

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

DATE: JUNE 8, 1990
TIME: 8:30 A.M.
PLACE: EVENTS PAVILLION
OLD KONA AIRPORT
KAILUA-KONA, HAWAII

ROLL
CALL

Chairperson William W. Paty called the meeting of the Board of Land and Natural Resources to order at 8:39 a.m. The following were in attendance:

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

STAFF: Mr. Henry Sakuda
Mr. Michael Buck
Mr. Manabu Tagomori
Mr. Richard Kanayama
Mr. Mason Young
Mr. Ed Henry
Mr. Peter Hendricks
Mr. Morris Ota
Mrs. Geraldine Besse

OTHERS: Mr. Johnson H. Wong, Deputy Atty. Gen.
Mr. Peter Garcia, Dept. of Transportation
Mr. Joe Kaipo (Item E-3)
Mr. Tom Hickey (Item E-3)
Ms. Meredith Ching (Item F-1-h, -i, -j, and -k)
Mr. Harold Kurihara (Item F-16)
Mr. Richard McQuain (Item F-22)
Mr. Ken Melrose (Item H-1)
Mr. Craig Nakamura (Item H-5)
Mr. Isaac Hall (Item H-5)
Mr. Edgar Hamasu and Mr. Walter Arakaki (Item H-8)

ADDED
ITEMS

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

Item E-4 -- Permission to Negotiate with Consultants to Prepare Interpretive Signs for Nuuanu Pali State Wayside, Honolulu, Oahu

Item F-23 -- Out-of-State Travel Request to Attend the Western States Land Commissioners Association (WSLCA) Summer Conference

Items on the agenda were considered in the following order to accommodate those applicants and interested persons present at the meeting:

ISSUANCE OF REVOCABLE PERMIT TO EAST MAUI IRRIGATION CO., LTD. FOR DEVELOPMENT, DIVERSION AND USE OF WATER "NAHIKU LICENSE" AREA, KOOLAU FOREST RESERVE, NAHIKU, MAUI

and

ISSUANCE OF REVOCABLE PERMIT TO A&B-HAWAII, INC. FOR DEVELOPMENT, DIVERSION AND USE OF WATER "KEANAE LICENSE" AREA, KOOLAU FOREST RESERVE, KEANAE, MAUI

and

ISSUANCE OF REVOCABLE PERMIT TO A&B-HAWAII, INC., FOR DEVELOPMENT, DIVERSION AND USE OF WATER "HONOMANU LICENSE" AREA, KOOLAU FOREST RESERVE, HONOMANU, MAUI

and

ISSUANCE OF REVOCABLE PERMIT TO A&B-HAWAII, INC., FOR DEVELOPMENT, DIVERSION AND USE OF WATER "HUELO LICENSE" AREA, HUELO, MAUI

Mr. Young asked to amend the recommendations to include the condition that the permittees shall work jointly with DLNR to develop and implement a watershed management plan.

ACTION

Unanimously approved as amended (Kealoha/Arata).

REQUEST FOR CONTESTED CASE HEARING ON T. P. LIEM'S CUA FOR A SINGLE FAMILY RESIDENCE, HAWEA POINT, KAPALUA, MAUI, TMK 4-2-01:03

Mr. Henry stated that the Board approved the subject application on March 9, contingent upon 25 conditions, one of those conditions (No. 24) was "that a review by the Department of the Attorney General indicates that no contested case is required on the matter" as a verbal request was made at the hearing. The written petition for a contested case hearing was received in a timely and orderly manner from the contested case parties and, additionally, Mr. Henry stated, the applicants have submitted a request for a second 90-day extension. The Department of the Attorney General has determined that the petition was filed in a timely manner and has identified that the law allows the presiding officer to deny any application to be a party when it appears that the petition of that applicant is substantially the same as other parties already admitted. Given the limited time available for a contested case hearing and the fact that all the petitioners have substantially, if not identical positions in this case, it was the recommendation that only one party be admitted to represent all the petitioners. The Attorney General and staff submit that the adjacent party-owners identified as Edwin and Julia Oldfield have property interests and standing and thus recommend they be admitted as the party in the proceedings; and considering the time and resources of the Board members, the staff recommended that the Board appoint a hearings officer under section 131-32 of the Hawaii Administrative Rules to make recommendation to the Board. The staff also affirmed that the 90-day time extension should be granted.

Mr. Henry summarized that the staff recommends (a) that the Board approve the request for a contested case hearing; (b) that the Board authorize the Chair to solicit qualified parties to serve as hearing officer and that the Chairperson recommend a person to serve as the hearing officer for the Board consideration and final determination; and (c) that the Board approve the parties identified as Edwin and Julia Oldfield in the contested case.

With respect to the parties approved as the contestants, Mr. Kealoha asked whether the parties would be limited only to the Oldfields. Mr. Henry indicated that was the staff recommendation.

Mr. Kealoha asked about the timetable with respect to the notification to the parties involved outlining with the Attorney General's office the time schedule and discovery for the contested case hearing. Mr. Henry answered that once the Board identifies that there is a contested case, the parties will be notified in a timely manner, design a time-frame accordingly, and return to the Board for its consideration.

Mr. Henry requested an additional recommendation: No. 4 - that the Board approve the time extension of 90 days from June 10.

Isaac Hall, representing the petitioners, requested that all be admitted as parties and that the contested case be scheduled. He stated he reviewed all of the memoranda and added that there may be lack of clarity on who the petitioners are. There is an organization, "Friends of Hawea Point," comprised of owners of units of Kapalua Bay Villas, recreational users of Hawea Point, and those interested in protecting open space and scenic characteristics of Hawea Point. He stated there are named owners on the petition, Scott and Jennifer Northrup, and Edwin and Julia Oldfield. Mr. Hall pointed out that in his memorandum he acknowledged that the Northrups have sold their property and are no longer adjacent property owners but are, however, recreational users and interested in the protection of open space at Hawea Point. The third petitioner is Rick Sands in an individual capacity and in his capacity as director of Maui Tomorrow.

Mr. Hall noted that the result of the Board's action would deny the petitions of Friends of Hawea Point, Rick Sands, and Maui Tomorrow. Mr. Hall felt it constituted appealable error but, more importantly, he said, he did not think it was necessary for the Board to deny the petitions and would not serve any useful purpose. Mr. Hall stated that if only the Oldfields were allowed in, when Mr. Oldfield testifies his comments might be limited to the impacts on his own property and when he testifies about the view impacts to other people and other property owners the hearing officer may not allow the testimony and, similarly, with the recreational uses, the hearing officer might allow only the testimony of the Oldfields'.

Mr. Hall stated there are over 300 fishers who use Hawea Point and who are members of Friends of Hawea Point. Mr. Oldfield, if limited to his interest alone, would not be able to represent the interest of the 300 local fishers. Mr. Hall stated the testimony would be limited to his use alone and did not believe he had the same traditional uses the fishers had.

Mr. Hall noted that the Board has recognized the interest of adjacent property owners but has failed to also recognize the interest of those adjacent property owners who are members of Friends of Hawea Point. Owners of 78 units of Kapalua Bay Villas are members of Friends of Hawea Point. Mr. Hall stated that if the Board is saying "adjacent property owners" should be entitled to intervene and participate in the contested case those 78 other people have to be recognized as well. Mr. Hall stated that Hawaii case law is quite clear that if members of a group are adjacent property owners the group itself has to be allowed to intervene. He cited two cases on that point in his memorandum, Baldwin, and Life of the Land I, which is similar and directly holds that if some members are adjacent owners that group as a whole has a right to intervene.

Mr. Hall stated that the recommendation of staff also does not recognize the right of those other than adjacent property owners. He noted that the Hawaii Supreme Court on numerous occasions has recognized the right of people who

use property for recreational purposes to intervene and have standing to appeal. Two cases were cited in his memorandum, Akau v. Olohana Corp., and Life of the Land I.

Beyond these technical arguments, Mr. Hall stated that he did not think it served any useful purpose for the Board to deny these other people the right to intervene. He further stated that if the Board's purpose is not to exclude all that testimony--in other words, if the Board's purpose in allowing this intervention is not to limit the testimony then that should be clearly stated in an order that the Board will allow testimony of fishers, those whose view is blocked, and other individuals represented by these groups. If the Board's intent, he went on, by only allowing Mr. Oldfield and limiting the scope of testimony, then clearly the others are being denied their right to participate in the contested case.

He noted the staff's concern about limited time. As a matter of practicality, he said, he is the attorney representing all of them; there will not be three or four attorneys representing three or four different groups. There is only one attorney and only one case being put on. He agreed to limit the testimony.

Finally, he stated, the Board must consider the position that Friends of Hawea Point is being put in. He stated that Hawaii case law clearly supports their right to intervene. The new Simpson case involves the Board's proceedings in the contested case before this Board. The Attorney General argued before the Hawaii appellate courts that if one doesn't participate in the contested case that individual has no right to appeal. The Hawaii appellate court agreed; therefore, by denying the petitions to intervene, the Board is denying the right of these people to appeal, except for the appeal of the denial of the petition to intervene. If Friends of Hawea Point decides it has been denied the right to participate and appeals to the circuit court, then what has been spawned is a whole additional level of litigation. In other words, Mr. Hall said, the Board might start the contested case and at the same time Friends of Hawea Point may appeal to the circuit court arguing that their right to appeal was denied and then the Board might be in the awkward position of having to hold a second contested case.

Mr. Hall asked that the Board admit all of the people he mentioned as parties, that the ruling be declared today that it is not the intent of the Board to limit the testimony solely to the concerns of Mr. Oldfield, and that a notice of hearing be issued. He asked that if the Board is going to grant a contested case for any or all of the parties the Board void the CDUA permit that was issued. In reference to Condition No. 24, the permit needs to be voided for two reasons. One, it has caused a lot of confusion in that are many people who believe the applicant has a valid CDUA and that "it's all over." More importantly, he stated, a clean slate would be needed because the hearing officer shouldn't believe that there is a CDUA permit in effect or that the Board has taken a position that there is or should be a CDUA permit.

Mr. Hall further stated he has no problem with the time extension so long as it gives them sufficient time for a contested case.

Mr. Craig Nakamura stated that he submitted a memorandum in opposition to the the petition for intervention and doesn't necessarily feel that a contested case is necessary and that all the evidence could be presented in the course

of their regular application; however, they have reviewed staff's recommendation and that of the Attorney General's Office and are willing to abide by that recommendation. He stated it was clear that the Attorney General's Office and staff looked very carefully at the Board's rules and interpreted those rules based on who they felt was the necessary party or should be admitted to an intervention. The rules say that adjacent property owners are entitled to intervention and that they have standing if the Board feels that petitioner-adjacent owner will be substantially affected and can add information--that was the purpose of the contested case hearing, to obtain information from other parties to assist the Board in making its determination. Mr. Nakamura stated that the argument being raised is because there are adjacent owners who are members of an organization who believe that organization should also be allowed to participate. He stated that the argument did not make sense as they are basically saying that there are adjacent property owners and represent the organization and their views will be expressed, their testimony received, and they will speak for that association. If there is going to be any contested case hearing at all the staff recommendation is correct and there should be only that adjacent property owner who has been identified to this point and still owns property. They should not be allowed to "boot strap" in and say that the association should join just because their members are parties. It would not serve any purpose for the association to be a participant because that adjacent property owner is going to speak for them, basically.

With respect to the position of testimony limitation, Mr. Nakamura said that what might happen is that the hearings officer will have a conference in which such matters such as evidence, procedures and timing will be established, and it would be up to the hearings officer to make that determination.

Finally, he said, in regard to the invalidation of the permit, the order when it was given, was that it was subject to whether or not there would be a contested case hearing and how the Board decided on the contested case hearing. He did not feel it was necessary to invalidate the order at this time.

Mr. Paty called for an executive session from 9:01 a.m. to 9:11 a.m.

Pending conclusion of legal discussion among staff and legal counsel, the Board moved on to Item H-1.

REQUEST FOR 90-DAY THIRD TIME EXTENSION OF A PENDING CDUA FOR THE INSTALLATION OF MOORINGS, ETC., ON SUBMERGED LANDS IN 'ANAHO'OMALU BAY, OFFSHORE FROM THE WAIKOLOA BEACH RESORT, 'ANAHO'OMALU BAY, SOUTH KOHALA, COUNTY OF HAWAII; OFFSHORE FROM TMK 6-9-07:11; APPLICANT: WAIKOLOA DEVELOPMENT CO. (AGENT-BELT COLLINS AND ASSOCIATES)

ITEM H-1:

ACTION Unanimously approved as submitted (Arisumi/Kealoha).

DEPARTMENT OF HUMAN SERVICES FOR ITS HAWAII HOUSING AUTHORITY REQUESTS SET ASIDE OF LAND AT WAIAKEA, SO. HILO, HAWAII FOR LOW-INCOME HOUSING RENTAL PROJECT, TAX MAP KEY 2-4-52:1, 16, 17, 18 & 19

ITEM F-4:

ACTION Unanimously approved as submitted (Kealoha/Arata).

WITHDRAWAL FROM EXECUTIVE ORDER NO. 3061 AND DIRECT LEASE TO HAWAII HOUSING AUTHORITY, PORTION OF MALUHIA HOSPITAL AT KAPALAMA, HONOLULU, OAHU, TAX MAP KEY 1-6-09:POR. 4

ITEM F-16:

In reply to a question from Mr. Kealoha, Mr. Young indicated that one acre was set aside but the actual configuration to be withdrawn has not been determined. The Department of Health and the HHA have been working on that and the necessary surveyors will be hired. Mr. Kealoha stated he found it very difficult to imagine the development of elderly housing on part of the

area presently situated for Maluhia Hospital because of the driveways, the access, the hill, slope, etc. Mr. Young indicated that there is sufficient area behind the hospital and may include the parking lot area. Mr. Kealoha said he felt the Board should be provided more information.

Mr. Harold Kurihara from HHA and representatives from the Department of Health and Pacific Housing Corp., the potential developer, were available to answer questions. The DOH representative stated that the Maluhia site is approximately 3.5 acres, and the one acre being discussed is a vacant portion of the land and former men's quarters and laundry site. His information is that 50 units could be built on the site and the units would be built on the lower slope.

Mr. Kealoha inquired whether adjacent property owners were notified. The answer was negative because of the short time of the application to HUD; that the height issue may not really be an issue because Maluhia Hospital from the Kuakini side is five stories high and the units will only come up to the first floor of the present Maluhia unit. The impact will be to the people south of the hospital, from Lanakila Street, approximately two or three residences on Keola Drive. Residents on Hala Drive will not be impacted. Mr. Kealoha stated he disagreed. His concerns are whether residents have been contacted, and the impact to residents on Hala Drive at the sharp curve, the former laundry site.

Mr. Kealoha reiterated that HHA should have gone to the community and shown them the plans prior to coming to the Board. Mr. Kurihara noted that on federally funded projects until they obtain site control they do not solicit community input and schedule public hearings. Mr. Kealoha stated they heard that on all HHA proposals. He also noted that the Hanapepe project is still unfinished and now they are working on another one. Mr. Paty noted that these types of actions puts pressure on the Board.

ACTION Approved as submitted with dissenting vote of Mr. Kealoha (Apaka/Arata).

ITEM H-5: CONTINUED.

Mr. Henry stated that in addition to the three recommendations and the fourth for time extension, the staff now recommends that the Board allow Maui Tomorrow and Friends of Hawea Point to intervene as parties on the following conditions:

- (1) that only one individual having a property interest be designated to represent each group;
- (2) the numbers of witnesses to be limited to and determined at the prehearing conference; and
- (3) only one attorney to represent petitioners and intervenors.

It would make a total of seven conditions to the recommendation.

Mr. Nakamura commented they would like to have a list of members of Friends of Hawea Point and Maui Tomorrow as well as a list of condominium owners of Bay Villas. Mr. Hall indicated that the same information was requested in a present court proceeding.

Mr. Hall further indicated his concern about the invalidation of the permit.

Mr. Henry stated that the Board did act on the CDUA; when it goes to a contested case the action would be a decision and order of the Board.

Mr. Kealoha commented that the Board acted on the CDUA. Counsel requested that the Board reverse its original decision; however, he did not feel that the Board should reverse its decision based on the application; that the contested case should run.

Mr. Hall stated that the Board acted on Condition No. 24--so long as the AG said no contested case was necessary. To have a contested case on whether a permit should issue would be contrary to having a permit in place. Mr. Nakamura stated that the Order that is in place is subject to the contested case--whatever the decision of the Board after the contested case will affect the final outcome.

Mr. Henry stated that the staff wanted to clarify that there are three parties identified in the contested case: the Oldfields, Friends of Hawea Point and Maui Tomorrow, subject to the witnesses being limited and to be determined at the prehearing conferences, and only one attorney representing them.

Mr. Paty stated that regarding the master question the Chair will undertake to make that determination after further review; on the Board's time schedule, parties concerned will be notified.

Mr. Henry clarified the action of the Board: delete no. 2 under "Recommendation"; "subject to determination by the Chair after reviewing the Board's schedule."

ACTION

Approved as amended, with dissenting vote cast by Mr. Kealoha. He stated he felt it was not necessary to have a contested case hearing (Arisumi/Arata).

ITEM E-3:

REQUEST TO ASSIGN JOB NO. 89-HP-B(c) FROM HAWAII UNTOUCHED INC. TO HAWAII UNTOUCHED PARKS AND RECREATION, INC. FOR FOOD AND BEVERAGE FACILITY, BEACH SERVICES AND LODGING CONCESSION, HAPUNA BEACH STATE PARK, HAWAII

Mr. Kanayama stated that the submittal is erroneous in stating that the two corporations have the same vice-president and secretary-treasurer. The staff recommends the following conditions, not originally listed in the submittal:

- (1) review and approval of the assignment by the Department of the Attorney General;
- (2) receipt of HUI's completed articles of incorporation filed with the Department of Commerce and Consumer Affairs; and
- (3) such other terms and conditions as may be imposed by the Chairperson.

Mr. Kaipo stated they have taken control of the cabin area as of June 1, and the concession stand renovation should be completed by September 1.

ACTION

Unanimously approved as amended (Arata/Arisumi).

ITEM H-8:

SAND ISLAND INDUSTRIAL PARK; APPROVAL OF DOCUMENTS

Mr. Young stated that the document basically follows the development agreement and lease which have been negotiated for the past five months and the memorandum of understanding executed on March 23, 1990. He stated that staff was recommending that the delinquent assessment under B-8 of the memorandum be deleted because of the confusion with respect to bankruptcy; then in the event the Board should authorize the Chairman to complete the development, be subject to the review and changes of the Chairman and the Attorney General's office.

ACTION Mr. Kealoha moved for approval of the submittal and documents, subject to the Chairman's and AG's review for final approval and consent as to language and form. Mr. Kealoha also asked to include the amendment with respect to the delinquent assessment. The motion was seconded by Mr. Arata as amended and unanimously approved.

AMENDMENT TO CONSERVATION DISTRICT USE PERMIT OA-2242 FOR THE HAWAII VETERANS MEMORIAL CEMETERY, KANEOHE, OAHU; TMK 4-5-33:2; APPLICANT: DEPARTMENT OF DEFENSE, STATE OF HAWAII

ITEM H-2:

ACTION Unanimously approved as submitted (Kealoha/Apaka).

AMENDMENT TO REVOCABLE PERMIT NO. S-5566 TO HAWAIIAN ELECTRIC COMPANY, INC., PUU MANAWAHUA, EWA, OAHU, TMK 9-2-05:14

ITEM F-22:

Mr. Young stated that request from HEI was for an amendment to the permit; they did not request a direct lease. Mr. Kealoha explained he had a problem in relation to HRS 171-55 and permits. Mr. McQuain from Hawaiian Electric stated they have been on a permit for a number of years; that he felt it was sufficient to have HECO as the permittee.

Mr. Kealoha asked to amend by adding that if the applicant had no objection and a lease was possible by direct negotiation the Department pursue that avenue to clear that section of the statutes, HRS 171-55, without interrupting the intent of the permit, subject to the AG and PUC.

Mr. Young asked to amend the permit to reflect HECO as the correct permittee and elimination of State of Hawaii as they are not a user.

ACTION Mr. Kealoha moved for approval as amended: (1) change HEI to HECO; (2) address the lease arrangement subject to AG approval; and (3) maintain Castle and Cooke as a permittee.

Unanimously approved as amended (Kealoha/Apaka).

RECESS The Chairman called a recess from 10:06 to 10:15 a.m.

REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII (RCUH) FOR PREPARING A "HAWAII FISHERIES PLAN--1990"

ITEM B-1:

ACTION Unanimously approved as submitted (Arata/Arisumi).

MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE DIVISION OF FORESTRY AND WILDLIFE AND NATIONAL PARK SERVICE

ITEM C-1:

ACTION Unanimously approved as submitted (Arata/Arisumi).

ITEM C-2: OUT-OF-STATE TRAVEL REQUEST FOR JEANINE LUM

ACTION Unanimously approved as submitted (Arisumi/Kealoha).

APPROVAL FOR AWARD OF CONTRACT - JOB NO. 2-HW-G, UPPER HAMAKUA DITCH IMPROVEMENTS, PHASE II-A 24-INCH INTAKE PIPELINE, HAWAII

ITEM D-1:

ACTION Unanimously approved as submitted (Arata/Arisumi).

APPROVAL FOR AWARD OF CONTRACT - JOB NO. 5-OW-C, KAILUA RESERVOIR SPILLWAY, WAIMANALO IRRIGATION SYSTEM

ITEM D-2:

ACTION Unanimously approved as submitted (Kealoha/Apaka).

- ITEM D-3: APPROVAL OF AWARD OF CONTRACT - JOB NO. 9-OF-K. WAHINEPEE STREET FLOOD AND DRAINAGE SYSTEM IMPROVEMENTS, OAHU
- ACTION Unanimously approved as submitted (Kealoha/Apaka).
- ITEM D-4: APPROVAL FOR AWARD OF CONTRACT - JOB NO. 17-MW-M, WAHIKULI EXPLORATORY NO. 5439-01, MAUI
- ACTION Unanimously approved as submitted (Arisumi/Arata).
- ITEM D-5: AWARD OF CONSTRUCTION CONTRACTS - VARIOUS DOWALD PROJECTS, STATEWIDE
- ACTION Withdrawn from the agenda Job No. 2-HW-G (Upper Hamakua Ditch Improvements) at the request of the bidder, Walter Y. Arakaki, because of errors in his bid (Kealoha/Apaka).
- All other bids unanimously approved as submitted (Kealoha/Arisumi).
- ITEM D-6: AWARD OF CONSTRUCTION CONTRACTS - VARIOUS STATE PARKS PROJECTS, STATEWIDE
- ACTION Unanimously approved as submitted (Kealoha/Arisumi).
- ITEM D-7: AWARD OF CONSTRUCTION CONTRACTS - VARIOUS LAND MANAGEMENT PROJECTS, STATEWIDE
- ACTION Unanimously approved as submitted (Kealoha/Arisumi).
- ITEM D-8: AWARD OF CONSTRUCTION CONTRACTS - VARIOUS FORESTRY AND WILDLIFE PROJECTS, STATEWIDE
- ACTION Unanimously approved as submitted (Arisumi/Arata).
- ITEM D-9: GRANT-IN-AID FOR PROTECT KAHOOLAWA FUND
- ACTION Unanimously approved as submitted (Arisumi/Arata).
- ITEM E-1: ALLOCATION OF OFFICE OF STATE PLANNING SUBGRANT FOR HAWAIIAN FISHPOND STUDY ON THE ISLANDS OF MAUI, LANAI, KAUAI AND HAWAII
- ACTION Unanimously approved as submitted (Arata/Arisumi).
- ITEM E-2: RESUBMITTAL-REQUEST FOR PERMISSION TO CONDUCT CEREMONIES TO OBSERVE THE 150TH ANNIVERSARY OF PUBLIC EDUCATION IN HAWAII ON THE IOLANI PALACE GROUNDS, HONOLULU, HAWAII
- ACTION Unanimously approved with an amendment by Mr. Kealoha to include the bandstand in the permit (Kealoha/Apaka).
- ITEM E-3: See page 7.
- ITEM E-4: ADDED PERMISSION TO NEGOTIATE WITH CONSULTANTS TO PREPARE INTERPRETIVE SIGNS FOR NUUANU PALI STATE WAYSIDE, HONOLULU, OAHU
- Mr. Kanayama stated he would check on whether this would require a CDUA.
- ACTION Unanimously approved as submitted (Kealoha/Apaka).
- ITEM F: DOCUMENTS FOR BOARD CONSIDERATION:
- Item F-1-a: ASSIGNMENT OF GENERAL LEASE NO S-4350, UALAPUE LOTS, UALAPUE, KONA, MOLOKAI, TAX MAP KEY 5-6-02:1
- Item F-1-b: ASSIGNMENT OF GENERAL LEASE NO. S-3769, WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-27:26

- Item F-1-c: ISSUANCE OF REVOCABLE PERMIT TO LUCK "S" DAIRY, GOVERNMENT LAND AT KUAOKALA AND KEALIA, WAIALUA, OAHU, TAX MAP KEY 6-8-02:7
- Item F-1-d: CONSENT TO SUPPLEMENTAL AGREEMENT NO. 3 TO LICENSE AGREEMENT (CONTRACT NO. DACA84-9-75-31) COVERING ABANDONED RAILROAD RIGHT-OF-WAY, WAIANAE, OAHU
- Item F-1-e: ASSIGNMENT OF GENERAL LEASE NO. S-4698 FROM KINOOLE BAPTIST CHURCH TO PUNA BAPTIST CHURCH, KEONEPOKO IKI, PUNA, HAWAII, TAX MAP KEY 1-5-117:25
- Item F-1-f: ASSIGNMENT OF GENERAL LEASE NO. S-4200, WILLIAM F. FERNANDES TO EARL Y. KASHIWAGI, ET AL, KAPAA INDUSTRIAL PARK FOOD PROCESSING PLANT SITE, KAPAA, KAWAIHAU (PUNA), KAUAI, TAX MAP KEY 4-5-15:40
- Item F-1-g: ASSIGNMENT OF GENERAL LEASE NO. S-4200, EARL Y. KASHIWAGI, ET AL TO EARL'S, INC., A HAWAII CORPORATION, KAPAA INDUSTRIAL PARK FOOD PROCESSING PLANT SITE, KAPAA, KAWAIHAU (PUNA), KAUAI, TAX MAP KEY 4-5-15:40
- Unanimously approved as submitted (Arisumi/Arata).
- Item F-1-h: See page 2.
- Item F-1-i: See page 2.
- Item F-1-j: See page 2.
- Item F-1-k: See page 2.
- ITEM F-2: RATIFICATION OF VERBAL ACTION COVERING GENERAL LEASE NO. S-4545 TO HONUA HAWAII 2000, WAIAKEA, SOUTH HILO, HAWAII, TAX MAP KEY 2-4-04:131 AND 132
- ACTION Mr. Arata asked to be excused from participating on this item; however, the item was withdrawn.
- ITEM F-3: DEPARTMENT OF AGRICULTURE REQUESTS CONVEYANCE OF VARIOUS PARCELS, ISLAND OF HAWAII, TAX MAP KEY 3-2-02:17; 2-9-04:06 AND 77; 2-9-02:16; 3-2-04:25; AND 2-3-28:29
- ACTION Unanimously approved as submitted (Arata/Arisumi).
- ITEM F-4: See page 5.
- ITEM F-5: AMENDMENT TO PRIOR BOARD ACTION OF JUNE 27, 1986 (ITEM F-9) CONCERNING LEASE TERM EXTENSION AND CONSENT TO MORTGAGE OF GENERAL LEASE NO. S-4009, WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-25:54
- ACTION Unanimously approved as submitted (Kealoha/Apaka).
- ITEM F-6: QUITCLAIM OF STATE OF HAWAII'S RIGHT, TITLE AND INTEREST IN AND TO ROAD EASEMENTS; WITHDRAWAL OF EASEMENTS FROM EXECUTIVE ORDER NO. 3414 AND ACCEPT CONVEYANCE OF EASEMENTS BETWEEN U.S.A. AND STATE OF HAWAII, WAIPIO, EWA, OAHU
- ACTION Unanimously approved as submitted (Apaka/Kealoha).
- ITEM F-7: WITHDRAWAL FROM EXECUTIVE ORDER NO. 3115 (PEARL CITY CIVIC CENTER ANNEX) AND DIRECT ISSUANCE OF LEASE TO THE ASSOCIATION OF RETARDED CITIZENS OF HAWAII, PEARL CITY, OAHU, TAX MAP KEY 9-7-94:28
- ACTION Unanimously approved with an amendment on page 2, under "Annual Rental," delete 4% gross revenues (Apaka/Arisumi).
- ITEM F-8: DIRECT GRANT OF NON-EXCLUSIVE EASEMENT FOR SEAWALL AND OTHER PROPERTY IMPROVEMENTS AT HEEIA, KOOLAUPOKO, OAHU, TAX MAP KEY 4-6-3:FRONTING 88
- ACTION Unanimously approved as submitted (Kealoha/Apaka).

- ITEM F-9: AUTHORIZATION TO CANCEL REVOCABLE PERMIT NO. S-5665 TO IMUA SALES AND SERVICES, INC. AT SAND ISLAND, OAHU, TAX MAP KEY 1-5-41:116
- ACTION Withdrawn as permittee has complied (Kealoha/Apaka).
- Mr. Arisumi expressed his concerns regarding the restoration of the permit without penalty. Mr. Kealoha stated he felt an assessment should be imposed for administrative costs or fines when a permit is restored. Mr. Young stated that future notices will include a statement to that effect.
- ITEM F-10: DIRECT SALE OF RECLAIMED (FILLED) LAND AT KANEOHE BAY, KANEOHE, KOOLAUPOKO, OAHU, TAX MAP KEY 4-4-21:SEAWARD OF 36
- Mr. Young asked that two amendments be made: (1) purchaser waive his littoral rights; and (2) addition of Paragraph C--publication of disposition as required by law.
- ACTION Unanimously approved as amended (Kealoha/Apaka).
- ITEM F-11: DIRECT SALE OF REMNANTS AT WAIU, OAHU, TAX MAP KEY 9-8-20:71 & 95
- ACTION Unanimously approved as submitted (Kealoha/Apaka).
- ITEM F-12: DIRECT ISSUANCE OF LEASES TO HAWAII HOUSING AUTHORITY FOR VARIOUS SITES, OAHU AND/OR HAWAII
- ACTION Withdrawn because of technical problems.
- ITEM F-13: CONVEYANCE IN FEE TO CITY AND COUNTY OF HONOLULU, WAIANAE AGRICULTURAL PARK ROAD LOTS, WAIANAE, OAHU, TAX MAP KEY 8-5-34
- and
- ITEM F-14: CITY AND COUNTY OF HONOLULU, BOARD OF WATER SUPPLY REQUESTS SET ASIDE OF WELL AND RESERVOIR SITES, TOGETHER WITH DRAINAGE, FLOWAGE, UTILITY AND ACCESS EASEMENTS, WAIANAE AGRICULTURAL PARK, WAIANAE, OAHU, TAX MAP KEY 8-5-34
- and
- ITEM F-15: GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENTS TO THE CITY AND COUNTY OF HONOLULU FOR DRAINAGE PURPOSES, WAIANAE AGRICULTURAL PARK, WAIANAE, OAHU, TAX MAP KEY 8-5-34
- Mr. Kealoha asked that the reverter clause be included in each of the above documents.
- ACTION Unanimously approved as amended (Apaka/Kealoha).
- ITEM F-16: See page 6.
- ITEM F-17: AMENDMENT TO PRIOR BOARD ACTION OF JANUARY 26, 1990 (ITEM F-19) CONCERNING THE DIRECT SALE OF REMNANT (NIHO ROAD), KALAHEO, KAUAI
- ACTION Unanimously approved as submitted (Apaka/Kealoha).
- ITEM F-18: KAPAA CONGREGATION OF JEHOVAH'S WITNESSES REQUESTS INTERIM RIGHT-OF-ENTRY FOR SITE GRADING AND LANDSCAPING, KEALIA, KAUAI, TAX MAP KEY 4-6-14:26
- ACTION Unanimously approved as submitted (Apaka/Kealoha).
- ITEM F-19: COUNTY OF MAUI REQUEST FOR GRANT OF DRAINAGE EASEMENT AND CONSTRUCTION RIGHT-OF-ENTRY OVER AND ACROSS STATE LAND AT KAHAKULOA, WAILUKU, MAUI, HAWAII, TAX MAP KEY 3-1-02:POR. OF 2 AND 3-1-04:POR. OF 6
- ACTION Unanimously approved as submitted (Arisumi/Arata).

ITEM F-20: REQUEST FOR AUTHORIZATION TO ACQUIRE LANDS HAVING RESOURCE VALUE TO THE STATE, PAPAALOA, LAUPAHOEHOE, KALOPA, NORTH HILO, HAWAII

ACTION Withdrawn.

ITEM F-21: APPROVAL OF ACQUISITION OF LANDS, TAX MAP KEY 6-6-02:6 & 7, HAPUNA BEACH STATE PARK, WAILEA BAY AREA, SOUTH KOHALA, HAWAII

ACTION Unanimously approved as submitted (Arata/Arisumi).

ITEM F-22: See page 8.

ADDED ITEM F-23: OUT-OF-STATE TRAVEL REQUEST TO ATTEND THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION (WSLCA) SUMMER CONFERENCE

ACTION Unanimously approved as submitted (Arisumi/Apaka).

ITEM H-1: See page 5.

ITEM H-2: See page 8.

ITEM H-3: REQUEST FOR A TIME EXTENSION ON CONSERVATION DISTRICT USE PERMIT HA-1711A: SINGLE FAMILY RESIDENCE AT KIHOLA BAY, NORTH KONA, HAWAII, TMK 7-1-02:6 & 8; APPLICANT: ROBERT AND ANN KEENAN

ACTION Unanimously approved as submitted (Arata/Apaka).

ITEM H-4: REQUESTED 60-DAY THIRD TIME EXTENSION FOR A PENDING CDUA FOR "DESILTING" A PORTION OF THE STATE-OWNED SUBMERGED LANDS (SOUTHEASTERLY AREA OF MOLOKAI, OFFSHORE BETWEEN KAWI'U AND PANAHAHA FISHPONDS), MAKOLELAU, MOLOKAI; ADJACENT TO TMK 5-501:38; APPLICANT: GRACE LAND INVESTMENT, INC. (AGENT: BREWER/BRANDMAN ASSOCIATES)

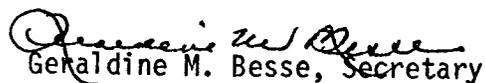
Mr. Henry indicated it was desired to revise the analysis and recommendation. He stated that a public hearing was held on Molokai on Wednesday, June 6, 1990. In the public hearing the adequacy of the submitted draft EIS was specifically reviewed by the hearings officer and other board members and the community, considering a number of items have been identified, which will involve significant fact-finding and analysis supported by agencies comment. The items include those developed by the Division of Aquatic Resources and include a thorough review of the public benefit resulting from the project, a thorough review regarding the question of public access that should be addressed, a thorough review of the submerged and fast land environment, including a detailed inventory on the year-round seasonal basis of aquatic resources available, such as several varieties of limu, other significant fishery resources, a thorough detailed inventory of use of the area by local residents on a year-round and seasonal basis, a detailed maintenance plan should be submitted and a detailed and comprehensive review of the ultimate end of the project to other land use plans of the applicant. Mr. Henry asked that the recommendation be revised; that the Board deny the third time extension; that as the time factors are restrictive the Board deny the subject application at this time; that should the applicant desire to continue his draft EIS process that he be informed that (1) a year-round detailed seasonal comprehensive study be prepared identifying those factors reviewed at the public hearing and (2) draft EIS will not be accepted until these items are adequately addressed.

Mr. Henry in reply to a question stated that notice was sent to the applicant in Grace Land in California but the applicant was on Molokai. The submittal which was sent recommended approval; however, based on the public hearing the recommendation was verbally revised. Mr. Henry stated that the time frame had to be extended or no action would approve the application.

Mr. Henry asked that the recommendation be modified (1) deny the application at this time without prejudice; (2) should the applicant desire to continue his EIS that he be informed that within 30 days he shall comply with the items requested by staff.

- ACTION Unanimously approved as amended (Arisumi/Arata).
- ITEM H-5: See page 7.
- ITEM H-6: REQUEST FOR A 90-DAY TIME EXTENSION FOR A PENDING CDUA TO INSTALL A GRAVITY SEWER AND PUMPING SYSTEM, HHL RESIDENTIAL LOTS, WAIMANALO, OAHU; TMK 4-1-17:1 AND 21; APPLICANT: STATE DEPT. OF HAWAIIAN HOME LANDS (AGENT: FUKUNAGA AND ASSOCIATES, INC.)
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- ACTION Unanimously approved as submitted (Kealoha/Apaka).
- ITEM H-7: CDUA FOR THE HONOLUA WATERSHED PROJECT, MAHINAHINA PHASE, LAHAINA, MAUI, TMK 4-3-06; APPLICANT: COUNTY OF MAUI, DEPT. OF PUBLIC WORKS
-
- ACTION Unanimously approved as submitted (Kealoha/Paty).
- ITEM H-8: See page 8.
- ITEM I-1: APPOINTMENT OF LICENSE AGENT, HORSESHOE-ONE LIVESTOCK AND FEED SUPPLY, ISLAND OF HAWAII
-
- ACTION Unanimously approved as submitted (Kealoha/Apaka).
- ITEM J-1: ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY AND NEGOTIATED LEASE, BARBERS POINT HARBOR, OAHU (MARISCO, LTD.)
-
- ACTION Unanimously approved as submitted (Kealoha/Apaka).
- ITEM J-2: ISSUANCE OF RIGHT-OF-ENTRY FOR DRILLING TEST HOLES FOR MONITORING WATER LEVELS, HARBORS DIVISION, BARBERS POINT HARBOR, OAHU (C.W. ASSOCIATES, INC. DBA GEOLABS HAWAII)
-
- ACTION Unanimously approved as submitted (Kealoha/Apaka).
- ITEM J-3: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIERS 1 AND 2, 7-29, 31-36, 39 AND 40, 51A-53, HONOLULU HARBOR AND KEWALO BASIN, OAHU (DIAMOND HEAD PETROLEUM, INC.)
-
- ACTION Unanimously approved as submitted (Kealoha/Apaka).
- ITEM J-4: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, FORT ARMSTRONG, HONOLULU, HARBOR, OAHU (GENERAL RESOURCES, INC. DBA GENERAL RUSTPROOFING)
-
- ACTION Unanimously approved as submitted (Kealoha/Apaka).
- ITEM J-5: CONTINUANCE OF REVOCABLE PERMITS H-85-1270, ETC., HARBORS DIVISION
-
- ACTION Unanimously approved as submitted (Kealoha/Apaka).
- ITEM J-6: CONTINUANCE OF REVOCABLE PERMITS H-74-443, ETC., HARBORS DIVISION
- Mr. Kealoha moved for approval except Permit No. H-8-4-1163 Motor Imports International; seconded by Mr. Arisumi, and unanimously approved.
- Mr. Arisumi moved for approval of Permit No. H-84-1163; seconded by Mr. Arata, with Mr. Kealoha abstaining from voting on this permit.
- ADJOURNMENT There being no further business, the meeting was adjourned at 11:20 a.m.

Respectfully submitted,


Geraldine M. Besse, Secretary

APPROVED:



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