TAX MAP KEY: 2-1-07:29

ACTION Mr. Arata moved for approval of Items F-1-a to F-1-d. Seconded by Mr. Arisumi, motion carried unanimously.

ITEM F-2 DEPARTMENT OF HEALTH REQUESTS SET ASIDE OF STATE LAND AT WAIAKEA, SOUTH HILO, HAWAII FOR ENVIRONMENTAL HEALTH SERVICES FACILITY, TAX MAP KEY: 2-2-32:30

ACTION Approved as submitted. (See page 5.)

ITEM F-3 AMENDMENT TO AMENDMENT OF USE RESTRICTION, LAND PATENT GRANT NO. 10,379, WAIAKEA HOMESTEADS, 1ST SERIES, WAIAKEA, SOUTH HILO, HAWAII, TAX MAP KEY: 2-4-02:73

ACTION Unanimously approved as submitted. (Arata/Arisumi)

ITEM F-4 U.S. DEPARTMENT OF THE INTERIOR - NATIONAL PARK SERVICE REQUESTS PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ROADWAY AND UTILITY PURPOSES, KAWAIHAE 2ND, SOUTH KOHALA, HAWAII, TAX MAP KEY: 6-2-02:8(PORION)

ACTION Approved as submitted. (See page 5.)

ITEM F-5 ATLANTIS SUBMARINES HAWAII REQUESTS NON-EXCLUSIVE EASEMENT COVERING OFFSHORE WATERS AND SUBMERGED LANDS FOR DIVE SITE FOR SUBMARINE TOURS, KAILUA-KONA, HAWAII

ACTION Approved as amended. (See page 2.)

ITEM F-6 DIRECT SALE OF REMNANT TO LARRY E. AND MARIANNE TAYLOR, ABANDONED RAILROAD RIGHT-OF-WAY, KAAUHUHU HOMESTEADS, NORTH KOHALA, HAWAII, TAX MAP KEY: 5-5-08:09

ACTION Unanimously approved as submitted. (Arata/Arisumi)

ITEM F-7 WILLIAM E. AND RITA P. COWELL REQUESTS PERPETUAL, NON-EXCLUSIVE EASEMENT FOR WATER PUMP, WATER HOLDING TANK AND WATERLINE PURPOSES, HOMESTEADS ROAD AT KALAMAKUMU AND KALAMAKOWALI, SOUTH KONA, HAWAII, TAX MAP KEY: 8-2-10

ACTION Approved as submitted. (See page 5.)

ITEM F-8 AMENDMENT TO DIRECT SALE OF REMNANT TO HARRY WARREN AND OLIVIA MANESTER-WARREN, REMNANT R-15, PART 1-A, HAWAII BELT ROAD F.A.P. 5-10(5), KALAOA 3RD AND 4TH, NORTH KONA, HAWAII, TAX MAP KEY 7-3-22

ACTION Unanimously approved as submitted. (Arata/Arisumi)

ITEM F-9 AMENDMENT TO DIRECT SALE OF ABANDONED FLUME RIGHT-OF-WAY TO SHIGERU KATAOKA AND DOROTHY P. KATAOKA, TRUSTEE, WAIAKEA HOMESTEADS, WAIAKEA, SOUTH HILO, HAWAII

ACTION Unanimously approved as submitted. (Arata/Arisumi)

ITEM F-10 YOTSUYAKEN CORPORATION AND WILLIAM ERNEST AND KAHALA-ANN TRASK GIBSON REQUESTS NON-EXCLUSIVE EASEMENTS FOR SEAWALL AND LANDSCAPING PURPOSES ALONG SOUTHERN SIDE OF KAMOA POINT, KAUMALUMALU, NORTH KONA, HAWAII, TAX MAP KEY: 7-7-04:SEAWARD OF 3 AND 9

ACTION (See page 4.)

- ITEM F-11 LAFAYETTE AND BEVERLY YOUNG REQUESTS PERPETUAL, NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT, HONOPOU (HAMAKUALOA), MAKAWAO, MAUI, TAX MAP KEY: 2-9-03:PORTIONS 16, 17, 20 AND 39
- ACTION Unanimously approved as submitted. (Arisumi/Arata)
- ITEM F-12 EMIL P. AND SHIRLEY TEDESCHI REQUESTS PERPETUAL, NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT, KALIHI, HONUAILUA, MAKAWAO, MAUI, TAX MAP KEY: 2-1-04:PORTION 15
- ACTION Unanimously approved as submitted. (Arisumi/Arata)
- ITEM F-13 ISSUANCE OF QUITCLAIM DEED TO CITY AND COUNTY OF HONOLULU COVERING LANDS AT WAIALEE, KOOLAULOA, OAHU, FOR THE WAIALEE BEACH PARK, TAX MAP KEY: 5-8-01:17
- ACTION Unanimously approved as submitted. (Yuen/Arata)
- ITEM F-14 DEPARTMENT OF EDUCATION REQUESTS WITHDRAWAL FROM GOVERNOR'S EXECUTIVE ORDER NO. 1020 (WAIMANO HOME) AND RE-SET ASIDE FOR PEARL CITY EDUCATIONAL COMPLEX, WAIMANO UKA, EWA, OAHU
- ACTION Unanimously approved as submitted. (Yuen/Arata)
- ITEM F-15 DEPARTMENT OF EDUCATION REQUESTS SET ASIDE AS ADDITION TO KALIHI WAENA ELEMENTARY FOR FOOTPATH PURPOSES
- ACTION Unanimously approved as submitted. (Yuen/Arata)
- ITEM F-16 DEPARTMENT OF CORRECTIONS REQUESTS SET ASIDE OF STATE LAND AT KALIHI, HONOLULU, OAHU FOR CORRECTIONAL FACILITY
- ACTION Unanimously approved as submitted. (Yuen/Arata)
- ITEM F-17 STAFF RECOMMENDATION TO TERMINATE REVOCABLE PERMIT NO. S-6392 TO WAIMANALO POLO CLUB, WAIMANALO, OAHU, TAX MAP KEY: 4-1-09:26
- ACTION Deferred. (See page 7.)
- ITEM F-18 KAHILI DEVELOPMENT CO., INC. FOR CITIZENS UTILITIES COMPANY AND HAWAIIAN TELEPHONE COMPANY REQUESTS PERPETUAL, NON-EXCLUSIVE EASEMENT FOR POLE AND UNDERGROUND ELECTRICAL TRANSMISSION LINE PURPOSES, KAPAA, KAUAI, TAX MAP KEY: 4-5-04:POR. OF 2
- ACTION Unanimously approved as submitted. (Apaka/Arisumi)
- ADDED
- ITEM F-19 FILLING OF POSITION NO. 02733, CLERK-STENOGRAPHER II, HONOLULU, OAHU
- ACTION Unanimously approved appointment of Ms. Pamela E. Robello to fill position No. 02733, Clerk-stenographer II effective February 1, 1990. (Yuen/Arata)
- ITEM H-1 REQUEST FOR TIME EXTENSION OF A CDUA, FOR AN APPROVAL FOR A STORM DRAIN OUTLET AT KAAPALI BEACH, MAUI; APPLICANT KAAPALI NORTH BEACH JOINT VENTURE; AGENT: CARLSMITH, WICHMAN, CASE, MUKAI AND ICHIKI
- ACTION Approved. (See page 4.)
- ITEM H-2 CDUA FOR A SINGLE FAMILY RESIDENCE AND OTHER PROPERTY DEVELOPMENT, ROUND TOP, HONOLULU, OAHU; APPLICANTS: RANDOLPH GALT, DONALD TAY KONG HO, MILDRED QUON HO
- ACTION Approved. (See page 5.)

ITEM H-3 CDUA FOR AN ELECTRICAL TRANSMISSION CIRCUIT AT HANAIEI, KAUAI;
APPLICANT: KAUAI ELECTRIC DIVISION

ACTION Approved as amended. (See page 6.)

ITEM H-4 REQUEST FOR CONTESTED CASE HEARING ON KAUAI ELECTRIC'S CDUA FOR
A 69KV TRANSMISSION CIRCUIT THROUGH KALIHIWAI, KAUAI

ACTION Approved. (See pages 5-6.)

ITEM H-5 ADDENDUM TO CDUA KA-2303 FOR A 69V TRANSMISSION CIRCUIT THROUGH
KALIHIWAI, KAUAI

ACTION (See page 7.)

ITEM I-1 APPOINTMENT OF HUNTER EDUCATION INSTRUCTORS, ISLANDS OF OAHU,
MAUI, LANAI, AND HAWAII

ACTION Unanimously approved as submitted. (Yuen/Arata)

ITEM J-1 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 2B SHED,
CORRAL #4, HONOLULU HARBOR, OAHU (MARIE M, INC.)

ACTION Unanimously approved as submitted. (Yuen/Arata)

ITEM J-2 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, HALEIWA BOAT
HARBOR, OAHU (CONCRETE CORING COMPANY)

ACTION Unanimously approved as submitted. (Yuen/Arata)

ITEM J-3 CONTINUANCE OF REVOCABLE PERMITS H-80-879, ETC., HARBORS DIVISION

ACTION Unanimously approved as submitted. (Yuen/Arata)

ITEM J-4 ISSUANCE OF REVOCABLE PERMIT NO. HY-80-043, FAP NO. U-097-1(1),
LILIHA STREET WIDENING PROJECT, BETWEEN KING STREET AND VINEYARD
BOULEVARD, OAHU (HAWAIIAN DREDGING & CONSTRUCTION COMPANY)

ACTION Unanimously approved as submitted. (Yuen/Arata)

ADJOURNMENT: There being no further action, the meeting adjourned at 12:57 p.m.

Respectfully submitted,

Dorothy C. Chun, Secretary

APPROVED FOR SUBMITTAL



WILLIAM W. PATY, Chairperson