

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

DATE: SEPTEMBER 28, 1990
TIME: 9:00 A.M.
PLACE: BOARD ROOM
KALANIMOKU BUILDING, RM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII

Before the meeting of the Board of Land and Natural Resources, Chairperson William W. Paty reconvened the Public Hearing of September 27, 1990 which was recessed at 7:00 p.m. last evening. This was just a procedural matter on the appointment of Commissioner John Arisumi to preside over the Public Hearing as the Hearing Master. It was so moved that Mr. Arisumi be appointed to be the Hearing Master for Conservation District Use Application OA-2402 that commenced last night by Mr. Apaka; seconded by Ms. Himeno, motion carried.

Mr. Arisumi the officially appointed Hearing Master then closed the meeting of the Public Hearing for CDUA OA-2402.

ROLL CALL Chairperson William W. Paty called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

MEMBERS: Mr. John Arisumi
Mr. Herbert Apaka
Ms. Sharon Himeno
Mr. William W. Paty

STAFF: Mr. Henry Sakuda
Mr. Roger Evans
Mr. W. Mason Young
Mr. Ralston Nagata
Mr. Michael Buck
Mr. Linford Chang
Ms. Dorothy Chun

OTHERS: Mrs. Dona Hanaike, Deputy Attorney General
Mr. Edwin Watson, Dep. Attorney General (9:30 am)
Mr. Peter Garcia, Department of Transportation
Ms. Sheila Hackman (Item J-15)
Ms. Anne Mapes (Item H-7)
Mr. Stanley Fujimoto (Item H-10)
Mr. William Pyle (Item H-1)
Mr. James Black (Item H-9)
Mr. Bert Kuioka (Items H-4, H-5, H-8)A.
Mr. Larry Leopardi and Mr. Clayton Goo (Item H-3)
Ms. Kawahine Kamakea-Ohelo (Item F-1-a)
Ms. Tamar Chotzen (Item E-1)
Mr. Walton Hong, Mr. Don Karleen and Mr. Peter Nakamura (Item H-2)
Mr. Marshall Chinen and Harry Hamada (Item E-2)

MINUTES: Mr. Apaka moved that the minutes of July 13, 1990 be approved as circulated. Seconded by Mr. Arisumi, motion carried.

ADDED ITEM: Upon motion by Mr. Arisumi and a second by Ms. Himeno, the following was added to the Agenda:

Item E-3 Approval of Grant-in-Aid for the Mo'okini Luakini, Inc., Oahu

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

ITEM J-15 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4697, ETC., AIRPORTS DIVISION

ACTION Unanimously approved as submitted. (Arisumi/Himeno)

ITEM B-1 REQUEST FOR SCIENTIFIC COLLECTING PERMIT BY DR. DAVID W. GREENFIELD FOR USE OF POISON (ROTENONE) TO COLLECT FISH SPECIMENS IN KANEOHE BAY, OAHU

Mr. Sakuda's presentation explained the use of the poison, rotenone and effect on the fish and other specimens in the bay. Answering questions of the Board, he said that the period of time would be one year. The study would be of no cost to the department and it would be submitted to the department upon completion. The rotenone is very harmless and will dissipate in the water or the currents will carry it away. The people doing the scientific collecting will be right at the site.

Mr. Sakuda mentioned that applicant had finalized an Environmental Assessment with the Office of Environmental Quality Control and they have fulfilled all requirements of the State.

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM H-7 REQUEST FOR TIME EXTENSION FOR A PENDING CDUA FOR MAUNA LANI COVE AND DREDGED CHANNEL, SOUTH KOHALA, HAWAII, TMK OFFSHORE FROM 6-8-22:POR. 1, 3, AND 9; APPLICANT: MAUNA LANI RESORTS, INC.; AGENT: BELT COLLINS AND ASSOCIATES

Mr. Evans said that the department did require an Environmental Impact Statement (EIS) of the applicant. To date, the EIS has not been finalized. The applicant is requesting the extension to complete additional studies regarding concerns of the public after their review of the draft EIS.

The Board voiced concern regarding this third request for time extension. Mr. Evans said that applicant's agent was in the audience and he was certain that she heard the expressed desire of the board.

ACTION Unanimously approved as submitted. (Arisumi/Apaka)

ITEM H-10 REQUEST FOR TEMPORARY VARIANCE FOR PROJECT SIGN AND FIELD OFFICE SITE FOR KEALAKEHE PARKWAY, NORTH KONA, HAWAII, TMK 7-4-8:17; APPLICANT: HOUSING FINANCE AND DEVELOPMENT CORPORATION

Before making his presentation, Mr. Evans asked to make several modifications to the submittal. He asked to amend the title of item H-10 to read, "Request for Temporary Variance for Project Sign and Field Office Site, Clearing, Grading, Grubbing and a Right of Entry for Kealakehe Parkway, ...". Also on pages 3 and 4, staff would like to make some modification should the Board approve this Temporary Variance. On the bottom of page 3, staff would like to eliminate Condition No. 3 as the right-of-entry would be granted in the Temporary Variance; and on page 4, on Condition No. 6 at the end, "or be discontinued to the activity.", staff would like to add, "and restore the area to its natural condition."

With those adjustments, staff would like to consider the construction of this temporary sign that would identify the mauka-makai roadway project. Also that sign would be located close to the Queen Kaahumanu Highway. A field office site would be allowed for the contractor's use. The total project relative to the roadway which lies in the conservation district is under-going a Conservation District Application review at this time.

Mr. Evans added that the Department's Historic Preservation Office indicated that there will be no effect with respect to historic properties.

Chairperson Paty confirmed with Mr. Evans that a Conservation District Use Application request will be coming to the Board at a later date.

Mr. Evans added that when the CDUA comes before the board it would be acting only on the roadway, the actual housing area in the project are not in the Conservation District.

ACTION Mr. Arisumi moved for approval of item H-10 as modified. Seconded by Ms. Himeno, motion carried.

ITEM H-1 CONSERVATION DISTRICT USE APPLICATION (CDUA) FOR IMPROVEMENTS TO KUHIMA WELL, WATER TRANSMISSION LINE AND ELECTRICITY TRANSMISSION CORRIDOR, NAHIKU, MAUI, TMK 1-2-04:03; APPLICANT: MAUI PINEAPPLE COMPANY

Ms. Himeno informed the Chairperson that she had checked with the Ethics Commission as to whether she may vote on this item and after explaining the facts they said it would be permissible for her to vote on this item.

Mr. Evans reminded the board that this was the reason this item was deferred at the last meeting. A public hearing was held on Maui on this issue. There are two aspects to the request and he began with the application and then the violation.

Relative to the application staff recommends that the Board approve the temporary land use for one year to test the well. Staff feels that because the stream assessment deals with streams and is really a function of the responsibility within the Water Commission, that that issue could be more appropriately addressed by the Commission and not brought into play with the Land Board, CDUA.

Because the applicant has deployed a plastic pipe within an existing roadway without the Board's permission, staff is recommending a \$500.00 fine. Mr. Evans then presented several photos to the Board on what has been transpiring at the location along with a photo of the pipe for the Board's consideration.

Chairperson Paty asked what might have happened if applicant hadn't put the pipe in.

Mr. Evans replied that when we look at the picture it appears that the pipe was placed there as a part of filling an area so that vehicular access could occur, that may not otherwise have been allowed to occur.

Mr. Arisumi commented as he tried to recall what might have happened if they just put the pipe in and fill in with dirt. When it rains, or when the spring gets more water, the dirt will start deteriorating back into the stream. They put a pipe there to make sure vehicles can pass over.

Mr. Arisumi said that he had looked at a video taken at the site and all he could see was an old road with cars going back and forth and here and there just swamp land because it's all spring water. Regarding the violation his basic concern is, was there any big tree trimming or things like that. Just by putting that one plastic pipe to cross the place without getting a permit from the Land Board, is that why staff is recommending a fine.

Mr. Evans said that he was not sure that it would require a permit from the Land Board, but at least to come in and get some sort of clearance from the Land Department.

Mr. Arisumi commented that with the stream there, he felt that the people had good intention when they placed the plastic pipe in there. If EMI were to repair the road and fill couple of truck loads of dirt to make it passable and when it rains again, all the dirt washes down the stream.

Mr. Evans said that staff felt an obligation to bring it before the Board for consideration.

Chairperson Paty asked applicant if he had anything to add.

Mr. William Pyle of Ag Systems Hawaii, representing Maui Pineapple Company Limited said that he had worked with staff to address the concerns from the public about the possible effects of pumping as well as on the surrounding water resources. They agreed with staff that they should do a testing phase to find out what the effects of this pumping might be, if any. They recently found out, to put in a generator in this area to power this well for a temporary testing, is going to take a 250 horse power diesel powered generator and it's going to require about 200 gallons a day of fuel. In order to test it properly, they have to run it 24 hours a day for 7 days a week and at least a minimum of a week's pumping maybe two, to accumulate enough data to find what the short term effects of pumping would be. They are concerned about the problems about having to deal with the diesel generator and fuel and as an alternative they would like to suggest that they are willing to take the risk on the installation of the electric power line, understanding that if there is a problem during the testing that they would have to remove that at a later date. They will abide with whatever the Board decides.

Responding to Mr. Arisumi's questions: (1) They would not need to widen the road but need to do some improvement on the road to be able to get a large enough vehicle to haul in the fuel. (2) Reconfirmed that they were willing to put in the electrical poles and if it doesn't work out that they would take it out if the Water Commission doesn't allow their permit. They would be willing to put everything back to natural condition. (3) The road was in use from up until 1977 when they did some additional test pumping and it was used off and on until 1980 when Hurricane Iwa came through. They left the damage caused by Hurricane Iwa instead of clearing the road at that time. So it's been used as a hiking trail for hunters and hikers for the last ten years. (4) They went in and cut and removed the deadfalls across the road in order to get in. Just beyond the Kuhiwa Stream crossing they found where there had been in the past a heavy drainage that had cut across the road and washed it out and they thought if they pushed the dirt in, in some future storm, it would just wash out again, so that's why they found a scrap pipe, 6 or 8 inches in diameter, put it in and pushed the dirt over it with the idea that any future storm it would just go through the pipe rather than wash out the dirt.

Mr. Arisumi asked Mr. Pyle if he knew that he would need a permit of some kind to do any installation. Mr. Pyle said that he did not understand that, he thought that it was in the limits of normal road maintenance and he thought that they were allowed to do that without getting a permit.

Chairperson Paty asked what was the timing on the project.

Mr. Pyle said that as soon as they get approval for testing from the Water Commission they would order the pump and pipe column and power materials, it should take 10 to 12 weeks. He continued to answer questions as to the capacity of the pump. He said that pump that they were looking at is a 700 gallon a minute pump and they would probably operate it in increments of 24 hours, depending on the needs. The shaft is about 1200-foot deep.

Mr. Arisumi asked when is A & B taking back the water that they are now providing to Maui Land and Pine. Mr. Pyle replied that they've been given until the end of this year. They are considering asking for a one year extension.

ACTION

Mr. Arisumi moved that Item H-1 be approved and requested the suspension of the fine until he has had an opportunity to take a look at the site. Seconded by Ms. Himeno, motion carried.

Mr. Arisumi asked if the Board would be able to allow Mr. Pyle to put in the permanent structure.

Mr. Pyle said the original CUA does include the poles and the power lines.

Mr. Watson, Deputy Attorney General said if the original application contemplated poles whether they be permanent or temporary based upon the board's review of it and at least at the Public Hearings that the various alternatives were there for public comment on it, it's the Board's prerogative upon reviewing to allow the poles to go in.

Mr. Evans said that if that were the representation, staff would have no problem with that. The question now would be if they were to be installed permanent or temporary.

Mr. Arisumi feels that it would be temporary for one year whether they put the pole or not and if it's successful that it would become permanent.

Mr. Arisumi amended his motion to allow applicant to install the poles on a temporary basis, subject to become permanent if everything goes well. Ms. Himeno had no objection to the amendment.

There being no further discussion, Chair called for the question and motion carried.

ITEM H-2

**CDUA FOR SINGLE FAMILY RESIDENCE AT HAENA, KAUAI; TMK 5-8-12:12;
APPLICANT: WALTON D.Y. HONG, FOR MR. DON KARLEEN**

Mr. Evans said staff has been working with the applicant's attorney since the item was deferred at the last meeting at the applicant's request. Staff has been informed that the property is part of the Wainiha Houselots. Staff has added a second paragraph under Recommendations on page 3 of the submittal.

Mr. Evans then read the recommendations on the Violation and Application.

Mr. Evans answered Mr. Apaka's questions on a need for a certified shoreline as 'No,' because the recommendation was for denial, but he was not sure; and the response was 'Yes' he did get an SMA.

Mr. Arisumi asked if the denial was because it was in the limited subzone or because the party said that he was using it as a vacation home and not a residence. Mr. Evans responded in this case it was 'both'.

Responding to Ms. Himeno's question on definition of beach and house lots, Mr. Evans said the beach lot was closer to the beach. He explained the Board upheld consistently, no house in the limited subzone and this is the only place in the state that a house is allowed in the limited subzone under the Haena Hui Policy if it is classified as a house lot. Houses are allowed in the limited subzone if they are of non-conforming use in nature.

Mr. Walton Hong said that he was representing the applicant Mr. Don Karleen who was also present. He mentioned that Mr. Peter Nakamura, County Planning Director was present also to answer any questions.

Mr. Hong responded to Mr. Apaka's question that there was a certified shoreline attached to their application and to answer whether there was an SMA, he continued to say that under the County of Kauai's rules and regulations for Special Management Area, a single family residence that is not part of a larger development is exempt from an SMA permit.

He said that it was true that there was a violation in this case. Mr. Karleen did cut down some trees, clear and started to trench the property. It was not deliberately done, nor by oversight or ignorance. He said that before Mr. Karleen obtained the lot he checked with the County on the zoning and was told that it was in the urban land use district zone open by the County. On that basis he purchased the lot and applied for a building permit for this house and was granted a foundation permit. He started work on the lot believing he had all the necessary approvals. A State enforcement officer then advised him that it's in Conservation and he has to stop work which he did. He back filled all the trenches and he applied for this CDUA permit.

He then responded to staff's recommendation which they do not agree with; a beach lot versus a residential lot. He said that reference is made about 3 or 4 times in the application to a beach lot, but throughout the entire application it is constantly referenced to a proposed residence or residential use. He touched on proposed use of residence as vacation home and said no where does it mention that a single family residence must be occupied full time. A survey was done by the applicant and his friends to go out in the area and note which lots have homes on it and what are the uses of those homes. They knocked on doors and if people weren't home they asked the neighbors. He presented a map of the area showing the site of his applicant's lot. He pointed out on the map the number of lots in the immediate area that are owner occupied, whether it's part-time occupied or if it's a rental. He said the proposed use by Mr. Karleen is no different than the neighborhood.

Responding to Ms. Himeno, most all of the lots were in urban and the applicant's was in limited subzone. Mr. Hong again said that he didn't know why his applicant's lot was the only one in limited. He said it might have been when the Land Use Commission made its lines, it went over the lot. He also claims it is not part of the Haena Hui Petition.

Mr. Hong had another point to make. Relating to non-conforming use they feel as an alternate ground for approving this application they have met the basis for a non-conforming use. This lot is less than 10 acres and the lot is of record since 1957 upon which taxes were assessed. He presented to the members of the Board an affidavit by Dorothy Becker who is the Deputy Finance Director for the County of Kauai indicating that the records attached are true and correct copies of real property tax records for the County of Kauai. This lot was spun off from a larger parcel in 1955. Real property taxes have been paid up to the present time. Another aspect of the non-conforming use is, "was this lot intended to be held residential or farm use?"; he also would like the Board to consider two affidavits, one from a Carol Washburn Grudam who was the owner of the lot between 1979-1985 in which she indicates she held it for a residential use; and one from Maddy Latieve who subsequently owned the property also indicating that he held the property during his time of ownership for residential use.

Mr. Hong informed the Board that they have received a letter from the Department of Health, Mr. James K. Ikeda, Acting Chief, Environmental Management Division indicating approval to construct a septic tank system on this lot.

Mr. Arisumi stated again that no home should be allowed in the limited subzone. Mr. Hong reminded him that Mr. Evans mentioned that exceptions have been made if the home were non-conforming use.

Mr. Evans said that council is correct that there is a provision for non-conforming use. He said it might be difficult for staff and the Board to make a decision on based upon documentation at the eleventh hour. Staff would need time to review the documents to be sure they meet the criteria of a non-conforming use.

Deputy Attorney General Watson addressed Mr. Hong saying that he stated some very good reasons as far as the neighborhood. Wouldn't your client rather than challenge the limited subzone, to merely go to the Land Use Commission (LUC) to redesignate this particular area, to have it conform to the neighbor for this particular lot. Mr. Watson said that he thought this was a more expeditious way because you have the affidavit of probably the seller who sold you the property from 1989-90 who says, 'yes, I was intending to use the property for a residence. You also have the first seller to her, that said 'we intended to use it as a residence.' But you only go from the 1980's, what happened in the 1950's, 1960's.

Mr. Hong said that they are having a problem locating some of these people because some of them have died.

Mr. Watson said that was his problem. Right now he does not conform to a non-conforming from what he has read.

Mr. Hong said that the sad thing about it is the lot was put into the Conservation District and he doesn't see any apparent reason because they don't see anything different from the immediate abutting properties.

Mr. Watson responded saying that what you're asking the Board to do is to change their policy which may have statewide ramifications by allowing your limited subzone, which is not within the exception to become an exception, whereas it may be faster and more expeditious if you went to the LUC and informed them of the situation and asked them to change this particular zoning.

DEFERMENT Mr. Apaka moved that this item be deferred to the next Kauai Board meeting; seconded by Mr. Arisumi, motion carried.

CDUA FOR MODIFICATION AND EXPANSION OF CO-HABITATION TELECOMMUNICATION FACILITY, KAUPULEHU CRATER, NORTH KONA, HAWAII, TMK 7-2-01:01;
ITEM H-9 APPLICANT: WEST HAWAII ELECTRONICS, INC.

Presentation was made by Mr. Evans who went over the background and the recommendations of staff relating to the violation and the application.

Mr. Arisumi asked Mr. Evans if the applicants were aware that they had to come back to the Board if they were adding additional antennas on the tower.

Mr. Evans said the applicant went through the CDUA process and should have been informed of the number of antennas he's allowed. Relative to the question of applicant's awareness, he said only the applicant could answer that.

Mr. Evans said, "What we're trying to do, Mr. Arisumi, just so that you are aware, is rather than having someone that want's to put an antenna on an existing tower come to the board every time, what we're trying to do is have the CDUA with the initial tower and 'x' number of antennas go through the process, establish the land use and if someone wants to put on years later, more antennas, they come in and they get permission from the department, but not necessarily the whole CDUA process. But here there was nothing."

Mr. Watson commented that this appears to be a re-occurring problem statewide.

RECESS Vice-chair Arisumi called for a recess. 10:35 am - 10:47 am

Chairperson Paty called the meeting back to order.

Mr. Jim Black of West Hawaii Electronics said in answer to the question why they did not come to the Board to put up additional antennas was a matter of misinterpretation on their part. He said that he stated that to staff in a letter (which he read to the Board-letter dated January 10, 1990 shown as Exhibit L; page 1 of 2). Within the letter he says when they asked for a modification to allow the construction of a building to enclose their equipment they did not specify the number of of radios, panels for a solar power generation system, tower structures and antennas. He said they were not aware that they needed to inform DLNR on these additions and said basically it was a misunderstanding on their part and not an intentional flaunting of rules.

He said anytime that they did anything which they felt was making a change like adding the building, increasing the size of the tower they did make a request. They will try to continue to be a good user of the system although this is not the way staff interprets it. They were here today to bring their system into compliance with the Department's views and to basically overall increase in size after-the-fact.

Responding to Mr. Apaka, Mr. Black said that he had received the submittal on the project and also that he did not have any questions on the conditions.

ACTION Mr. Apaka moved for approval as submitted, seconded by Ms. Himeno, motion carried unanimously.

ITEM H-4 CDUA FOR AN EXPLORATORY WELL AT KALIHI VALLEY, OAHU, HAWAII, TMK 1-4-18:06; APPLICANT: C & C OF HONOLULU, BOARD OF WATER SUPPLY

Mr. Evans said that staff feels this is a reasonable use in the resource subzone of the conservation district and recommends approval subject to conditions on pages 4 and 5.

Mr. Bert Kuioka of the Planning Branch of the Board of Water Supply was present and said they had no objections to the conditons.

ACTION Unanimously approved as submitted. (Arisumi/Himeno)

ITEM H-5 REQUEST TO AMEND CDU PERMIT OA-264 FOR THE INSTALLATION OF A 16 INCH WATER MAIN AT WAIANAE, OAHU, TMK 8-6-1:48; APPLICANT: C & C OF HONOLULU, BOARD OF WATER SUPPLY

Mr. Evans said that although this is a permitted use in the Conservation District, this is one of the permitted uses that has to come before the Board for approval.

Written clearance from the City and County regarding SMA requirements has been obtained and staff recommends approval of this amendment request for a water transmission line from the Paheehee reservoir subject to the conditions listed.

Mr. Kuiuoka said there were no objections to the conditions listed.

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM H-8 CDUA FOR INSTALLATION OF A 20-INCH WATER MAIN AT KALUANUI STREAM, HAUULA, OAHU, TMK 5-3-09:47; APPLICANT: C & C OF HONOLULU, BOARD OF WATER SUPPLY

Mr. Evans said that on this application they did a CDUA previously and the Board approved it and there was one problem that was associated with this application in that they never initiated work. As a result, the application became null and void and it had to run through the process again. There was one potential problem which was the discharge of chlorine into the stream. However, the Board of Water Supply people have been made aware of that potential problem and they've made adjustments so that will not occur. With that and the rest of staff's analysis they recommend approval subject to condition listed.

Mr. Kuiuoka voiced no objection to the conditons on the part of the applicant.

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM H-3 CDUA FOR SHORELINE IMPROVEMENTS AT KAKAAKO, OAHU, TMK 2-1-60:1 AND 8; APPLICANT: DEPT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM, HAWAII COMMUNITY DEVELOPMENT AUTHORITY

Mr. Evans went over the highlights of the application. He pointed out on page 6 of the submittal in the paragraph after number 3 of the Analysis, it mentions that written clearance from the Office of State Planning regarding SMA requirements has not been obtained. Mr. Evans informed the Board that clearance was received on September 18. With that staff is recommending approval subject to the conditions listed.

ACTION Unanimously approved as submitted. (Himeno/Apaka)

Item F-1-a ISSUANCE OF REVOCABLE PERMIT TO WAIMANALO HEALTH CENTER AT WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-09:273

Mr. Young went over the remarks in the submittal. He said that staff is recommending that we cancel the permit to the Department of Health, partition the lot to two, grant to the Department of Health 11,000+ square feet and another permit to the Waimanalo Health Center for the remainder of the lot. This is all for care of maintenance of the people within Waimanalo who need health care.

Ms. Himeno asked for clarification that the Department of Health will still be for the purpose of maternity and infant care programs to which Mr. Young replied, "yes".

Mr. Young said that the administrator of the Waimanalo Health Center was present to answer any questions of the Board.

Ms. Kawahine Kamakea-Ohelo, the Administrator for the Waimanalo Health Center said they were interested in obtaining the parcel of land and the building to provide primary health care services to their residents of Waimanalo. They will be taking care of basic colds, services for diabetes, heart problems and maternity, infant, children projects. They are working with the Department of Health in getting into preventive medicine.

Mr. Arisumi asked if these were all voluntary services.

Ms. Kamakea-Ohelo said, "No they're not. As indicated, \$200,000 was a Grant-in-Aid request, this past legislation. A portion of that will be going for renovation of the facility and to hire a medical director and herself as administrator and supporting staff."

In response to Ms. Himeno's question, Ms. Kamakea-Ohelo said that they anticipate 5,500 encounters per year. Currently the Department of Health's NYCC Hawaiian projects limited to women and children encounter 2,200 encounters per year.

In response to Mr. Arisumi's questions, Ms. Kamakea-Ohelo said there will be a sliding fee schedule for the entire community and neighboring community who might need help. The doctor will be paid from funds that have been allocated into the Waimanalo Health Center from the legislature. The charge will be based on a sliding fee schedule based on the family's income and composition. The State will be provided an expenditure report as well as financial statement at the end of the year.

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM E-1 APPROVAL TO ENGAGE THE SERVICES OF A CONSULTANT TO PREPARE A MASTER PLAN FOR THE MAKIKI TANTALUS RECREATION AREA, OAHU

Mr. Nagata presented the request of Item E-1 to the Board.

Responding to Ms. Himeno's questions, Mr. Nagata said that approximate \$130,000 to \$150,000 would be needed and that would include the preparation of the EIS as well as all the planning and review process.

Mr. Nagata also informed the board that Ms. Tamar Chotzen, interested party was present.

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM E-2 REQUEST FOR THE USE OF WAIMANALO BAY STATE RECREATION AREA, WAIMANALO, OAHU

Mr. Nagata made his presentation of item E-2 and should the Board approve this request staff would like to amend the hours under Recommendation No. 1 from 10:00 am to 3:00 pm, an hour longer as requested by the applicant.

Discussion followed as to how many tour companies comprised this association. It was felt that the applicant's agent could answer that better and the association would regulate the number of people 50-150 per day.

Mr. Arisumi inquired if there was going to be a fee charged for the use of the park as he felt this venture was commercial in nature. Mr. Nagata said that staff had not proposed for any fee charge in the submittal but there has been discussion on that matter. If the Board so directs, the Division of Land Management could assist them in the matter of an appropriate fee and it could be added and brought back to the Board.

Mr. Watson brought to the Board's attention what had happened at Ala Moana Park when large tour busses came in early and unloaded the people. Their people came in early to set up the tables and most of the parking spaces were also taken up. It is a commercial activity and the problem faced in a heavily used park was that people were going in setting up their buffet for so called holding tables early and kept the

large areas with the tables throughout the day from morning to afternoon. When the public came to use the park, the Land Department got a lot of complaints, so a cease and desist order had to be issued to remove them from Magic Island. This caused a heavy DOCARE and Attorney General's Office involvement.

Mr. Marshall Chinen, Attorney for the applicant introduced himself and Mr. Harold Hamada, President of the association. Mr. Chinen wished to address the last concern of the problem at Ala Moana Beach, it is his understanding that there will be no buffet tables or reservations of areas at Waimanalo by the association members. What they will be doing is simply passing out bento lunches and it will be an informal activity where people will sit wherever they want to sit. They will have beach mats to sit on somewhere in the park and they understand they will be restricted from using the few available public picnic tables.

He pointed out that they would be sensitive to the concerns of the community that they would be over using the facility and they would try to take steps so that there would be no complaints of over use. One of the recommendations is that, if the department felt the park was over used, the permit could be revoked.

Responding to Mr. Arisumi's question, Mr. Hamada said that they would usually pass out the bento lunches on the bus. They did not pay a fee when they used Hanauma Bay was his response to Ms. Himeno's inquiry.

Mr. Chinen said as to the fee question, the association is amenable to paying a fee and would like to work with the department to establish what the fee would be.

Mr. Arisumi again voiced that because it is a commercial activity that there should be a fee charged which could be used for additional maintenance as the people would be using the rest room facilities, water and grounds.

Chair Paty addressed the question of a time period to Mr. Nagata.

Mr. Nagata's response was that in item #4 of their recommendation, it recommends that the permit be on an annual basis. Item #5 mentions that in the event of conflicts, or if the permitted use significantly impacts the park, the permit is subject to immediate revocation by the Chairperson.

- ACTION Ms. Himeno moved for approval subject to the applicant working out fees with the Chairperson, seconded by Mr. Arisumi motion carried unanimously.
- ITEM B-1 REQUEST FOR SCIENTIFIC COLLECTING PERMIT BY DR. DAVID W. GREENFIELD FOR USE OF POISON (ROTENONE) TO COLLECT FISH SPECIMENS IN KANEOHE BAY, OAHU
See page 2 for action.
- ITEM C-1 OUT-OF-STATE TRAVEL REQUEST FOR PATRICK G. COSTALES, PROTECTION FORESTER, DIVISION OF FORESTRY AND WILDLIFE
ACTION Unanimously approved as submitted. (Himeno/Apaka)
- ITEM D-1 PERMISSION TO HIRE CONSULTANT FOR JOB NO. 62-MM-A4, HAWAII ENDANGERED SPECIES FACILITY IMPROVEMENTS, PHASE III, MAUI
ACTION Unanimously approved as submitted. (Arisumi/Himeno)
- ITEM E-1 APPROVAL TO ENGAGE THE SERVICES OF A CONSULTANT TO PREPARE A MASTER PLAN FOR THE MAKIKI TANTALUS RECREATION AREA, OAHU
ACTION See page 10 for action.

ITEM E-2 REQUEST FOR THE USE OF WAIMANALO BAY STATE RECREATION AREA, WAIMANALO, OAHU

ACTION See page 11 for action.

ADDED

ITEM E-3 APPROVAL OF GRANT-IN-AID FOR THE MO'OKINI LUAKINI, INC. OAHU

ACTION Unanimously approved as submitted. (Arisumi/Apaka)

ITEM F-1 DOCUMENTS FOR BOARD CONSIDERATION:

Item F-1-a ISSUANCE OF REVOCABLE PERMIT TO WAIMANALO HEALTH CENTER AT WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-09:273

ACTION See page 10 for action.

Item F-1-b ISSUANCE OF REVOCABLE PERMIT TO JAMES TORCATO, KAPAA HOMESTEADS, FIRST SERIES, KAPAA, KAWAIHAU (PUNA), KAUAI, TAX MAP KEY 4-6-05:2 AND 3

Item F-1-c ISSUANCE OF REVOCABLE PERMIT TO E. F. BELLO, GOVERNMENT BEACH RESERVE, WAIHOLI-KEOKEA BEACH HOMESTEADS, WAIHOLI-KEOKEA, WAILUKU, MAUI, TAX MAP KEY 3-9-01:POR. 11

Item F-1-d ISSUANCE OF REVOCABLE PERMIT TO MAUI BEACH HOTEL, INC., GOVERNMENT LAND AT KAHULUI, WAILUKU, MAUI, TAX MAP KEY 3-7-04:POR. 3

ACTION Mr. Arisumi moved for approval of items F-1b, F-1c and F-1d; seconded by Mr. Apaka, motion carried.

Item F-1-e ASSIGNMENT OF GENERAL LEASE NO. S-4516 COVERING MICROWAVE RELAY STATION SITE, PAPAANUI (HALEAKALA), MAKAWAO, MAUI, TAX MAP KEY 2-2-07:8(POR.) (TO BE DISTRIBUTED AT MEETING)

WITHDRAWN Mr. Young requested of the Board that this item be withdrawn.

ITEM F-2 RESUBMITTAL--ACCEPTANCE AND SET ASIDE OF ABANDONED DIAMOND HEAD 150 RESERVOIR SITE SITUATED AT MAKALEI HEIGHTS, WAIKIKI, OAHU, TAX MAP KEY 3-1-35:22 AND 23

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM F-3 CANCELLATION OF GOVERNOR'S EXECUTIVE ORDER NO. 1116 AND RE-SET ASIDE TO THE DEPARTMENT OF EDUCATION FOR WHEELER ELEMENTARY AND INTERMEDIATE SCHOOL SITE, WAIANA-EUKA, EWA, OAHU, TAX MAP KEY 7-7-01:2

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM F-4 STAFF RECOMMENDATION TO SET DEADLINE DATE TO FILE INTERVENORS AND TO SET TENTATIVE DATE FOR CONTESTED CASE HEARING COVERING REJECTION OF SHORELINE CERTIFICATION; APPLICATION OF ROBERT P. SCHURICH, SUNSET BEACH LOTS, PUPUKEA, KOOLAULO, OAHU, TAX MAP KEY 5-9-20:39 AND 40

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM F-5 REQUEST TO SOLICIT PROPOSALS TO PREPARE STRATEGIC MANAGEMENT PLAN COVERING STATE AGRICULTURAL LANDS

WITHDRAWN With the Board's permission, Mr. Young withdrew Item F-5 from the agenda.

ITEM H-1 CONSERVATION DISTRICT USE APPLICATION (CDUA) FOR IMPROVEMENTS TO KUHIWA WELL, WATER TRANSMISSION LINE AND ELECTRICITY TRANSMISSION CORRIDOR, NAHIKU, MAUI, TMK 1-2-04:03; APPLICANT: MAUI PINEAPPLE COMPANY

ACTION See page 5 for action.

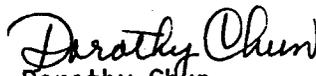
- ITEM H-2 CDUA FOR SINGLE FAMILY RESIDENCE AT HAENA, KAUAI; TMK 5-8-12:12;
APPLICANT: WALTON D.Y. HONG, FOR MR. DON KARLEEN
- Deferred. See pages 5-7.
- ITEM H-3 CDUA FOR SHORELINE IMPROVEMENTS AT KAKAAKO, OAHU, TMK 2-1-60:1 AND 8;
APPLICANT: DEPT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM, HAWAII
COMMUNITY DEVELOPMENT AUTHORITY
- ACTION See page 9 for action.
- ITEM H-4 CDUA FOR AN EXPLORATORY WELL AT KALIHI VALLEY, OAHU, HAWAII,
TMK 1-4-18:06; APPLICANT: C & C OF HONOLULU, BOARD OF WATER SUPPLY
- See page 8 for action.
- ITEM H-5 REQUEST TO AMEND CDU PERMIT OA-264 FOR THE INSTALLATION OF A 16 INCH
WATER MAIN AT WAIANAE, OAHU, TMK 8-6-1:48; APPLICANT: C & C OF
HONOLULU, BOARD OF WATER SUPPLY
- See page 9 for action.
- ITEM H-6 REQUEST FOR A TIME EXTENSION FOR CDU PERMIT KA-1977, SINGLE FAMILY
RESIDENCE AT HAENA, KAUAI, TMK 5-9-6:1; APPLICANT: JILL AND DONALD
CANOPARO; AGENT: WALTON D. Y. HONG, ESQ.
- ACTION Unanimously approved as submitted. (Apaka/Arisumi)
- ITEM H-7 REQUEST FOR TIME EXTENSION FOR A PENDING CDUA FOR MAUNA LANI COVE AND
DREDGED CHANNEL, SOUTH KOHALA, HAWAII, TMK OFFSHORE FROM 6-8-22:POR.
1, 3, AND 9; APPLICANT: MAUNA LANI RESORTS, INC.; AGENT: BELT COLLINS
AND ASSOCIATES
- ACTION See page 2 for action.
- ITEM H-8 CDUA FOR INSTALLATION OF A 20-INCH WATER MAIN AT KALUANUI STREAM,
HAUULA, OAHU, TMK 5-3-09:47; APPLICANT: C & C OF HONOLULU, BOARD OF
WATER SUPPLY
- ACTION See page 9 for action.
- ITEM H-9 CDUA FOR MODIFICATION AND EXPANSION OF CO-HABITATION TELECOMMUNICATION
FACILITY, KAUPULEHU CRATER, NORTH KONA, HAWAII, TMK 7-2-01:01;
APPLICANT: WEST HAWAII ELECTRONICS, INC.
- ACTION See page 8 for action.
- ITEM H-10 REQUEST FOR TEMPORARY VARIANCE FOR PROJECT SIGN AND FIELD OFFICE SITE
FOR KEALAKEHE PARKWAY, NORTH KONA, HAWAII, TMK 7-4-8:17; APPLICANT:
HOUSING FINANCE AND DEVELOPMENT CORPORATION
- ACTION See page 3 for action.
- ITEM H-11 CDUA REQUEST FOR KEALAKEHE PARKWAY, MAUKA-MAKAI ARTERIAL ROADWAY
CORRIDOR, NORTH KONA, HAWAII, TMK 7-4-8:17; APPLICANT: HOUSING FINANCE
AND DEVELOPMENT CORPORATION (TO BE DISTRIBUTED AT MEETING)
- WITHDRAWN Mr. Evans requested that Item H-11 be withdrawn as the matter was
handled under Item H-10.

- ITEM J-1 RESUBMITTAL - CONSENT TO ASSIGNMENT OF A PORTION OF LEASE NO. DOT-A-75-6, KAHULUI AIRPORT, MAUI (HEMMETER AVIATION, A DIVISION OF HEMMETER INVESTMENT COMPANY--HEMMETER AVIATION, INC.)
- DEFERRED Mr. Garcia informed the Board that items J-1 through J-13 are resubmittals. Board Member Himeno informed the Chairperson that she had checked with the disciplinary board and she is still unable to vote on Items J-1 through J-13 because of a client relation conflict.
- ITEM J-2 RESUBMITTAL - AMENDMENT NO. 2 TO LEASE NO. DOT-A-84-26, HAWAII DISTRICT AIRPORTS, HAWAII (ALAMO RENT-A-CAR, INC. (ALAMO))
- ITEM J-3 RESUBMITTAL - AMENDMENT NO. 1 TO LEASE NO. DOT-A-84-32, KEAHOLE AIRPORT, HAWAII (AUTO RENTAL COMPANY, LTD.)
- ITEM J-4 RESUBMITTAL - AMENDMENT NO. 2 TO LEASE NO. DOT-A-84-27, KEAHOLE AIRPORT, HAWAII (AVIS RENT A CAR SYSTEMS, INC. (AVIS))
- ITEM J-5 RESUBMITTAL - AMENDMENT NO. 3 TO LEASE NO. DOT-A-84-25, KEAHOLE AIRPORT (BUDGET RENT A CAR SYSTEMS, INC. (BUDGET))
- ITEM J-6 RESUBMITTAL - AMENDMENT NO. 2 TO LEASE NO. DOT-A-84-29, KEAHOLE AIRPORT, HAWAII (NATIONAL CAR RENTAL HAWAII, A JOINT VENTURE)
- ITEM J-7 RESUBMITTAL - AMENDMENT NO. 5 TO LEASE NO. DOT-A-84-28, KEAHOLE AIRPORT, HAWAII (PACIFIC INTERNATIONAL SERVICES CORPORATION (PISC))
- ITEM J-8 RESUBMITTAL - AMENDMENT NO. 2 TO LEASE NO. DOT-A-84-31, KEAHOLE AIRPORT, HAWAII (ROBERT'S HAWAII RENT-A-CAR SYSTEMS, INC. (ROBERT'S))
- ITEM J-9 RESUBMITTAL - AMENDMENT NO. 3 TO LEASE NO. DOT-A-84-36, KEAHOLE AIRPORT, HAWAII (TROPICAL RENT-A-CAR SYSTEMS, INC.)
- ITEM J-10 RESUBMITTAL - APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT 4696, HILO INTERNATIONAL AIRPORT, HAWAII (HEMMETER AVIATION, INC.)
- ITEM J-11 RESUBMITTAL - RENEWAL OF REVOCABLE PERMITS 4030, ETC., AIRPORTS DIVISION
- ITEM J-12 RESUBMITTAL - CONSENT TO ASSIGNMENT OF LEASE NO. DOT-A-84-30, HAWAII DISTRICT AIRPORTS, HAWAII (PHILLIPS' U-DRIVE, INC.--K. PACIFIC, INC., DBA THRIFTY RENT A CAR)
- ITEM J-13 RESUBMITTAL - FIFTH AMENDMENT TO RESTATED AND AMENDED HARBOR LEASE AND SPECIAL FACILITY LEASE AGREEMENT (HARBOR LEASE NO. H-79-5), HARBORS DIVISION, SAND ISLAND CONTAINER FACILITY, OAHU (MATSON TERMINALS, INC.)
- ITEM J-14 AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO DISPOSE OF HIGHWAY REMNANT TO ABUTTING OWNER, PAHOA, HAWAII
- Mr. Garcia informed the Board that this item was a resubmittal. It was deferred at the last meeting so that staff could obtain the names of the abutting landowners. The abutting owners are Tom Hoota and wife and Paul Ogasawara and wife. In this particular case, they submitted sealed bids with other adjoining owners and they were the winning bidders. Mr. Garcia presented a map of the area to the Board pointing out the remnant area.
- ACTION Unanimously approved as submitted. (Arisumi/Himeno)
- ITEM J-15 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4697, ETC., AIRPORTS DIVISION

See page 2 for action.

- ITEM J-16 APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT 4700, KEAHOLE AIRPORT, HAWAII (JACK MURPHY)
- ACTION Unanimously approved as submitted. (Himeno/Apaka)
- ITEM J-17 RESUBMITTAL OF REVOCABLE PERMITS 4641 AND 4642, AIRPORTS DIVISION
- Mr. Garcia said that the Board had previously approved this submittal, what is being done is just a change of name from Tri Air, Inc. doing business as Air Molokai, Inc.
- ACTION Unanimously approved as submitted. (Himeno/Arisumi)
- ITEM J-18 RENEWAL OF REVOCABLE PERMITS 3564, ETC., AIRPORTS DIVISION
- ACTION Ms. Himeno moved for approval of Item J-18 with the exception of R.P. 4109 for Aloha Airlines, seconded by Mr. Arisumi, motion carried.
- ITEM J-19 ISSUANCE OF RIGHT-OF-ENTRY FOR DRILLING TEST HOLES FOR FOUNDATION INVESTIGATION, HARBORS DIVISION, HONOLULU HARBOR, OAHU (ERNEST K. HIRATA & ASSOCIATES, INC.)
- ACTION Unanimously approved as submitted. (Himeno/Apaka)
- ITEM J-20 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 40, HONOLULU HARBOR, OAHU (DON'S MAKIKI, INC., DBA DON'S MAKIKI SERVICE)
- ACTION Unanimously approved as submitted. (Himeno/Arisumi)
- ITEM J-21 ISSUANCE OF REVOCABLE PERMIT NO. HY-90-052, HIGHWAYS DIVISION, LUNALILO FREEWAY, OAHU (KAREN S. NAKAGAWA)
- ACTION Unanimously approved as submitted. (Himeno/Apaka)
- ITEM J-22 APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT 4691, HILO INTERNATIONAL AIRPORT, HAWAII (ALAMO RENT-A-CAR, INC.)
- DEFERRED Item deferred. Ms. Himeno informed Chairperson Paty that she had a conflict of interest.
- ITEM J-23 RENEWAL OF REVOCABLE PERMIT 3779 (ALOHA AIRLINES, INC.)
- DEFERRED Item deferred as there was no quorum. Ms. Himeno informed Chairperson Paty that she had a conflict of interest.
- ADJOURNMENT The meeting adjourned at 11:40 a.m.

Respectfully submitted,


Dorothy Chun
Secretary

APPROVED FOR SUBMITTAL



William W. Paty, Chairperson