

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

DATE: MARCH 23, 1990
TIME: 9:00 A.M.
PLACE: BOARD ROOM, ROOM 132
KALANIMOKU BUILDING
1151 PUNCHBOWL STREET
HONOLULU, HAWAII

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

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

STAFF: Mr. Roger Evans
Mr. Mason Young
Mr. Henry Sakuda
Mr. Michael Buck
Mr. Ralston Nagata
Mr. Archie Viela
Mr. Maurice Matsuzaki
Mr. Gordon Akita
Ms. Dorothy Chun

OTHERS: Mr. Johnson Wong, Deputy Attorney General
Mr. Peter Garcia, Dept of Transportation
Mr. Bruce Matsui, Deputy A. G. (Item F-16)
Mr. William Stern, Ms. Anela Shimizu,
Mr. Enrick Ortiz, Mr. Hayden Burgess, Mrs. Mary Lee, Mrs. Harriet Ho (Item H-8)
Ms. June Tomioka, Mr. and Mrs. Masaharu Watanabe (Item H-5)
Mr. Walton Hong (Item H-7)
Ms. Sandra Schutte (Item F-2)
Mr. John Wells (F-1-h)
Mr. David Fazendin, Ms. Bonnie Heim, Mr. John Weil, Mr. Michael Wilson, Ms. Donna Wong, Ms. Donna Yanoviak, Ms. Eve Anderson, and Mr. Andrew Yanoviak (Item H-6)
Mr. Walter Arakaki, Mr. Edgar Hamasu and Mr. Pat Yamada (Item H-9)
Ms. Grace Kido (Item F-18)
Mr. James Funaki, Mr. Jeff Garland and Mr. Robert Umemura (Item F-16)
Ms. Georgette Deemer (F-1-i)

MINUTES Mr. Yuen moved for approval of the minutes of the meeting of January 12, 1990 as circulated. Seconded by Mr. Arata, motion carried.

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

- B-3 - Request to Fill Temporary Fishery Technician III, Position No. 24262, in the Division of Aquatic Resources
- C-4 - Filling of Position No. 13345, General Laborer I, NARS, Island of Kauai
- C-5 - Filling of Vacant Wildlife biologist II, Position. No. 42108, Island of Maui

- F-17 - Request to Approve (1) Second Amendment to Lease and (2) Declaration of Restrictive Covenants, Lease Between Campbell Estate as Lessor and State of Hawaii as Lessee, Kahuku, Koolauloa, Oahu, TMKs 5-6-05:09, 5-6-06:por. 19 and 5-6-08:por. 2
- F-18 - Rescission of Prior Board Action of December 15, 1989 (Agenda Item F-22) As Amended, Proposed Land Exchange Between State of Hawaii and Kahala Capital Corporation, Authorized Applicant for Long and Melone, Ltd., A Hawaii Corporation, as Trustee, By Way of Trust Agreement Dated October 21, 1967, as Extended, By and Between Royal Hawaiian Management Corp., A Hawaii Corp., and Long & Melone, Ltd., A Hawaii Corp., Landowner -Awakee/Maniniowali Kukio 2nd, North Kona, Hawaii

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

ITEM H-8 CDUA FOR PERMISSION TO REPAIR UNAUTHORIZED ADDITION TO AN EXISTING NONCONFORMING STONE GROIN; APPLICANT: WILLIAM L. STERN

Mr. Evans said that this item was previously deferred at the last board meeting of March 9, 1990. Applicant was requesting permission to repair an unauthorized addition to an existing nonconforming stone groin. He explained that this applicant began to reinforce the areas of the groin where it was in disrepair.

Staff's recommendation is two-fold, firstly relative to the violation, staff does not know when it actually occurred, who did it and what extent it was done but notwithstanding that they are recommending that the Board order the immediate removal of any unauthorized addition to the groin and recommend that it be done by some appropriate State agency or agencies. Also they recommend that the Board deny the application for authorization to repair the groin.

The applicant's agent sent in comments that they are in opposition to staff's recommendation and the neighbors recommendation. They feel that the comments from State Office of Planning (OSP) are moot. Staff feels that OSP's comments are relevant as there are coastal management objectives to a degree.

Mr. Kealoha's question to Mr. Evans referred to page one of the submittal, under Description of Area and Current Use, it is noted that the groin was constructed about 50 years ago and about a 100 foot long, his question was, "What was the height at that time?" Mr. Evans said that he didn't know.

Mr. Kealoha also noted that there was a survey done in 1982 and asked if there was a violation addressed to the applicant at that time, his point was at that time the owner or occupant should have been notified that a permit or other permitting processes would be required if the wall should be repaired, but he does not see any evidence of a warning of what they can or cannot do. Now the new owner according to the submittal, is trying to protect his so called land but he has over-extended the repair work. There was no caution as to what he could do or could not do. Mr. Evans said he was not certain but his suspicion is that in 1982 the applicant did not own the property. Mr. Evans said to their knowledge, the owner today went and brought a piece of property, and didn't know the metes and bounds of the property and notwithstanding that he encroached makai of his boundary to where the arguments are being used, "if I did not go out and keep this place clean, than it would be a problem for the State."

Mr. Arisumi asked how will this block the public access.

Mr. Evans explained that it blocks the public access in two ways, they're told. The first way is physically, there's a private property, a beach and a groin that runs into the water. The second way it blocks people is psychological. The arguments that are brought up by the adjacent landowner's counsel is that in the Hawaiian custom, when you have something that blocks something, such as this physical barrier that it tells you to stay out. Mr. Evans said he was not Hawaiian and was just repeating the explanation given him.

Continuing to answer Mr. Arisumi's questions, Mr. Evans said that in this area there are three other groins, what is alleged to have happened as a result of these groins being placed in this location is, on one side of the groin you get a lot of beach build up. On the other side of the groin you lose or don't have beach. Question being raised is, if we cause the removal of these walls, what do we gain? One thing that is brought to staff's attention is that in order to confirm the statement before any removal be done, should the Board consider that the coastal engineer give us a report before the actual work is done to remove it.

Mr. Arisumi said his concern was should you remove the groin and let the ocean run in then there will be problems.

Mr. Evans responded that there was something that came in that indicated that the wall was built around 1964, but he wasn't positive.

Mr. Arisumi asked if this was the reason why no fine was recommended. Mr. Evans said the reason no fine was recommended because it appears to have been several things done and staff is not at the stage where they feel comfortable in alleging a particular individual did something.

Mr. Arisumi said that in the past even if the stonewall was built by others, whoever owns the property is responsible. That is why his question is when was the wall built. He asked if it could be traced back. Mr. Evans said they could try, but they probably could not be able to determine who did it.

Mr. Yuen tried to clarify Mr. Arisumi's point, that in the past fines have been imposed on present owners regardless if they didn't build the encroachment.

Mr. Kealoha commented if the groin is not on his property and if it's on State land, whose wall is it? If it's State land, would the State need a CDUA to remove it?

Mr. Evans said staff is recommending that a State agency or agencies remove the wall. If the State removes the wall they don't need a CDUA as there is a potential health and safety or liability problem.

Chairman Paty questioned which groin was sledge hammered down to make it safer for the children's usage. Mr. Evans explained that a neighbor claimed it was dangerous and used a sledge hammer to make it safe.

Mr. Evans said that the Office of State Planning felt that these three walls contributed to the erosion of Kualoa Beach Park, these groins are not within the CZM compliance guidelines. He added that he couldn't represent that these are the only groins. He also said he couldn't represent that if you take these three groins out that there wouldn't be any more erosion.

Mr. William Stern, applicant and his agent, Attorney Anela Shimizu presented photos of the area to the Board. He claimed that the groin on his side are 12 inches wide. He claimed that his wall had no lateral movement along the shoreline and erosion at Kualoa Beach Park. He said all the negative comments are moot because this wall in question has no

relation to erosion or lateral movement along the shoreline. If the wall was built straight as the State claims, by the time it came to his property line that wall would be 6 foot or 10 foot underground. He's saying that the 2 feet height went up when the slope of the beach went onto the 40 foot extension and that's how the 2 foot height comes in, that was his assumption.

Ms. Shimizu referred to the photos of the wall between the Ho and Stern properties, Mr. Stern interrupted that it showed the area where he proposed to make the repair in the wall about 10 feet. He claimed the wall was built with funds from the federal government and also claimed the 1964 wall is the other wall that extends and somebody added two feet.

Mr. Yuen questioned the area where he wanted to repair and the adjoining land. Mr. Stern said the area mauka is State land which he has not maintained, he does not touch that land.

Mr. Kealoha asked applicant why he wanted to repair the wall. Mr. Stern said he wanted to repair the wall to original height of two feet. He wants to repair the wall because if he doesn't, the back wash will take or erode all the sand that's there now and the Kamani tree will probably be uprooted. Mr. Kealoha asked Mr. Stern why didn't he build a wall on his property. He replied that it would be too far away on his property like 40 feet.

Mr. Enrick Ortiz said he was the neighbor of Mr. Stern and was very concerned, and confused that at one point they want to reconstruct the wall and submit a permit to reconstruct, rehabilitate the wall and now they're asking to eliminate the groins as a whole. He said there's six groins there, a groin field to protect the property and as far as the groin itself. Mr. Stern took it upon himself to extend the groin. He also presented photos to the Board. He claims Mr. Stern wants to heighten the groin and it offsets the shoreline. The sand will trap on his side and if high waters comes it will go more inland. He claims Mr. Stern wants to exceed the height variation because he has a sailboat and needs this to pull his boat out easily. Has lived there since 1949 and so have the Ho's. Mr. Stern moved in about 1984.

Mr. Ortiz said he did damage the wall that Mr. Stern put up illegally, but he was doing him a favor as he knew it was illegal. Mr. Kealoha commented that he was also illegal. Mr. Ortiz replied that he was doing his civic duty. He said Mr. Stern was going to cap the wall and also now put in a stainless steel metal cause he's afraid I was going to knock it off again. Claims Mr. Stern built the unauthorized portion.

Mr. Arisumi said he had a problem with the position of the wall or groin and now the photos show more than three groins. If the State were to remove these groins they may have to go all over the island to remove all the groins, so he felt they should leave everything status quo and don't do anything.

Mr. Hayden Burgess said written testimony had been presented previously to the Chairperson. He represented Mrs. Harriet Ho who is an adjoining landowner. Mr. Ortiz lives on property she owns. He is also speaking on behalf of Mary Lee who is also a property owner along the beach next to Mrs. Ho. Both have lived there since 1945 through 1949 and Mrs. Lee could attest that the groin when originally built by the Corps of Engineers did not come up to the shore as reflected in the photos. It was built to the high water mark and then extended into the ocean. She claims it was built after the original groin was built and they contend that it is an improper structure. They feel it's highly improper to allow someone to put up structures, and questioned do we allow private property owners to put out their own private groins on public beaches and benefit only themselves and starve others of sand.

Mrs. Lee gave her testimony, speaking about the tides and the groin in question. She said the groins were all four feet in height and they affect all the property along the way. Claims the groin in question was not there in 1964 as she has pictures to prove.

Mrs. Harriet Ho said she was a neighbor and had lived there from the early 1940s. She claims that Mr. Stern built the wall so that the sand would wash over and build up on his side of the property. She also said there was no erosion at Kualoa Park. She also said back in 1940s the neighbors would get together and repair the groin during low tide.

Mr. Burgess asked if he could summarize briefly their stance in this issue. He mentioned underlying native Hawaiian culture and common laws; claims barrier will have serious environmental impact, saying it will starve the adjoining sections of the beach from the natural shifting of sands; and he also said approval of the application would be contrary to the specific policies of the Hawaii Coastal Management Law.

Mr. Ortiz requested to add in that this groin was permitted in 1939 to Captain Long Kee who built it to protect the property, then it was sold to private owners. He said his family supposedly got a retainer to reconstruct the wall to prevent erosion. If you eliminate that wall, what State land you're talking about exist, will never exist as the waves will wipe them out and the residents property also. He said the State did not pay for the groins but the private property owners did. He said, "The State nevah put one penny to build those groins and now they like come claim that's State land."

ACTION Mr. Yuen moved to deny the application to repair the unauthorized addition of a nonconforming groin and also deny the recommendation of staff to remove the groins, in short, leave things as they are. Seconded by Mr. Kealoha, motion carried.

RECESS 10:22 a.m. to 10:34 a.m.

ITEM H-5 CDUA FOR A NON-CONFORMING SINGLE FAMILY RESIDENCE, SOUTH KONA, HAWAII; APPLICANT: MR. AND MRS. MASAHARU G. WATANABE; AGENT: MS. JUNE I. TOMIOKA

Mr. Evans said as staff was doing the analysis they came across a violation of unauthorized grading of the property. Staff is recommending that the applicant shall pay a total violation fine of \$500.00 to DLNR and upon compliance, the Board approve the non-conforming single family residential use subject to the conditions listed.

Mr. Arata asked about the Department of Health's requirement of wastewater treatment. Mr. Evans said it was covered in condition no. 3.

Mr. Apaka asked if there was any SMA requirement. Mr. Evans said the County of Hawaii did inform staff that this project is exempt so applicant has received his required clearance.

Ms. June Tomioka representing Mr. and Mrs. Watanabe responded to Mr. Arata's question that they were aware of the \$500 fine and the 14 conditions. They received a copy of the submittal and had reviewed it.

ACTION Motion for approval was made by Mr. Arata; seconded by Mr. Arisumi, motion carried unanimously.

ITEM H-3

CDUA FOR A PERMITTED USE TO INSTALL A DISASTER WARNING SIREN AT KAILUA, HAWAII; APPLICANT: STATE CIVIL DEFENSE AGENCY; AGENT: RONALD N.S. HO AND ASSOCIATES

Mr. Evans said the State Civil Defense Agency requested a permit to install a disaster warning siren within Kawainui Marsh. The purpose of this use is to provide public health, welfare and safety. Should there be a disaster there will be a siren in this area to warn the people.

ACTION Unanimously approved as submitted. (Arisumi/Apaka)

ITEM H-7

CDUA FOR A PASSIVE MICROWAVE REPEATER STATION, OMAO, KAUAI; APPLICANT: CYBERTAL CORPORATION; AGENT: WALTON D.Y. HONG

Mr. Evans said he would like to modify staff's recommendation on page 7 by adding a condition that would read, "That the Board delegate to the Chairman the administrative review and approval of future inquiries relative to telecommunication antenna facilities, subject to the standard conditions and section E (from handout just passed out by Mr. Evans)." He said staff would like to move away from requiring applicants to go through the entire Conservation process when they already have a piece of land that's already gone through a conservation process. This would now become condition 14 and 14 would become condition 15.

Mr. Arata asked if this applied only to Kauai. Mr. Evans replied, "No, statewide."

Mr. Apaka asked for clarification if this was for all existing antennas in place today. Mr. Evans clarified that should any existing tower that was built i.e. in 1950 which was grandfathered in, if they wished to add to that they will need to go through a CDUA process.

Mr. Walton Hong representing the applicant, Cybertel Corporation, said they had reviewed the conditions and had a concern regarding the wording of condition no. 9. It affects the potential operation of the cellular system at Kilohana Crater which is not in the Conservation District. Cellular telephones are governed by the FCC and the way that condition no. 9 reads, if there is interference they are required to shut down the entire system. If they do that they would be in violation of the FCC mandate which requires them as a public utility to keep operational for the public health, safety and welfare. Kilohana is the center of their operation.

Mr. Hong said this morning he was able to meet with Mr. Ernest Shima of the State Department of Budget and Finance, Telecommunication Operations, who originated that condition. Mr. Shima was agreeable to deleting the last sentence in condition no. 9. Condition no. 8 will still apply which relates to interference also.

They have other concerns with condition no. 9, the words "plus all associated cellular radio emissions from that Kilohana Crater ...and future operations ... He wanted to note for the record that they will continue to work with Budget and Finance regarding their long range plans, etc.

Mr. Evans said based upon counsel's representation that Budget and Finance staff is agreeable to deleting the last sentence in condition no. 9, he would be agreeable also.

ACTION Mr. Apaka moved for approval of item H-7 with the modification of deleting the last sentence in Condition 9., "Furthermore, should such interference occur, the applicant shall immediately cease operations until such interference is eliminated by the applicant at no cost to the State." Also to include staff's amendment as Condition 14. Seconded by Mr. Arata, motion carried unanimously.

ITEM F-2 DIRECT SALE OF EASEMENT, LALAMILO, SO. KOHALA, HAWAII (RANDOLPH B. STOCKWELL, APPLICATION), TMK 6-6-02:POR. 31

Ms. Sandra Schutte, representing the applicant Mr. Randolph Stockwell, said she had seen and reviewed the terms and conditions and applicant agrees to such.

ACTION Unanimously approved as submitted. (Arata/Arisumi)

Item F-1-g ASSIGNMENT OF GENERAL LEASE NOS. S-4331 AND S-4332, HILO INDUSTRIAL DEVELOPMENT, LEILANI STREET SECTION, WAIAKEA, SO. HILO, HAWAII, TMK 2-2-37:144 and 145

Mr. Young said there were questions as to respect of the assignment premium. The last session of the legislature passed an act whereby the State may participate in the consideration by way of a premium. The law says we could take a look at the premium less the depreciated cost of the improvements and the trade fixtures and there set the cost of the premium.

Mr. Young went on to explain the terms and conditions of the assignment of lease.

ACTION Mr. Apaka moved for approval of F-1-g with an amendment C. Section C should read that the consent to assignment should be subject to following conditions:

1. Acceptance of the settlement offer of \$10,000, as premium to the State for its consent to the assignments of the leases pursuant to Section 171-36(a)(5), Hawaii Revised Statutes. The method of payment shall be dependent on Land Management's decision.

2. That all subsequent assignments hereafter, the assignee agrees that the premium will be applied based on the policy adopted by the Land Board on December 15, 1989, and on the difference between the selling price and the purchase price less the adjusted depreciated cost of any improvements constructed by the assignee.

Seconded by Mr. Arata, motion carried unanimously.

Mr. Young said with respect to C. 1, Land Management recommends that the amount be placed in a trust fund for the improvement of the programs of Land Management.

Item F-1-h CONSENT TO MESNE ASSIGNMENTS OF GENERAL LEASE NO. S-4212, CALVIN W. LUI AND THERESA M. LUI TO TOWA SHINYO HAWAII, INC. TO TOWA SHINYO MAUI, INC., 1.119 ACRE SITE AT KAMAOLE, WAILUKU (KULA), MAUI, TMK 3-9-04:29

Mr. Young requested to make a correction in the submittal on page 2, under CONSIDERATION: the amount should be \$6,040,000.00 and not \$4,100,000.00.

Mr. Young said F-1-h is identical to F-1-g, in that they have an assignment pending and as part of the assignment they are using a 1031 exchange to accomplish it. Calvin Lui to Towa Shinyo Hawaii then to Towa Shinyo Maui, Inc.

Staff is recommending consent to assignment but as a result of a new offer by the lessees with respect to the settlement and the pending opinion from the Attorney General, staff is asking that the assignment be subject to Act 104 if it is determined to be applicable by the Attorney General's office.

Mr. John Wells, representing the applicant, said he would like to change the request to read from Calvin Lui to Title Guaranty Exchange, T.G. Exchange and from there it will then be exchanged to Towa Shinyo Hawaii and subsequently to Towa Shinyo Maui.

ACTION

Mr. Arisumi moved for approval of item F-1-h with the additional Condition C., With consent of assignment be subject to following: 1. A premium of \$10,000 should be paid to the State for its consent to the assignments of the lease pursuant to Section 171-36(a)(5), Hawaii Revised Statutes; 2. All subsequent assignments hereafter the assignee agrees that the premium will be applied based on the policy adopted by the Board of December 15, 1989, and on the difference between the selling price and the purchase price less the adjusted depreciated cost of any improvements constructed by the assignee. Also with staff's amendment under Consideration on page 2 from \$4,100,000 to \$6,040,000. The method of payment as explained by Mr. Young. Seconded by Mr. Arata, motion carried unanimously.

RECESS 11:05 a.m.--11:15 a.m.

Chairman Paty called the meeting back to order.

RECONSIDERATION OF APPLICANT'S PLANS AND APPLICANT COMPLIANCE WITH BOARD CONDITIONS FOR A CDUA FOR SINGLE FAMILY RESIDENCE, ETC.; APPLICANT:

ITEM H-6

MR. DAVID E. FAZENDIN (AS AGENT FOR WIFE)

Mr. Evans brought the board up-to-date on the application. Today's Item H-6 is for reconsideration of applicant's plans to be in compliance with the Board's conditions. The submittal was written based upon the original house plan dimensions and a separate maid's quarters. Subsequent to the submittal being written, staff received a letter from the applicant that indicated, should the Board allow the applicant to use the site where he wants to put the house, the top of the house would not be above the garage pad. He also said he would change the house color from Mediteranean White to a color that would blend into the environment. He also submitted an up-dated landscape plan.

While staff was analyzing the reconsideration it was noted that there was some grading that was done on State land which borders the applicant's property. Because of that concern, Mr. Evans requested a survey of the area by the State Surveyor through the Department of Accounting and General Services. He then asked the State surveyor to put the request on hold because he would need to obtain the permission of the private landowner to cross his property to respect the landowners rights also.

Mr. Yuen, summarizing Mr. Evans comments, said if the Board were to sustain your recommendations, where would that leave the applicant. Do you leave him with the requirements imposed by the Board that the house be no higher than the level of the garage pad floor and that the buildings and structures, etc. be harmonized and landscaping comply with plans?

Mr. Evans said the Board would have to make some modification of the recommendation because the recommendation before the Board is a request for denial. Basic reasons for that request were that the last Board action that occurred were not to allow the house in that area. Secondly, the letter, correspondence and the plans, with the exception of the landscaping plan which is new, the house plans are old and staff cannot suggest to the Board that the house plans are consistent with the thought that the house be no higher than the pad. The original plans call for a separate maid's quarters.

Addressing Mr. Evans, Mr. Kealoha said with respect to the plans, the applicant has not submitted a revised house plan suggesting that the house would not be higher than the garage pad.

Mr. Evans said applicant wanted the site of the house reconsidered and there were lots of concerns at the May 1989 meeting by the Board, can he not plant trees around the house. So that's why there is a new landscape plan. More discussion continued regarding placement and plans of the house. Mr. Evans said the trees that the applicant suggests to plant would hide the view of the house.

Mr. Arisumi said having gone on a site inspection he noticed another home that was built but the landscaping not completed yet. He asked whether it would be possible for applicant to have the trees planted before construction.

Mr. David Fazendin came before the board and answered questions of the Board pertaining to the proposed structure, the height, site of the house and landscaping plans. So as to keep a low profile he is now proposing to build the bedrooms in the hole, (basement like).

Mr. David Fazendin said that the staff at DLNR asked for and received new survey plans done by Park Engineering showing the exact elevations in question.

Mr. Arata suggested to Mr. Fazendin that with such an enormous project he should think about having a scale model done of the house and landscape as it would be easier to envision.

Bonnie Heim of the Kailua Neighborhood Board read her testimony into the record. Their board is strongly opposed to the entire project. (A copy of her testimony has been placed in the Department's Board Folder.)

Mr. John Weil, representing the Mount Olomana Community read his testimony into the record and commenting also on the top of the roof being the same height of the pad garage. He said if the applicant planted trees to cover the house, what's to prevent them from cutting the trees later to get the view they wanted. (A copy of his testimony has been placed in the Department's Board Folder.)

Mr. Michael Wilson said he grew up in Kailua and continued to comment on staff's presentation. He said he was confused by staff's stand on this issue saying the house would be built on the crestline or ridgeline of Olomana and there were no plans for the house before the Board. He talked about the building site, violations of land use laws and illegal grading of public lands. He continued to express his concerns regarding the reconsideration of this application of which he highly objected to.

Ms. Donna Wong said she would be giving her personal testimony but first she would be giving the testimony from the Olomana Community Association and Maunawili. She claims they've been talking about the Waimanalo side immediately in front of Olomana, and not taking into account the all turning the corner from the Olomana subdivision going down the road which is most visible where you can see the Grimes home. She said the

Grimes home sits there like a sore thumb and the Fazendin home is supposed to be behind it. She then went into detail about the Grimes property, i.e. home and driveway completed; stables have never housed a horse but material; empty storage shed and the landscaping has not been completed.

Ms. Wong said she was also confused with Mr. Evans' testimony. It seems that staff is recommending one thing but from the tone of Mr. Evans' explanation it was a total difference of opinion from his staff. She continued it appeared that he was couching approval for the project somewhere in these plans from the staff which really weren't there. Recommendations talked about where the house was going to be sited, how the trees were going to be planted, about the driveway and he did not talk about the application which is why they're here today. She said the association does not want another St. Louis Heights or Wilhelminia Rise and they would fight this Board, this Department and any City Department that tries to turn it into. She concluded by saying that they are putting their faith into the Board's hands. She said, "We are not fighting because Olomana is my backyard. When you drive on the windward side that pinnacle is there for you to see and enjoy and the Hawaiian history, the culture behind it, it is there and we're trying to save it for everyone."

Ms. Donna Yanoviak, President of Pohakupu Community Association had a poster to show the Board and she also testified against this application. She mentioned that there are a few houses on Mt. Olomana that are already disturbing the view to a minor degree and if people keep building houses on the many ridges you will get a rise similar to Punchbowl, Diamond Head and pointed to her poster to show a drawing of what they say it will look like.

She then read into the record a letter dated 4/24/89 from the Pohakupu Community Association with the Pohakupu/Kukanono Community Association viewpoint of the Fazendin Application. (A copy has been placed in the Department's Board folder.)

Ms. Eve Anderson from the Waimanalo Neighborhood Board requested to make a comment. She said they were looking for a project for the gorilla foundation which would be closer to the Waimanalo end of Olomana of 60 acres. She said the present owners indicated that they had plans for a golf course and a housing development in 10-15 years of 400 homes up on the ridge. She thinks if anything is allowed on these mountains, the person should do a scale model so that everyone can see what it's going to look like.

Mr. Andrew Yanoviak said he was not here on behalf of the Hawaii Society A.I.A. or the Honolulu Chapter A.I.A. and other organizations of which he is a member, his testimony was addressed to the Honorable Governor John Waihee, to the Board and staff of the Department of Land and Natural Resources. He then read 6 pages of testimony outlining his opinions and findings in his opposition to the Fazendin application. (A copy of this testimony has been placed in the Department's Board folder.)

Mr. Kealoha had a question to Mr. Evans, "Under the subzone of this application, I take it that this is in the general subzone." "That is correct," responded Mr. Evans. "In the general subzone, based on the applicant's request, does the request meet all the criteria set under the general subzone?" Mr. Evans replied that the criteria in the general subzone for a single family house, generally when a citizen has a piece of private property in the Conservation District it's usually one of the four subzone. The ground water sources, our pristine forests are all in the protective subzone; tsunami areas, flood areas are in the limited subzone; the resource subzone is where we want to have a sustained yield of things and the last subzone is where we have the lease pristine among all of them, based on natural resource is the

general subzone. The Board's posture on general subzone lands has been, all things being equal, to allow a one house per lot, regardless of the size of the lot, one acre or one hundred acres; one house per lot subject to the standard conditions that are in the Administrative Rules.

Mr. Kealoha asked if could remember if the Board has ever allowed any residential construction in the limited subzone. Mr. Evans said, "No," with the exception of a possible nonconforming use in the limited subzone because that's the legislative aspect. Mr. Kealoha continued, "Have we denied any application for a residence in the resource subzone?"

Mr. Evans said, "You very well could have but you take everything on a case by case basis and so for me to suggest that you've given a 100% approvals I would feel uncomfortable saying that, in the resource subzone." Continuing to answer Mr. Kealoha, he said that in the resource and limited subzone it is more restrictive until you hit the protective subzone which is the most restrictive. To his knowledge the Board has never denied any application for a residence in the general subzone, one house per lot.

Mr. Kealoha then asked for what reason is the staff's recommendation for denial of a residence in this case where the application is in the general subzone and under the non-conforming use, the application meets the criteria for a residence.

Mr. Evans said that the staff recommendation when it was prepared for the submittal before the Board today is not to recommend denial of the residence. That's not the question. The question that staff was struggling with was to analyze the current plans with the recommendation based on the plans that we had, that's the recommendation for denial.

Mr. Kealoha voiced confusion, you're saying a the use of a residence is an automatic approval, to which Mr. Evans replied, "No it is not."

Mr. Kealoha asked if a Board approval was needed for the use. Mr. Evans said that the applicant already has the approval of the use. Mr. Kealoha said he doesn't see it in the submittal where the use continues from July 1987 to the present date that the applicant had a prior approval for the use.

Mr. Evans referred to staff's exhibits A through J, which incorporates an original submittal. He said that the problem staff had which was a major problem for them, they were being asked to take a look at these plans and have the Board look at them for reconsideration. It was the top floor elevation, that's the floor and 285 feet. The rest of the height of the room and up to the roof. Staff was struggling with these plans and this is where the gist of the staff's recommendation for denial was coming. The staff was not suggesting that the applicant does not get a house.

Mr. Kealoha's next question, "Whether if there is a height restriction to the house, or the dwelling, why does it matter whether or not it has three stories or levels or four levels if you restrict the height?"

Mr. Evans said that they don't think it should. If that's the case that the Board is going to allow the reconsideration such that the house goes in this location (pointing to drawing), and what staff would ask for is that the top of the house be no higher than the existing pad, as a condition.

Under Title 13 and Conservation Rules, Mr. Kealoha said that apparently under the general subzone the owner does have a legal right to a house, depending on the conditions that are set by the Board. Mr. Evans said when we're talking about the legal aspect in one area, if he qualifies

under nonconforming use, staff will come before the Board everytime and recommend approval. If it's not a nonconforming use and not a permitted use then there is a use called conditional. That means the Board acts on a case by case basis on the merits of the case. The problem that staff could run into, is if everytime in the general subzone you allow one house per lot and here comes this one applicant and you then deny it, that applicant may say that the board acted arbitrarily and capricious and singled him out. That could develop into a possible problem, we want to be very careful.

Mr. Kealoha asked if all the sanctions have been cured. When the applicant was fined the total of \$1400, did that cure the violation?

Mr. Evans said, "No, because what happened is, the Board didn't just impose the fine. The Board at that time also imposed, 'remove the driveway', so now the question is, "have all the sanctions been cured? No, the fine has been paid, the applicant is now asking for reconsideration relative to the driveway.

Mr. Weil commented that the last gentleman to testify before the board may be a very good architect but a very poor salesman. He could see no reason for him lambasting the Board and he certainly does not feel that way. He hoped that it will not deter the Board's judgement in what they have to do.

ACTION

Mr. Kealoha moved to deny staff's recommendation on page 7, which is that the Board deny this current plan approval. He would like to override that recommendation but instead his recommendation in his motion are as follows:

- 1) The proposed site be approved;
- 2) That a revised landscape plan be submitted or be required of the applicant to be submitted for the Board's review;
- 3 Requirement that a revised building and construction plan be submitted to the Board for its review; and in that same plan that the color of the structure also be in evidence to blend with the environment;
- 4) That the driveway be approved in its present condition; however that no other deviation from the present driveway be constructed; and
- 5) Grading plans to be submitted to the Board for review.

For clarification the house elevation is on record as submitted by the applicant, that it would not be any higher than the level of the parking garage to be shown on the plans.

Seconded by Mr. Apaka, motion carried; the chair cast a dissenting vote as he felt the site was inappropriate.

RECESS

1:27 pm - 1:52 pm

ITEM H-9

APPROVAL OF SAND ISLAND INDUSTRIAL PARK DEVELOPMENT

Mr. Fukumoto said present today are members of the Sand Island Business Association (SIBA), Mr. Walter Arakaki, President and Mr. Edgar Hamasu, Executive Director and their banker Mr. Pat Yamada of the Bank of Hawaii. The staff of DLNR and SIBA have been in intensive negotiations for the development of the Sand Island Industrial Park. There have been proposals, counter proposals and counter-counter proposals to each other and now have arrived at compromises on each major issue through a strategic plan. They have determined that the following documents should be executed to conclude the negotiations:

- 1) Development Agreement
- 2) A Lease
- 3) A Management Agreement

The recommendation is that the Board authorize the Chairperson to execute the Memorandum of Understanding with SIBA in approval of the strategic plan.

Mr. Arakaki wanted to thank the Board and staff of DLNR for working with SIBA. He appreciated all the efforts put forth to bring it this far.

Mr. Yuen commented on one change that was being proposed in the Memorandum of Understanding (MOU). The suggestion was that SIBA would be granted 1,000 square feet of loft office space as opposed to finished office space.

Mr. Arakaki said the reason for requesting this office space is because the entire industrial park is for the members' of Sand Island Commercial Center that's going to be developed. It's supposed to benefit the tenants and their employees. To manage the industrial park they feel they need an office somewhere to operate from and also to conduct meetings and various types of uses to benefit all the tenants.

ACTION Mr. Yuen moved for approval of staff's submittal and authorize the Chairperson to execute the Memorandum of Understanding. Seconded by Mr. Kealoha, motion carried unanimously.

Chairman Paty and Mr. Arakaki then signed the Memorandum of Understanding before the members of the Land Board.

**ADDED
ITEM F-18** RESCISSION OF PRIOR BOARD ACTION OF DECEMBER 15, 1989 (AGENDA ITEM F-22) AS AMENDED, PROPOSED LAND EXCHANGE BETWEEN STATE OF HAWAII AND KAHALA CAPITAL CORPORATION, AUTHORIZED APPLICANT FOR LONG & MELONE, LTD., A HAWAII CORPORATION, AS TRUSTEE, BY WAY OF TRUST AGREEMENT DATED OCTOBER 21, 1967, AS EXTENDED, BY AND BETWEEN ROYAL HAWAIIAN MANAGEMENT CORPORATION, A HAWAII CORPORATION, AND LONG & MELONE, LTD., A HAWAII CORPORATION, LANDOWNER-AWAKEE/MANINIOWALI KUKIO 2ND, NORTH KONA, HAWAII

Presentation was made by Mr. Mason Young. He mentioned there were many strong concerns expressed by the public regarding the land exchange.

At the suggestion of Chairperson Paty, staff is recommending that DLNR withdraw its House and Senate resolution for approval and ask the Board to rescind its action on the exchange.

ACTION Mr. Arata moved for approval of item F-18, seconded by Mr. Arisumi.

Ms. Grace Kido, Attorney from the law firm of Cates, Schutte, Fleming and Wright representing the applicant Kahala Capital, said she would like to note for the record that Kahala had entered into this exchange in good faith believing that it was a fair exchange. That it would allow them to obtain a parcel of land that they could work with. In exchange the State would have been able to make it's first great lead to accomplishing its goal of creating that wilderness park. They feel the reasons for approving the exchange in December are still valid and for the record they object to any rescission. This is a matter of sufficient importance that there should have been adequate notice that it would have been on the agenda for today's meeting. She's been informed by members of the Department of Land and Natural Resources and some concerned legislators that have told Kahala that the possibility of an exchange still remains open. They would like to start the process of investigating alternate sites. They will be back to request the right of entry for the purpose of exploring such alternatives.

Chairman Paty assured her that the Board's intention of acquiring the parcel is undiminished, that they will undertake any reasonable activity they can to bring that about and will work closely with them in trying to afford them the opportunity to determine how best we can develop a further exchange.

QUESTION Chairman Paty called for the question and motion carried unanimously.

REQUEST TO APPROVE SECOND AMENDMENT TO LAND AND BUILDING PURCHASE AGREEMENT WITH HEMMETER INVESTMENT COMPANY COVERING STATE OFFICE TOWER SITE (GALEN PARCEL), HONOLULU, OAHU, TMK 2-1-17:19 (TO BE DISTRIBUTED)

ITEM F-16

Presentation was made by Mr. Young covering the details of the submittal.

Mr. Bruce Matsui, Deputy Attorney General representing the Comptroller requested to clarify several of the things in Mr. Young's presentation. Another reason for entering into this Supplemental Agreement No. 2 to the Galen Agreement was to enable the State to satisfy its obligation to give Hemmeter the parking lease on the site that Hemmeter most preferred, the Richards-Alakea Site. The State entered into a Tri-Party agreement with the City & County and BetaWest under which BetaWest is going to develop an office building/parking structure. For this the State will receive an easement for 432 parking stalls.

With respect to the two additional conditions that have been requested, with respect to the assignment premiums, he wanted to clarify the position of this particular agreement, that the assignment premium not apply. They are still working on an official opinion from their office. With respect to the waiver of the right to review, modify the grant, they just wanted to note that the negotiators of the Galen agreement did not contemplate that the assignment sublease consent provision would be invoked when the individual parking spaces were assigned the sublease used by tenants of the Y.M.C.A. building but rather it was supposed to be invoked by the Hemmeter assigned sublease or transferred all of its leasehold interests in its parking lease.

Mr. Kealoha asked for clarification on the parking stalls or leases on office space.

Mr. Young also expressed a question on the second part, what is Hemmeter's deal, if there's any with respect being the occupant and the payment of any sums or revenue for the stalls he's getting as a tenant. He will no longer be the owner. His understanding today, is the agreement between the two parties, they will be paying a fair market price for the parking stalls to the buyer. If they paid \$200 a stall that would amount to about 1/2 million a year.

Mr. Matsui said these two provisions have been proposed by Hemmeter. The way they interpreted that particular request to waiver of the board's right to review the leases or subleases of individual parking stalls as well as the larger assignment or sublease to a successor in interest.

Mr. Johnson Wong, Deputy A.G. said the cost of the parking stalls will be borne by Hemmeter, with respect to State's equity, we give that right to Hemmeter to construct, to pay for the cost when we acquire the Galen parcel. So the State has no equity. Now this second waiver clause, that says the State shall not have the right to review or modify the direct charge on any leases for any parking stalls covered by Hemmeter parking area for tenants of the Armed Service. That waiver is limited only to that situation where the parking is provided to the tenants of the former YMCA. If it is given to the general public or other than the tenants of the YMCA, the Board will have the right to review the lease.

Backing up to waiver no. 1, Mr. Wong said on the assignment of the leasehold interest Hemmeter shall not be subject to the payment of the premium. He thinks the condition, so long as it is sold together with the YMCA site and not sold separately is acceptable. Mr. Matsui said that is the understanding and no problem.

Back to waiver no. 2, whether this right to review to modify the rent charge, the review is being waived if it's only to the tenants of the YMCA. If it's to other than to tenants of the YMCA, the Board will still have the right to review that sublease to determine whether there's any sandwiches in between and revise the rent. Mr. Matsui said that was his understanding that Hemmeter and BIGI were asking the Board to waive its power to review or revise the rent for both the sublease of the individuals as well as the sublease or an assignment to a third party.

Mr. Umemura added, in that instance, the third party would be somebody other than that associated with the YMCA building. In all cases the parking will be associated with the YMCA building. In other words, the owner of the YMCA building will not be able to take such parking and mark it off for anybody else. That parking will always be associated with the YMCA building, and if it's not then the Board will have the right to review it.

For the record, the Deputy Attorney General amended orally on page 3, paragraph (2), "The STATE shall ... or the YMCA parcel[.]; provided, however, that the STATE reserves its right to assess said assignment premium and to review or modify the rent charged under said Hemmeter Parking Area lease if any of the Hemmeter Parking Area parking stalls are assigned, leased or otherwise transferred to parties other than tenants of the Armed Services YMCA building or the YMCA parcel.

Mr. James Funaki, Attorney for Hemmeter Investment Company introduced himself and Mr. Jeff Garland also an attorney with his company and Mr. Robert Umemura, the Executive Vice-President of Hemmeter Corporation. He said they were here this morning to respond to any questions the Board might have concerning the Supplement Agreement No. 2 amendment. The waivers that requested has some reason and basis for their presenting them because these premiums and rendering modifications were never a part of the first agreement. The Galen Agreement, which was the land and building purchase agreement that was dated April 11, 1988 involved a rather complicated set of events and circumstances. The parking assignment was an integral part of the Galen Agreement and in that sense the payment was already made for the parking lease rights at that time and this is the foundation upon which they based their request for waivers.

RECESS 1:22pm - 1:27pm

Mr. Young addressed the Chair, as a result of counsel's comments and additions to the clarifications of the (1) and (2) requests by Hemmeter and BIGI, staff is recommending that Recommendation No. 2 be deleted and that the wording of the Attorney General's as amended with respect to the modification be included as part of the recommendation.

ACTION Mr. Arisumi moved for approval as amended. Seconded by Mr. Arata. Vice Chairman Kealoha said the Board was essentially approving the concerns indicated on Agreement (2) and Agreement on Page 2. Motion carried.

Note: Board Member Mr. Yuen requested that he be disqualified from voting on item F-18.

Item F-1-i CONSENT TO ISSUANCE OF REVOCABLE PERMIT BY DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT TO J & L SERVICES, FOR USE OF THE DIAMOND HEAD FILM FACILITY, HONOLULU, OAHU, TMK 3-1-42:POR. 9

ACTION Approved as submitted. (Yuen/Arata)

- ITEM F-10 HEMMETER CORPORATION REQUEST TO PURCHASE STATE REMNANT PARCEL ALONG RICHARDS STREET, HONOLULU, OAHU, TMK 2-1-17:02
- ACTION Approved as submitted. (Apaka/Arisumi)
- Note: Board Member Mr. Yuen requested that he be disqualified from voting on item F-10.
- ITEM B-1 OUT-OF-STATE TRAVEL REQUEST FOR MR. HENRY M. SAKUDA TO ATTEND THE WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL MEETING IN GUAM AND SAIPAN, CNMI BETWEEN APRIL 9-13, 1990
- ACTION Unanimously approved as submitted. (Arata/Yuen)
- ITEM B-2 REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT WITH THE OCEANIC INSTITUTE TO CONDUCT A PILOT STOCK ENHANCEMENT STUDY AT THE WAIAKEA PUBLIC FISHING AREA AND ADJACENT HILO BAY AREAS, HAWAII
- ACTION Unanimously approved as submitted. (Arata/Arisumi)
- ITEM B-3 REQUEST TO FILL TEMPORARY FISHERY TECHNICIAN III, POSITION NO. 24262, IN THE DIVISION OF AQUATIC RESOURCES
- ACTION Unanimously approved appointment of Mr. John N. Kahiapo to Position No. 24262, Fishery Technician III, Island of Hawaii. (Arata/Arisumi)
- ITEM C-1 REQUEST FOR BOARD APPROVAL TO ENGAGE THE SERVICES OF A CONSULTANT TO ASSIST WITH ARCHAEOLOGICAL SURVEY OF NA ALA HELE'S DEMONSTRATION TRAILS ON LANAI AND MAUI
- ACTION Unanimously approved as submitted. (Arisumi/Arata)
- ITEM C-2 REQUEST FOR BOARD APPROVAL TO AMEND THE EXISTING CONTRACT WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII TO PROVIDE RESEARCH ASSISTANCE AND TECHNICAL SUPPORT IN THE IMPLEMENTATION OF THE STATEWIDE TRAIL AND ACCESS SYSTEM
- ACTION Unanimously approved as submitted. (Yuen/Arata)
- ITEM C-3 FILLING OF POSITION NO. 42633, HEAVY EQUIPMENT OPERATOR, WB-10, ISLAND OF HAWAII
- ACTION Unanimously approved appointment of Mr. George Cardines to fill Position No. 42633, Heavy Equipment Operator, WB-10, Island of Hawaii. (Arata/Arisumi)
- ITEM C-4 FILLING OF POSITION NO. 13345, GENERAL LABORER I, NARS, ISLAND OF KAUAI
- ACTION Unanimously approved appointment of Mr. Peter J. Diorio to fill the NARS General Laborer I, Position No. 13345, on the Island of Kauai. (Apaka/Arisumi)
- ITEM C-5 FILLING OF VACANT WILDLIFE BIOLOGIST II POSITION, ISLAND OF MAUI
- ACTION Unanimously approved appointment of Mr. John Cumming to Position No. 42108, Wildlife Biologist II, on the Island of Maui. (Arisumi/Arata)
- ITEM D-1 PERMISSION TO HIRE CONSULTANT FOR JOB NO. 80-KP-H8, WATERLINE REPLACEMENT, WAIMEA CANYON LOOKOUT AREA, KOKEE STATE PARK, KAUAI
- ACTION Unanimously approved as submitted. (Apaka/Arisumi)

ITEM D-2 APPOINTMENT AND CERTIFICATION OF SOIL AND WATER CONSERVATION DISTRICT DIRECTOR

ACTION Unanimously approved as submitted. (Arisumi/Yuen)

ITEM D-3 APPROVAL TO ATTEND THE AMERICAN WATER WORKS ASSOCIATION (AWWA) ANNUAL CONFERENCE AND EXPOSITION IN CINCINNATI, OHIO

ACTION Unanimously approved as submitted. (Arisumi/Arata)

ITEM E-1 COMMEMORATIVE PLANTINGS AT THE STATE CAPITOL GROUNDS

For the record, Mr. Nagata informed the Board that on the fifth line down of the submittal, between the words 'use' and 'landscaping', he would like to add a comma.

ACTION Item E-1 unanimously approved as amended. (Yuen/Arisumi)

ITEM E-2 REQUEST TO HOLD THE EARTH DAY KAUAI 1990 COMMUNITY FESTIVAL AT THE LYDGATE AREA OF WAILUA RIVER STATE PARK, KAUAI

Mr. Nagata informed the Board that the request was withdrawn by the applicant.

ACTION Withdrawn

ITEM F-1 DOCUMENTS FOR CONSIDERATION

Item F-1-a ASSIGNMENT OF GENERAL LEASE NO. S-5026, LOT 54, KOKEE CAMP SITE LOTS, WAIMEA (KONA), KAUAI, TMK 1-4-04:12

Item F-1-b ISSUANCE OF REVOCABLE PERMIT TO MR. PETER KUNSTANDER, SUBMERGED COASTAL LANDS AT WAILUPE PENINSULA,, MAUNALUA BAY, OAHU, TMK 3-6-01: SEAWARD OF 25

Item F-1-c ISSUANCE OF REVOCABLE PERMIT TO CLAYTON HONBO COVERING GOVERNMENT SUBMERGED AND TIDAL LANDS OF KANEOHE BAY, KANEOHE, KOOLAUPOKO, OAHU, TMK 4-6-01:SEAWARD OF 8

Item F-1-d ISSUANCE OF REVOCABLE PERMIT TO JAMES ALLEN SCHMIT, ET AL, COVERING GOVERNMENT SUBMERGED AND TIDAL LANDS OF KANEOHE BAY, KANEOHE, KOOLAUPOKO, OAHU, TMK 4-4-21:SEAWARD OF 36

Item F-1-e ISSUANCE OF REVOCABLE PERMIT TO JAYAR CONSTRUCTION COVERING GOVERNMENT RECLAIMED LAND OF KANEOHE BAY, KANEOHE, KOOLAUPOKO, OAHU, TMK 1-1-03:POR. 3

Item F-1-f ISSUANCE OF REVOCABLE PERMIT TO MR. JOHN SANTOS COVERING GOVERNMENT LAND AT AIEA, EWA, OAHU, TMK 9-9-44:20

ACTION Mr. Yuen moved for approval of items F-1-a, b, c, d, e, and f; seconded by Mr. Arata motion carried.

Item F-1-g ASSIGNMENT OF GENERAL LEASE NOS. S-4331 AND S-4332, HILO INDUSTRIAL DEVELOPMENT, LEILANI STREET SECTION, WAIAKEA, SO. HILO, HAWAII, TMK 2-2-37:144 and 145

ACTION See page 7 for action.

Item F-1-h CONSENT TO MESNE ASSIGNMENTS OF GENERAL LEASE NO. S-4212, CALVIN W. LUI AND THERESA M. LUI TO TOWA SHINYO HAWAII, INC. TO TOWA SHINYO MAUI, INC., 1.119 ACRE SITE AT KAMAOLE, WAILUKU (KULA), MAUI, TMK 3-9-04:29

See pages 7-8 for action.

Item F-1-i CONSENT TO ISSUANCE OF REVOCABLE PERMIT BY DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT TO J & L SERVICES, FOR USE OF THE DIAMOND HEAD FILM FACILITY, HONOLULU, OAHU, TMK 3-1-42:POR. 9

See page 15 for action.

ITEM F-2 DIRECT SALE OF EASEMENT, LALAMILO, SO. KOHALA, HAWAII (RANDOLPH B. STOCKWELL, APPLICATION), TMK 6-6-02:POR. 31

See page 7 for action.

ITEM F-3 DIRECT AWARD OF PERPETUAL, NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT AND ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY, PORTION OF WAIAKOA-ALAE 3 & 4 HOMESTEADS, MAKAWAO, MAUI, TMK 2-2-09:POR. 30

ACTION Unanimously approved as submitted. (Arisumi/Arata)

ITEM F-4 AMENDMENT TO PRIOR BOARD ACTION RELATIVE TO DIRECT SALE OF ABANDONED GOVERNMENT ROAD REMNANT PARCELS DESIGNATED AS HIGHWAY REMNANTS "E" AND "F", FAP NO. F32(3), HANA BELT ROAD, HAIKU TO KAUPAKALUA SEPARATION, SITUATE AT HAMAKUALOA, MAKAWAO, MAUI, TMKS 2-7-07 AND 2-7-08

ACTION Unanimously approved as submitted. (Arisumi/Arata)

ITEM F-5 AMENDMENT TO PRIOR BOARD ACTION RELATIVE TO DIRECT SALE OF ACCESS AND UTILITY EASEMENT TO FRIEDRICH AND THORUNN BATHOLT AT HONOPOU, MAKAWAO (HAMAKUALOA), MAUI, TMK 2-9-03:POR. OF 16, 17, 20 AND 39

ACTION Unanimously approved as submitted. (Arisumi/Arata)

ITEM F-6 AMENDMENT TO PRIOR BOARD ACTION RELATIVE TO DIRECT SALE OF ACCESS AND UTILITY EASEMENT TO LAFAYETTE AND BEVERLY YOUNG AT HONOPOU, MAKAWAO (HAMAKUALOA), MAUI, TMK 2-9-03:POR. OF 16, 17, 20 AND 39

ACTION Unanimously approved as submitted. (Arisumi/Arata)

ITEM F-7 AMENDMENT TO PRIOR BOARD ACTION RELATIVE TO DIRECT SALE OF ACCESS AND UTILITY EASEMENT TO MARY FISHER AT HONOPOU, MAKAWAO (HAMAKUALOA), MAUI, TMK 2-9-03:POR. OF 17

ACTION Unanimously approved as submitted. (Arisumi/Arata)

ITEM F-8 AMENDMENT TO PRIOR BOARD ACTION RELATIVE TO 69 KV "MAKAI" TRANSMISSION LINE EASEMENT TO MAUI ELECTRIC COMPANY AT WAHIKULI, LAHAINA (KAANAPALI), MAUI, TMK 4-5-21:POR. OF 3

ACTION Unanimously approved as submitted. (Arisumi/Arata)

ITEM F-9 AMENDMENT TO PRIOR BOARD ACTION OF NOVEMBER 21, 1986 (AGENDA ITEM F-15), REQUEST BY DEPARTMENT OF TRANSPORTATION FOR RIGHT-OF-ENTRY, AMENDMENT OF EXECUTIVE ORDERS AND GENERAL LEASES, WITHDRAWAL AND SET ASIDE OF STATE LANDS AT SAND ISLAND, HONOLULU, OAHU, UNDER SAND ISLAND ROAD WIDENING PROJECT NO. 64A-02-82, UNIT 2

ACTION Unanimously approved as submitted. (Yuen/Arata)

ITEM F-10 HEMMETER CORPORATION REQUEST TO PURCHASE STATE REMNANT PARCEL ALONG RICHARDS STREET, HONOLULU, OAHU, TMK 2-1-17:02

See page 16 for action.

REQUEST PERMISSION TO NEGOTIATE WITH A CONSULTANT TO EVALUATE THE FEASIBILITY OF DEVELOPING THE VETERANS OF FOREIGN WARS (VFS) SITE AT
ITEM F-11 WAIKIKI, HONOLULU, OAHU, TMK 2-3-34:27, GENERAL LEASE NO. S-5109

Vice Chair Kealoha requested that this item be deferred until such time that the Division of Land Management could arrange for the Board to visit the site with staff and take an evaluation approach for long term possibility. There being no objections, the item was deferred.

ACCEPTANCE FROM UNITED STATES OF AMERICA OF CEDED LAND SITUATE AT WAHIAWA, OAHU, PORTION SCHOFIELD BARRACKS MILITARY RESERVATION, TMK
ITEM F-12 7-6-01:POR. 1

ACTION Unanimously approved as submitted. (Yuen/Arata)

CANCELLATION OF REVOCABLE PERMIT NO. S-5972 AND ISSUANCE OF NEW REVOCABLE PERMIT COVERING LOT 521C, SAND ISLAND INDUSTRIAL LOTS, HONOLULU, OAHU,
ITEM F-13 TMK 1-5-41

Mr. Yuen asked if the Board could properly cancel a permit and issue a new one and allow him to be one of the eligible permittees under the leases.

Mr. Young responded that the difficulty here is that a permit is not assignable. Discussion continued on whether this would be fair to the permittee due to the pending development agreement involving that area.

ACTION Mr. Yuen moved that the Board approve the amendment of the permit by deleting the name of Mr. Manuel Santos. Seconded by Mr. Arata, motion carried.

REQUEST TO APPROVE FIRST AMENDMENT TO LEASE OF STORAGE SPACE FOR THE DEPARTMENT OF ATTORNEY GENERAL, LITIGATION DIVISION, ASBESTOS UNIT FOR STORAGE SPACE IN THE MODEL PROGRESS BUILDING LOCATED AT 1188 FORT STREET
ITEM F-14 MALL, HONOLULU, OAHU

ACTION Unanimously approved as submitted. (Yuen/Arata)

WITHDRAWAL FROM EXECUTIVE ORDER NO. 671 (COUNTY OF KAUAI/KAPAA DUMPING GROUND) AND SUBSEQUENT CONVEYANCE IN FEE TO COUNTY OF KAUAI FOR ROADWAY PURPOSES, KAPAA, KAWAIHAU (PUNA), KAUAI
ITEM F-15

ACTION Unanimously approved as submitted. (Apaka/Arata)

REQUEST TO APPROVE SECOND AMENDMENT TO LAND AND BUILDING PURCHASE AGREEMENT WITH HEMMETER INVESTMENT COMPANY COVERING STATE OFFICE TOWER SITE (GALEN PARCEL), HONOLULU, OAHU, TMK 2-1-17:19 (TO BE DISTRIBUTED)
ITEM F-16

See pages 14-15 for action.

ADDED REQUEST TO APPROVE (1) SECOND AMENDMENT TO LEASE AND (2) DECLARATION OF RESTRICTIVE COVENANTS, LEASE BETWEEN CAMPBELL ESTATE AS LESSOR AND STATE OF HAWAII AS LESSEE, KAHUKU, KOOLAULOA, OAHU, TAX MAP KEYS: 5-6-05:09, 5-6-06:POR. 19 AND 5-6-08:POR. 2
ITEM F-17

ACTION Unanimously approved as submitted. (Yuen/Arata)

RESCISSION OF PRIOR BOARD ACTION OF DECEMBER 15, 1989 (AGENDA ITEM F-22) AS AMENDED, PROPOSED LAND EXCHANGE BETWEEN STATE OF HAWAII AND KAHALA CAPITAL CORPORATION, AUTHORIZED APPLICANT FOR LONG & MELONE, LTD., A HAWAII CORPORATION, AS TRUSTEE, BY WAY OF TRUST AGREEMENT DATED OCTOBER 21, 1967, AS EXTENDED, BY AND BETWEEN ROYAL HAWAIIAN MANAGEMENT CORPORATION, A HAWAII CORPORATION, AND LONG & MELONE, LTD., A HAWAII CORPORATION, LANDOWNER-AWAKEE/MANINIOWALI KUKIO 2ND, NORTH KONA, HAWAII
ADDED
ITEM F-18

See pages 13-14 for action.

ITEM G-1 PERMISSION TO ENTER INTO A COMPUTER SERVICES CONTRACT

ACTION Unanimously approved as submitted. (Yuen/Arisumi)

ITEM H-1 REQUEST FOR SECOND 90-DAY TIME EXTENSION OF A PENDING CONSERVATION DISTRICT USE APPLICATION (CDUA), FOR DESILTING A PORTION OF THE STATE-OWNED SUBMERGED LANDS AT MOKOLELAU, MOLOKAI; APPLICANT: GRACE LAND INVESTMENTS, INC.; AGENT: BREWER/BRANDMAN ASSOCIATES

ACTION Unanimously approved as submitted. (Arisumi/Arata)

ITEM H-2 CDUA FOR THE KAHAKULOA GAME MANAGEMENT AREA, KAHAKULOA, MAUI; APPLICANT: STATE OF HAWAII, DLNR, DIVISION OF FORESTRY AND WILDLIFE

ACTION Unanimously approved as submitted. (Arisumi/Arata)

ITEM H-3 CDUA FOR A PERMITTED USE TO INSTALL A DISASTER WARNING SIREN AT KAILUA, HAWAII; APPLICANT: STATE CIVIL DEFENSE AGENCY; AGENT: RONALD N.S. HO AND ASSOCIATES

See page 6 for action.

ITEM H-4 REQUEST FOR TEMPORARY VARIANCE FOR CDUA REQUIREMENT DATA COLLECTION/ISLAND OF MOLOKAI; APPLICANT: SARAH E. SYKES

ACTION Unanimously approved as submitted. (Arisumi/Apaka)

ITEM H-5 CDUA FOR A NON-CONFORMING SINGLE FAMILY RESIDENCE, SOUTH KONA, HAWAII; APPLICANT: MR. AND MRS. MASAHARU G. WATANABE; AGENT: MS. JUNE I. TOMIOKA

See page 5 for action.

ITEM H-6 RECONSIDERATION OF APPLICANT'S PLANS AND APPLICANT COMPLIANCE WITH BOARD CONDITIONS FOR A CDUA FOR SINGLE FAMILY RESIDENCE, ETC.; APPLICANT: MR. DAVID E. FAZENDIN (AS AGENT FOR WIFE)

See pages 8-12 for action.

ITEM H-7 CDUA FOR A PASSIVE MICROWAVE REPEATER STATION, OMAO, KAUAI; APPLICANT: CYBERTAL CORPORATION; AGENT: WALTON D.Y. HONG

See pages 6-7 for action.

ITEM H-8 CDUA FOR PERMISSION TO REPAIR UNAUTHORIZED ADDITION TO AN EXISTING NONCONFORMING STONE GROIN; APPLICANT: WILLIAM L. STERN

See pages 2-5 for action.

ITEM H-9 APPROVAL OF SAND ISLAND INDUSTRIAL PARK DEVELOPMENT

See pages 12-13 for action.

ITEM I-1 FILLING OF POSITION NO. 07733, INVESTIGATOR IV, ISLAND OF OAHU

ACTION Unanimously approved appointment of Mr. Clifford R. Robinson to fill the Investigator IV, Position No. 07733. (Yuen/Arisumi)

ITEM J-1 LEASE OF LAND FOR A SPECIAL FACILITY AT HONOLULU INTERNATIONAL AIRPORT OAHU (CONTINENTAL AIRLINES, INC.)

ACTION Unanimously approved as submitted. (Yuen/Arisumi)

ITEM J-2 AIRPORT SHUTTLE BUS - KAHULUI AIRPORT, MAUI

Mr. Arisumi asked Mr. Garcia to be sure the contract includes that the bus to meet all flights.

ACTION Unanimously approved as submitted. (Arisumi/Apaka)

ITEM J-3 RIGHT-OF-ENTRY, LIHUE, KAUAI (CITIZENS UTILITIES COMPANY)

ACTION Unanimously approved as submitted. (Apaka/Arisumi)

ITEM J-4 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4635, ETC., AIRPORTS DIVISION

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM J-5 RENEWAL OF REVOCABLE PERMITS 0932, ETC., AIRPORTS DIVISION

ACTION Unanimously approved as submitted. (Arisumi/Yuen)

ITEM J-6 ISSUANCE OF REVOCABLE PERMIT, SAND ISLAND ACCESS ROAD, HONOLULU, OAHU (THOMAS P. WANG DBA UNIFIED SEAFOOD HAWAII)

ACTION Unanimously approved as submitted. (Yuen/Arisumi)

ITEM J-7 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 1, KAHULUI HARBOR, MAUI (LAND/SEA ENGINEERING CONSTRUCTION, INC. AND HALEAKALA STORAGE & TRANSFER, INC.)

ACTION Unanimously approved as submitted. (Arisumi/Yuen)

ITEM J-8 CONTINUANCE OF REVOCABLE PERMITS H-87-1459, ETC., HARBORS DIVISION

ACTION Unanimously approved as submitted. (Arisumi/Yuen)

RESOLUTION: Mr. Arisumi congratulated and commended Mr. Archie Viela, of the Bureau of Conveyances who would be retiring on April 30, 1990 after 42 years of faithful service to the State of Hawaii. The Board joined in adopting a Resolution thanking him for a job well done.

ADJOURNMENT There being no further business, the meeting adjourned at 3:05 p.m.

Respectfully submitted,


Dorothy Chui
Secretary

APPROVED FOR SUBMITTAL:



WILLIAM W. PATY, Chairperson