

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

DATE: JANUARY 11, 1991
TIME: 8:30 A.M.
PLACE: KONA SURF RESORT
KOHALA ROOM
78-128 EHUKAI STREET
KAILUA-KONA, HAWAII

ROLL
CALL

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

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

STAFF: Mr. W. Mason Young
Mr. Roger Evans
Mr. Ralston Nagata
Mr. Henry Sakuda
Mr. Glenn Taguchi
Ms. Dorothy Chun

OTHERS: Mr. Johnson Wong, Deputy Attorney General
Mr. Peter Garcia, Department of Transportation
Mr. Ivan Lui Kwan (Item H-7)
Mr. Clyde Nagata (Item F-15)
Mr. George Tengan, Mr. Jeffrey Watanabe,
Mr. Marshall Medoff (Item F-16)
Mr. Ron Sanders (Item F-21)
Ms. Nani Rapoza, Mr. Randy Vitousek (Item F-1a)
Mr. Wilcox (Item F-18)
Ms. Leimana Damate (Item F-3)
Mr. Gordon Leslie (Item E-2)
Ms. Susan Matsuura (Item E-1)
Mr. Philip Kahn (Item H-1)

MINUTES

The minutes of August 24, 1990 were unanimously approved as circulated. (Arisumi/Apaka)

ADDED
ITEM

Upon motion by Mr. Arisumi and a second by Mr. Apaka, the following item was added to the agenda:

Item H-8 Filling of an exempt Historic Preservation Administrator Position No. 26869E, Oahu

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

ITEM H-7

REVIEW OF CONSERVATION DISTRICT USE PERMIT FOR MINAMI GOLF COURSE AT KOOLAUPOKO, OAHU, TMK 4-5-42:1 & 6; APPLICANT: MINAMI GROUP (USA), INC.

Mr. Evans said that today's request is for an extension until the next meeting. The reason the extension is asked only till the next meeting is because no proposal has been presented to staff for a review and analysis. Staff has been informed that there have been meetings with community leaders, the leadership of the Kaneohe community. Staff understands that those meetings have been carried out in good faith.

Staff is recommending that this item be deferred to the next Oahu meeting.

Mr. Ivan Lui Kwan, attorney representing the applicant said that there was an agreement that a private foundation be set up to administer the organization to be called the Minami, Kaneohe Environmental Community Foundation, to be made up of Minami and community members. Other discussions that took place involved the contributions that Minami would make and develop categories for use of the land area. The first feature is use for educational programs, planting of native Hawaiian plants, have community groups learn about indigenous plants. The second feature is cash. In a condemnation action filed by the State of Hawaii against Iolani School and Minami, Iolani School is the predecessor in the interest of Minami in certain lands in the area. The discussion involves an assignment of whatever will be received as proceeds from the condemnation action by the State in favor of Minami that would be assigned to the foundation to fund the purposes of the foundation. The third item is one that hasn't been agreed on, they need further discussion, that is the community representatives are requesting additional cash and they're looking for sources of that cash. Items that they have been referring to are percentages of membership sales or membership fees that would be collected. Another item that's been discussed, potentially are fees based on grounds play, but no resolution or decision has been made on those items. There are other things being discussed, including the use of some of the facilities at the clubhouse by the foundation as well as community groups and also membership sold to certain people in the community at the same rates of other golf courses and private clubs in Hawaii. That is the basic summary of where they're at.

Mr. Apaka asked to what size of groups are they talking to.

Mr. Lui Kwan said there are several organizations, the Luluku Banana Farmer Growers, Senator Mike McCartney, Mr. John Reppun and Mr. Bob Nakata and they've also had discussions with Mr. Harold Masumoto of the Office of State Planning and Chairperson Paty.

ACTION

Mr. Apaka moved for approval, seconded by Mr. Arisumi, motion carried.

ITEM F-15

HAWAII ELECTRIC LIGHT COMPANY, INC. REQUEST FOR PERPETUAL, NON-EXCLUSIVE EASEMENTS FOR TWO ELECTRICAL TRANSMISSION LINES AT PUNA, HAWAII, TAX MAP KEYS 1-4-01:04; 1-4-03:08; 1-5-08:01; 06 & 07; 1-5-09:09 AND 1-5-10:03

After his presentation, Mr. Young said that staff was recommending that the Board approve the easements to Hawaii Electric Light Company.

Mr. Clyde Nagata, Manager of the Engineering Department of HELCO provided a map of the alignment area as requested by Commissioner Yuen. He also explained how the lines would be placed in the area and the sequence of installation. They have the Public Utilities Commission approval and shortly will get the Department of Transportation's approval. They have already obtained easements from other property owners and are now waiting for the easement from the State.

Mr. Yuen asked if there were any comments from the Division of Forestry and Wildlife (DOFAW) regarding the Nanawale Forest lands.

Mr. Nagata presented a letter from the DOFAW.

Mr. Yuen said he still didn't understand fully their comments as the sentence ended abruptly.

Chairperson Paty commented that as he understood, it's more like a caveat. The nature of that particular area was not one that they had concerns relative to the type of forest area that it was. It's forest as indicated, but it isn't the special or pristine type of area.

Mr. Yuen asked if there were any other comments from Forestry.

Mr. Nagata responded, "Not to my knowledge. However, I think Mr. Wakida's letter says that, as long as all the conditions of the CDUA are met, that they have no objections to the project." He said that they are faced with a shortage of power and under certain situations they've had to do rolling blackouts. The 25 megawatts of this project would influx into the HELCO system needs.

ACTION

Mr. Yuen moved for approval subject to Forestry's clarification of conditions and also with the other conditions attached to the submittal. Seconded by Ms. Himeno, motion carried unanimously.

ITEM F-16

WATER COMMISSION OF THE COUNTY OF HAWAII REQUEST FOR GOVERNOR'S EXECUTIVE ORDER FOR ADDITION TO THE LALAMILO WATER SYSTEM AT LALAMILO, WAIMEA, SO. KOHALA, HAWAII, TAX MAP KEY 6-6-1:POR. 02

Mr. Young said that this was a request by the County of Hawaii Board of Water Supply. They want to extend and upgrade their Lalamilo water system. As part of the request they'd like to close down the tanks and in addition ask for a new site. What we're recommending here today is to insure the constant dependability of water and the pressure zone within the Lalamilo water system. It's a three part recommendation. One is to cancel the EXECUTIVE ORDER (E. O.) for an existing site, which is too small for the system and in turn subsequent to cancellation, authorize issuance of the new E.O. for a revised site, which would be a bigger site and also grant to the water supply, a construction right-of-entry to proceed to provide for the installation of the reservoir site at Lalamilo on the Big Island.

Chairperson Paty asked for a review of the County Water Supply's position to this.

Mr. Young said in an effort to expand and upgrade their Lalamilo water system, they're finding that their present site is insufficient, it's a two acre site. What they'd like to do is ask for another site for a bigger tank. Staff is recommending to cancel the E. O. and re-issue a new Executive Order for a new site. This will provide for a bigger capacity of the reservoir site. They have explained to staff that they need to provide additional water and storage capacity to insure a constant dependable pressure zone for the water consumers in the area.

Chairperson Paty: So the issue before us is the question relative to a new site location for the reservoir and it's not related to the well or allocation arrangements made by the county.

Mr. Young: None whatsoever .

George Tengan, the Deputy Manager of the Department of Water Supply said he was just briefed yesterday concerning this reservoir site. He said that his background is in accounting and not too involved in engineering. As he understands, the engineers feel they need to relocate the reservoir for some hydraulic reasons and I believe that this reservoir site is part of the master plan for the Lalamilo water system that was initially considered from the system of past designs.

Responding to Mr. Arisumi regarding the new location, Mr. Tengan said that it's just a different elevation.

Chairperson Paty commented his understanding is that it's a move to provide better operational maintenance management of the system, better water balance if you will in terms of the type of operation.

Mr. Tengan said for clarification the don't have a reservoir right now, it's just the site they want to move.

Mr. Arisumi said that as he understood everything else has been approved in the past.

Mr. Apaka commented that we're just talking about a piece of property that is in an E. O. and you want to rescind that and issue a new E. O. for a larger site.

Mr. Jeff Watanabe, with the firm of Watanabe, Ing and Kawashima, said that his law firm represents Mauna Kea Properties and Mauna Lani Resorts, both of whom are users of the Lalamilo water system and he wished to clarify some of the questions.

Just by way of background for the newer Board members, back in the mid 1970's after Kohala Sugar had closed down, there was considerable concern of the level of unemployment in that region and discussions began between the State and the County as well as resort developers in the South Kohala region. The primary constraint in the development in South Kohala was water and beginning in 1975 the discussion between the then chairman of the Land Board, as well as Mayor of Hilo, the administration and the private developers led to a tri-party agreement. The County felt at that point it was their obligation to bring water to the site. The problem the County had however, was funding and what we ended up was an agreement whereby, the State would assist in the development of water by allowing use of its lands at Lalamilo which were north or mauka of the development. There would be a creation of something called the Lalamilo Water System which at that point, was contemplated as a multi-well system with a transmission line that would run along State property down to the Queen K highway. The County in turn would provide funding through general obligation bonds, but because of its financial condition at that time the private developers in effect agreed to service all the debt on the general obligation bonds. Part of the obligation taken on by both developers at that time with both the State and the County, was that all funds required ultimately for the construction and completion of the Lalamilo Water System would be provided by private sources, that is by Mauna Kea and Mauna Lani. In return for that, Mauna Kea and Mauna Lani got sizable allocations of water from that system. Keeping in mind that at that point in the history of South Kohala there were not any other users around. Waikoloa which was the next large development had developed its own water system. So Mauna Kea and Mauna Lani really were the only system developers. The other thing of significance is that the Mauna Kea Beach Hotel which had been in existence for some years prior to the Lalamilo Water agreements, had been receiving water from Waimea about a 1/2 million gallons a day.

These reservoirs that are being discussed this morning are part of those obligations and one reason I am here is because the funding for the reservoirs and the construction would really be provided by Makai Developers who have this continuing obligation to make sure that the system is brought up to what it was originally intended to be. The reason for the relocation of the reservoir site is a relatively new development. One of the reasons for the movement of one of the reservoirs makai is so that there can be a better balance between the

Waikoloa Water System and the Lalamilo Water System which helps everybody.

We are in a situation where the present Lalamilo Water System requires additional storage and there is an urgency in trying, because there's a ten month lead time in building those storage facilities. There is an urgency felt by both the County as well as the Mauna Lani and Mauna Kea who are users to get on with building these reservoirs so that there is adequate storage within the system.

The Chairman's question regarding well "D" and the turnover of well "D" is somewhat of a separate issue and is not before the Board today but well "D" is really the last well that is planned in the Lalamilo Water System that is now being drilled and tested. But the capacity for storage is important in addition to the well site and that's what we're here for today.

Mr. Apaka: When you talk about the State's involvement in the agreement, what are we talking about? Just the land portion and nothing else?

Mr. Watanabe: No, actually the State, the State while their name is not in the Lalamilo water agreement, is a major player in the development of the system. Let me go back 10 years, 15 years and explain. At the time Lalamilo was first conceived, nobody knew if there was water there. As a matter of fact, at that time the plan for the State was to look at something called the Kohakuhao Dam, which was a major dam project in Waimea and ran into some public that had some public opposition in that region. What the State did other than coordinating this agreement and making it possible through the use of the Lalamilo land, was they actually sunk a test well as a result of legislature appropriation in the Lalamilo system. That test well proved out the source, so the State made in addition to the investment in land, made an investment 15 years ago in the construction of a test well.

Mr. Apaka: The two parts you're talking about, you're talking about land. I understand our portion right now is the land, not the water.

Mr. Watanabe: That's correct. Not the water, just the land.

Chairperson asked if there were anymore comments.

Mr. Marshall Medoff said he had just heard about this meeting a couple days ago and would like to make comments that might help to clarify some of the statements relating to this issue.

Mr. Medoff said he was present because he owns a piece of land in the hydrologic unit involved and he's been denied water by the County. He said that he had filed under the State Water Code a dispute resolution request, pursuant to Chapter 174C and that request has not yet been acted upon.

Mr. Medoff said that he felt Mr. Watanabe misrepresented information to the Board today.

"First of all, historically the records will bear out that the developer that he represents, and that a former member of this board had represented and still represents, Mr. Ing, for many years were reluctant to spend \$400,000.00 to find water up in Lalamilo area. And I can say this because I have copies of the Belt Collins reports which were drawn for that developer and it shows that. The State however, was imposed upon to spend the money and spent millions of dollars locating water in

Lalamilo and as soon as that water was located or directly thereafter, these developers came in and imposed upon the Board to enter into agreements. The first agreement with this developer was in 1980 or '79. At that time it was clear that there was water in Lalamilo. Secondly, it was well known to this developer and to the Board and to everyone else that there other users of water in this area. And I can state that with sufficiency because it's in the report of this developer, it's in the report of the environment impact statements, it's in the report of the County, with Mayor, with the Governor, everyone else that there was a commitment to hundreds of permit issues that people wanted in this area and I'll be glad to provide that information to the Board as well."

"The fact is during that period of time, no one to my knowledge, except one County Counselor has done anything more than a house permit in this area other than these two developers and that's one of the reasons that I filed my contested case and why under the State Water Code I've asked for a hearing regards the new well Mr. Watanabe indicates was in the original agreements, which was not."

Mr. Medoff continued to go into detail regarding the use and permits for tanks and pumps relating to water. He spoke of an installation of a pump in well D and no request of a permit.

"... in 1987, the Department of Water Supply in the County of Hawaii told them to build the reservoirs. Now they come in here today and they want these things done in a rush because they know they're in a bind, they haven't got the water and they haven't got the reservoir sites and they haven't done anything right. And I say, that to allow that, would not be a proper purpose within Chapter 171, Mr. Chairman and members of the Board. Any questions, I'm free to answer them."

Chairperson Paty asked Mr. Medoff what was the status of his contested case request with the County at this point in time.

Mr. Medoff said that it was on-going. They keep delaying because the members of the board or commission are part-time members, they have other jobs, they serve without pay and it's very difficult for them to find adequate time to sit and hear a case. They can only find a day at a time or a day and a half at a time.

Chairperson Paty asked what was the nature of his holdings relative to trying to secure adequate allocation of water?

Mr. Medoff: I have a small piece of property. You know they got this big ball of water and they don't want to share any of them. I don't ask for much water, I'm only asking for a very small supply of water but their fear is that I get it from their public discussions and from their statements in the open forums that they're afraid to open the gate. If I get water, which I'm lawfully entitled to, their fear is that everybody is entitled to water which they are, and then the Mauna Kea and the Mauna Lani won't have the water that they want. It's just a selfish situation where the question is who should get the water legally. In this particular instance, that's something that's going to have to be determined after review of all the facts as to what is a reasonable beneficial use of the water. And, undeniably I think the record is very clear and I can say so in this forum, anywhere else that they had exceeded the allocation that was given to them under the original agreements. There's no question about it.

I can also say to you that they have made agreements, Mr. Watanabe referred to several of them with the State, back in 1979, in 1980 and so

forth, which they have not kept. They're already in outrageous breach of agreement which they've made with this Board and I'll be glad to provide you with copies of that as well. They've made statements to this Board as to what allocations they were going to get if the deal went through on the original system. They wouldn't ask anymore allocation than they were originally granted, then they turn around without notifying the County that they had made that statement to the Board in many letters. Had the Board without knowledge of that, grant them further allocations, when they had already agreed with the State that they wouldn't do that. So, it's not as if they're not getting their fair share of the water, they are, they're getting more than their fair share. The question is, "What about everybody else, what about the other owners of land that were known to them, they promised them, they promised the State, they promised the governor, they promised your chairman in past time, they promised the county, they promised everybody, that everybody would share in the system and no one in effect has in any degree. And now there's one more well that they want to take all the water from. Now this is wrong, and that's what the whole thing is all about. Then they want to grab more State land to put up more reservoirs and tank and pumps to move that water to their sites. Notwithstanding the needs of the other members of the community, including the State, including the University of Hawaii, including the Hawaiian Home Lands, including the Kawaihae Harbor needs and so forth. I say that's not right and I say it's time that we oughta focus in on the situation because water is important. Without it you can't develop you can't do anything. And that's why I came all the way from Los Angeles today to be here to express my point of view. I have no animosity to anyone here. I want Mr. Watanabe to realize that I have no animosity to his partner, Mr. Ing or to any of the other people who have pressed ahead on behalf for their clients, but enough, enough. Let's get to a fair shake where everybody else can have an opportunity including people of Hawaii who live down there, the University to get their water as well.

Chairperson Paty: I would gather that your issue is really the allocation of the water. Your objection here is you feel that this being a land disposition is non-the-less an integral part of the whole picture and given that you feel that we should not act on...if we did act on this favorably that you would put yourself in a contested case position.

Mr. Medoff: No question about it, the cart before the horse. I mean it's very clear, the tanks and pumps are within 174C, I mean that's in the statute. That requires installation permits and requires permits from the Commission. None of that is going to change, so what I'm saying is let's decide where the water is going to go, then we'll decide where we're going to put the site for the tank. The site for these tanks are being chosen now and the reason we're asking for it to be moved is because those are the sites that are beneficial to the two developers. Once they've put in there, then the water will flow nicely to those two developers, that's the only reason they chose those sites. Now to the other people, how do we know that will work for Hawaiian Home Lands, people down at Kawaihae and Puako where I am. I believe I've been very honest in terms of what it is the record will show, and I'm going to provide the documents that are already indicated, I'm going to provide you and if Mr. Watanabe has any objections to anything I've said he can step up here and rebut it.

Mr. Arisumi: Are we talking about water this morning or are we talking about the relocation of the reservoir? I think our concern as Land Board Members is the relocation of the reservoir.

Mr. Medoff: Would it be a proper purpose under 171 to allow the reservoir to be sited somewhere when the applicant is ...

Mr. Arisumi: I have another question, if you were permitted to put up a reservoir for yourself, would you put one up?

Mr. Medoff: I don't require one for my subdivision. My subdivision is very small, I'm talking about 20 units of water. These people don't want anybody to have more than one unit of water on this whole area. In 1975 a prior developer across the street from myself was required to put up a tank. My tanks were already there for my street on Puako Beach Road. There's also a waterline that was put in there in front of my property. So that's all there, the installation, the infrastructure was put in long before the Lalamilo well field was ever in-beamed. The people at that time got water more freely, the record will show more people got water before the Lalamilo well system went in, then consequently in this area. So in terms of the people down there, other than the two developers, no, nobody has done a better job. In terms of your answer, I think you have to deal with some grey areas there in terms of what the two statutes require, 171 and 174C. There is some issue I suppose whether or not you want to be totally theoretical and say, 'o.k. we're dealing just with land', but let's not forget the purpose. Those are holding tanks and pumps for water. We have to look at what the purpose of the set aside is. If you're just talking about just a piece of land that's just like the same issue with the well. You could say, o.k. we'll give them a set aside for the well, but the real purpose of the set aside for the well's the same issue. It's the water under the land.

Ms. Himeno: Do you know how long the contested case hearing will take before the County?

Mr. Medoff: See, there's some confusion perhaps in the minds of the board as to what that is all about. The contested case hearing deals only with the present allocations for wells A, B, and C that are ongoing. The request before this commissioner of Water Resource Management deals with the next set of wells which haven't come on yet. Because that well should not even be, should not even have a pump in it. So even if the petitioner, myself, lost in the contested case hearing and if they were able to establish they were properly allocating all water and there wasn't any available or whatever, and it didn't have to go to judicial review, it still would be a separate issue as to what would happen to the water under well 'D'.

Ms. Himeno: Since the matter's on hold, from what I hear you saying, it's going to be a matter of months and months, potential years.

Mr. Medoff: I'm not responsible for the delay, if the commission wants to have a prompt hearing on this matter or attempt to mediate it, I understand Mr. Tagomori is attempting to mediate the matter, but he hasn't had a great deal of success.

Mr. Yuen: Has the Commission on Water Resources Management granted your request for a Contested Case hearing on your request?

Mr. Medoff: No, I don't believe it's a matter of, I think it's mandatory under the statutes.

Mr. Yuen: If the present agreement, the 1983 agreement were implemented for all four wells, how much water would be available for other users over and above what is allotted to the Mauna Kea and Mauna Lani?

Mr. Medoff: The way I read the agreement, it's a good question, that it says 90% of the installed pump capacity goes to Mauna Lani. The installed pump capacity theoretically could be more than a 100% of the well. So therefore it could be a total monopoly of the water under well "D". So as the way the contract is now written, it could be argued that it's a 100% of the water. The other part of that problem is that the earlier contracts required as you mentioned the bond issue, which is true there was a bond issue. The bond issue, in order to have public purpose and thereby be tax exempt as far as the bond holders were concerned, they were required to put in the original agreements, an obligation that the public would at all times have available to them the Lalamilo Well System.

MOTION

Mr. Arisumi requested of the Chairperson to call for an executive session.

Mr. Yuen: Before taking action, I would like to ask Mr. Watanabe a couple of questions. Under your interpretation of the agreements, how much water would there be for the public, over and above the allocation for the developers.

Mr. Watanabe: Commissioner, I don't know exactly what the figure is but I believe it comes to somewhere around 10% of total water out of the system.

Mr. Yuen: Out of 4.4 million gallons.

Mr. Watanabe: I believe so. Let me try to explain. There were a series of agreements that were entered into between the County and developers. The last, I believe well 'D' had 10% requirement, in that case, the developer put up all the money for that well. In earlier wells, there were greater allocations.

Mr. Yuen: So 10% is the least as far as the public allocation. Is that right?

Mr. Watanabe: I believe so, but there's one caveat to that and I can check it, but the original, remember I mentioned a test well that was put in by the State was a smaller well. I believe in that case, the developer found a way to outfit that well with a special kind of a pump although it had a much less capacity than the other three because it had a smaller casing. I believe in that case, the developer may have received all of the water from that well.

Mr. Yuen: What is your interpretation of the 90% installed pump capacity?

Mr. Watanabe: I believe it's not installed pump capacity, I believe the term used is safe yield. But the providers of the funding or the developer and the Tri-Party group have never taken the position that they can take anything but what has been set forth in the agreement and that if it says 90% or if it says 50% that that's what they take.

Mr. Yuen: But this is 90% of the some long term sustainable yield.

Mr. Watanabe: A safe yield, that's correct, because the County didn't want to make a commitment of gallonage that went beyond whatever the safe yield of the wells were.

Mr. Yuen: One last question, it's contemplated that well "D" is going to be the last well to be drilled in the Lalamilo, is it because it is felt there is not going to be anymore water available in Lalamilo?

Like if you sank another well, you wouldn't be able to get any water out of it.

Mr. Watanabe: I'm sorry I may have misspoken. It may not be the last well that is ever sunk in Lalamilo but it will be the last well in the series of agreements that we've had with the County and involved with the State. So there is possibility, for instance, that other wells may be drilled as part of the Lalamilo Water System. You may have to do some infrastructure changes obviously in beefing up the transmission line. But that will be done by others other than the private developers. It may be done by the State or by the County.

Mr. Yuen: Is there anybody here that can tell us whether these four wells are likely to extract good ground water that's available in Lalamilo.

Mr. Watanabe: We've had extensive discussions with Tom Nance, the hydrologist on this project and has also served with the hydrologists for Waikoloa and every indication that he's ever given to us would indicate that's not the case. That there is a substantial amount of water along the 1200 foot level that runs for probably 40 miles from North Kohala to Kona.

Mr. Yuen: How about the State's property in Lalamilo in the 1200 foot elevation?

Chairperson Paty: (Interrupts) I think this matter of hydrolics would properly be before the Water and Land Division and to get an opinion at this point in time, I don't think it would be acceptable.

There is a motion on the floor to go into an Executive Session, is there a second. Mr. Apaka seconded the motion and motion carried.

Mr. Watanabe: Mr. Chairman, maybe I can still submit to the Board a memorandum that we prepared in anticipation that Mr. Medoff would again make an appearance before a public agency and we would just submit that for the record without comment. But it deals specifically with the issues of intervention with this kind of situation.

**EXECUTIVE
SESSION**

10:10 am - 10:30 am

Chairperson Paty called the regular meeting back to order.

Mr. Tengan: Mr. Chairman and members of the Board, it seems like Mr. Medoff is trying to bring the water allocation issue and tie it into this land issue here. I just want to say from our point of view that whether Mr. Medoff gets his water through the contested case hearing or not, the reservoir will still be needed and still like to place it at the 310 foot elevation.

Chairperson asked for any further questions or comments from the members of the Board.

DEFERRAL

Mr. Yuen: Mr. Chairman, I'd like to make a motion to defer this item to the January 25th meeting, it's not my intention that we have an indefinite deferral but there is a little more information that I have a question about the total availability of resource in Lalamilo. Motion was seconded by Ms. Himeno and carried unanimously.

WAIAKEA SETTLEMENT YMCA OF HAWAII COUNTY REQUEST FOR DIRECT ISSUANCE OF LEASE AT WAIMEA, SOUTH KOHALA, HAWAII, TAX MAP KEY 6-6-3:07 AND 6-6-08:ROAD RESERVE

ITEM F-21

Mr. Ron Sanders, Executive Director of the Waiakea Settlement YMCA, said he was present to answer any questions of the Board. He did mention that the YMCA has run a feasibility study in the way of programming and financial feasibility to obtain information if its possible to operate a YMCA in Waimea and it is possible.

Chairperson Paty asked if he had seen the 17 conditions and if there were any problems.

Mr. Sanders replied that he had seen the conditions and did not see any problems except that there might be a possible amendment to Phase I, where they might not include the gymnasium at this time. He also presented the architect's plans from a building standpoint to the members of the board to view. He pointed out that if the culvert floods it will be covered with water.

MOTION Mr. Yuen moved for approval. He commented also that this is a much needed facility in a growing community. Seconded by Mr. Arisumi.

DISCUSSION Mr. Sanders wanted to be sure the Board members understood they would not be building the gymnasium during Phase I and would like it deleted from Condition No. 4; also because of not building the gymnasium he would like to request Condition No. 12 be amended from \$1,000,000.00 to \$750,000.00 for minimum improvements.

ACTION Mr. Yuen amended his motion to delete "gymnasium with locker rooms" in Condition No. 4 and in Condition No. 12, reduce the minimum dollar value for Phase I improvements from \$1,000,000.00 to \$750,000.00. Seconded as amended by Mr. Arisumi, motion carried.

Item F-1a ASSIGNMENT OF GRANT OF EASEMENT NO. S-4830 TO NANSAY HAWAII, INC., EASEMENTS A AND B, OOMA, KOHANA'IKI, NORTH KONA, HAWAII, TAX MAP KEY 7-3-09:POR. 5

Mr. Yuen requested clarification that only a small portion of the easement will cross the Mamalahoa Trail.

Mr. Randy Vitousek answered that was correct. At the time easements A and B were granted, easement A was the larger easement over State land. Subsequently the State gave up that land in a land exchange for a shoreline piece of property in the same area.

ACTION Approved as submitted. (Yuen/Himeno)

ITEM H-1 CONSERVATION DISTRICT USE APPLICATION (CDUA) FOR SINGLE FAMILY RESIDENCE, PUNA, HAWAII, TMK 1-3-2:98; APPLICANT: PHILIP G. KAHN

Mr. Evans made the presentation of Item H-1 to the Board with staff recommending approval. He pointed out a typographical error on Page 4 of the numbering of the conditions. The numbers of the conditions should be 1., 2., 3., 4. and not 1., 2., 3., 3.

MOTION Mr. Apaka moved for approval. Seconded by Mr. Arisumi.

DISCUSSION Responding to Mr. Yuen, regarding the location, Mr. Kahn explained that it was in Opihikao, the Kalapana side about one mile south.

ACTION The Chairperson called for the question and motion carried.

KAHIKOLU CONGREGATIONAL CHURCH REQUEST FOR DIRECT CONVEYANCE OF
GOVERNMENT LANDS AT KALAMAWAIWAAWA AND KAHAUOLA 1ST, SOUTH KONA,
HAWAII, TAX MAP KEY 8-2-07:07 & 09

ITEM F-18

MOTION Mr. Yuen moved for approval; seconded by Mr. Arisumi.

DISCUSSION Mr. Wilcox said that he lives on Conservation property and as such has had to come to the Board for several items and has been critical from time to time of the staff for the long delays and waiting for things to be done but judging from the length of the items the Board has had to work on this morning and the complexity of it, he must apologize on the record for his criticism.

Back to the church cemetery issue, Mr. Wilcox said he believes that this is a fee conveyance.

Mr. Young responded, "yes."

ACTION Chairperson calling for the question, motion carried unanimously.

ITEM F-3

DEPARTMENT OF LAND AND NATURAL RESOURCES REQUESTS SET ASIDE OF
GOVERNMENT LAND AT HOOLEHUA, PALAAU-APANA 2, MOLOKAI, FOR DEPARTMENTAL
OFFICES, BASEYARD AND NURSERY PURPOSES, TAX MAP KEY 5-2-01:6

Ms. Leimana Damante was present representing the Office of Hawaiian Affairs. She was asked by the Honolulu office to just read the letter to the Board from the OHA director, Mr. Richard Paglinawan dated December 27, 1990 addressed to Mr. William W. Paty. If there were any questions, that they be directed to their director or administrator in charge.

The contents of the letter urged the Chairman not to proceed with the disposition of this item until negotiations regarding OHA trust entitlements to revenues from ceded lands are complete. A copy of Mr. Paglinawan's letter has been placed in the Departmental Board folder of January 11, 1991.

Responding to the Chairperson, Mr. Young said that he was not aware of the letter and thus it was not included in the submittal. With respect to the letter, Mr. Young said that whatever revenue is received on ceded lands, 20% of that goes to OHA. In this case, its a set aside for which no revenues would be received, therefore they thought it would be appropriate as provided in the statutes to recommend to the Board for the set aside.

Deputy Attorney General Wong commented that as far as trust lands, it is not solely for the benefit of OHA. The constitution provides that it will also be for the benefit of the general public. Under the so-called entitlement compensation with the Governor's office, the governmental uses are excluded from the 20% requirement.

Miss Damante said she would take this information back to the OHA director.

Chairperson Paty added that the Board is more than aware of the obligation under the ceded lands provisions, particularly with respect to current negotiations that are under way.

ACTION Approved as submitted. (Arisumi/Himeno)

REQUEST FROM HANA LIKE, INC. TO OCCUPY STATE-OWNED LANDS WITHIN KEALAKEKUA BAY

Mr. Nagata recalled for the Board that at the August 24, 1990 meeting applicant's CDUA was approved and one of the conditions was that applicant needed to obtain a permit to occupy State-owned lands by the Division of State Parks.

The Division of State Parks has reviewed the application and is recommending approval subject to the 20 additional conditions listed. Mr. Nagata said that he would like to make a change to Condition No. 4, instead of \$0.60 per linear foot, he would like to change it to \$1.60 per linear foot and eliminate the words, "or 2% of the gross revenue, whichever is greater". This is to be consistent with the Department of Transportation's fees. In Condition No. 6, he would like to insert "two" mooring sites.

Mr. Arisumi's questions pertained to the \$1.60 per linear foot and Condition No. 8, in case of emergencies.

Mr. Nagata clarified that in Condition No. 4, the linear foot referred to the length of the boat; they would have no problem including emergency use in Condition No. 8.

Mr. Nagata informed the Board that Mr. Gordon Leslie was present today and he will make an appeal to the Board to allow him to use the moorings that are already installed or existing. Mr. Nagata said for consistency they are hoping to work with the DOT to have each permittee to put in place new moorings that meet certain standards.

Mr. Gordon Leslie, applicant, said that he would like to respond and appeal to some of the requests or conditions. 1) The insurance amount listed usually relates to loading and unloading of passengers from the pier; because their vessel the Hana Like does not load in Kealakekua Bay they request that their present insurance policy which they carry for \$350,000 be sufficient for this purpose.

Responding to Mr. Arisumi's questions, Mr. Nagata said that normally they would require a \$300,000 liability insurance and \$50,000 property damage, although this is not a set standard. This being commercial in nature they felt it should be raised up to one million dollars and \$500,000 regardless if this is not used for public transportation. It is still at the discretion of the Board to set the amount.

Regarding Condition No. 4, Mr. Leslie referring to the lack of infrastructure, he would like to request that the fees for the mooring be reduced to half. He said that all the other harbors that pay this amount, they have water provisions, electrical units to hook up to besides mooring. He said that out in Kealakekua Bay area they just hook up to the mooring. Responding to the Board, he said that they go to Keauhou Bay to load up diesel and clean their boats like all other boats.

Condition No. 6, Mr. Leslie asked if the Board would consider their continual use of the existing mooring which they have used since 1911. He explained how the existing mooring system was put in place by his grandfather.

Condition No. 8, Mr. Leslie said that they would have no problems with emergency tie-up on their mooring.

Regarding Condition No. 15, where it says "maintain the vessel and in a seaworthy well-kept condition," he read a short paragraph from Doyle Limited which is a marine surveyor consultant of 1988 which said, "... this vessel is well maintained and probably the cleanest vessel in the Pacific."

Ms. Himeno commented that she agreed with Mr. Arisumi's earlier statement that it is tough to keep a small business going in this day and age, especially fishing.

ACTION

Ms. Himeno moved to approve and authorize the occupancy of State-owned lands at the bay subject to the conditions listed but amending the stated conditions:

1. Decreasing the minimum coverage of insurance to \$600,000;
2. With regard to Condition No. 4, \$1.60 per linear foot, decreasing that amount to \$1.00 per linear foot per vessel;
3. With respect to the moorings, two moorings, pending DOT's approval of the present moorings, if they find they are not sufficient or safe, working it out; and
4. Condition 8 to allow for emergency tie up.

Mr. Yuen seconded the motion, and motion carried.

ITEM E-1

REQUEST FROM THE HAWAIIAN CRUISES, LTD. TO OCCUPY STATE-OWNED LANDS WITHIN KEALAKEKUA BAY

Mr. Nagata said that this request was similar to Item E-2, the difference is that this boat is a cruise boat and it's anchored and moored in the subzone 'A' near the Captain Cook monument.

Staff would like to recommend the additional 20 conditions to the CDUA with following changes: Condition No. 4, change the \$0.60 per linear foot to \$1.60 per linear foot or 2% of the gross revenue, whichever is greater (this is consistent with DOT's fees); Condition No. 9, he would like to replace with, "No overnight mooring use permitted except during an emergency."

Ms. Susan Matsuura, representing the Hawaiian Cruises, responded to the Board that presently they are conducting one trip per day but it's seasonal depending on amount of tourists and business and mostly it's two. A trip is usually about an hour and fifteen minutes.

Ms. Matsuura has seen the conditions and would like to appeal the mention of back rent. They have been in business competing with several boats of which none have gone through this approval process. They feel it would be unfair to penalize them against past revenues they've had in competing with these other boats.

Regarding the fee, she mentioned that they have a mooring in Kailua-Kona and they pay this same type of fee over there and this in essence would be doubling their fee for the same activity. They pay 2% of all their revenue already. They feel there should be some kind of fee but to double that would be a hardship on their company.

In Condition No. 6, as Mr. Leslie pointed out, their moorings have been in place for several years and if approved they would agree to the same kind of conditions as approved by the DOT. They would like to keep their existing moorings in place.

In Condition No. 8, she mentioned that they are regulated by the Coast Guard to go for drydocking every 18 months. They have another vessel that they don't take into the bay but during those times they substitute to continue. When their vessels age they replace them, so with prior approval from the Board they would request for replacement of similar type of vessels.

Condition No. 13 mentions not to permit consumption of alcoholic beverages. Ms. Matsuura said that a lot of their customers are older senior citizens who don't participate in the snorkeling or the swimming activities and they enjoy a beer or so from the snack bar. She hoped something could be worked out.

On Condition No. 18, she mentioned that sometimes drydocking takes more than 14 days for maintenance and repairs and they would give notice to the Board.

Ms. Matsuura then responded to questions of the Board regarding fees, use of the bay and the moorings.

MOTION

Mr. Yuen moved to approve with the following amendments:

On Condition No. 1, minimum coverage to be \$1,000,000.00 per person (feels there is a greater liability with this commercial activity than the fishing activity).

On Condition No. 4, leave as is. (Because eventually there probably will another company coming up for approval.)

Condition No. 6, if the present mooring is allowed and safe, and the DOT is satisfied that it is environmentally superior to keep the present mooring, he feels they shouldn't be made to construct a new one.

Condition No. 8, regarding replacing a similar vessel with another design as a replacement should not present any problems; also for emergency purposes to allow use of the mooring.

Condition No. 13, would like to leave it as is.

DISCUSSION

Ms. Matsuura asked if serving of alcoholic beverages could be allowed and say, limit it to 2 drinks per person during the trip.

Mr. Yuen then asked Mr. Nagata if sale of alcoholic beverages was permitted at any of the State Parks. Mr. Nagata said that at the Wailua Marina Restaurant they do serve alcoholic beverages.

Mr. Arisumi commented that almost all of the tour boats going out of Kewalo Basin have liquor licenses as well as the tour boats on Maui.

Mr. Nagata reminded the Board on Condition No. 4, he had recommended to the Board that the \$0.60 fee per linear foot be increased to \$1.60 per linear foot per vessel; and on Condition No. 8, request by the applicant to obtain prior permission from the Board when they switch vessels should the need arise; and in Condition No. 9 he deleted it entirely and replaced it with, "No overnight mooring use permitted except during an emergency."

Mr. Arisumi expressed concerned that the applicant would be assessed a double fee.

Chairperson Paty tried to clarify the fact that this would probably be one of the two companies that would be operating in Kealahou Bay and

sort of enjoying a monopoly of doing business there.

Question was again raised as to the amount of insurance carried by the applicant. Ms. Matsuura said that they carry \$1,000,000.00 and \$500,000.00 presently.

Mr. Yuen said he could amend his motion regarding the insurance to a cap of \$1,000,000.00.

Mr. Arisumi suggested that the board defer this matter to the next meeting so that the applicant can try and see what they can work out as far as serving alcoholic beverages on the ship and also concern on the fees being recommended. He would want Mr. Nagata to review the fees and come back to the Board.

Ms. Matsuura asked if the Board could give partial approval as they still have to go to the Department of Health, Department of Transportation and this permitting process has been going on for about 2 years.

Chairperson commented on the reasoning for the deferment asked by Mr. Arisumi.

Mr. Yuen said it was agreeable to him that this matter be deferred to have staff and applicant clear up the expressed concerns and he withdrew his motion.

DEFERRED

Mr. Arisumi moved to defer this item to the January 25, 1991 meeting. Seconded by Mr. Apaka, motion carried.

ITEM F-2

HOUSING FINANCE AND DEVELOPMENT CORPORATION REQUESTS GRANT OF NON-EXCLUSIVE WASTEWATER TRANSMISSION PIPELINE EASEMENT TO COUNTY OF MAUI AT WAHIKULI, LAHAINA, MAUI, TAX MAP KEY 4-5-21:POR. 7

Mr. Young made the presentation of Item F-2 explaining that should the Board approve the request of the non-exclusive wastewater transmission pipeline easement that the Division of State Parks had requested the following conditions be included:

1. Relocate all trees existing within the easement to a) a State Parks designated location elsewhere in the park premises, or b) at the discretion of State parks, an offsite location for use in the HFDC housing project, or c) at the discretion of State parks, cut down. All relocated trees shall be cared for by the contractor for a period of 6 months.
2. Any large canopied trees with trunks immediately outside of the easement shall be relocated as above or pruned and assurance must be given to right such trees if toppled by winds as a result of destruction of root system in the excavated easement. Such assurance shall be for a period of one (1) year.
3. All developed facilities (guardrail, picnic shelters, irrigation, pavement, underground utilities, landscaping, etc.) affected by work on the easement shall be disrupted for the least amount of time before such facilities are restored to prior condition or better. Picnic shelter should be relocated to State Parks designated locations elsewhere in the park premises, or if infeasible to relocate, replacement shelter must be erected. Irrigation system must be adjusted to meet any new landscape conditions in the vicinity of easement or relocated trees/shelters.

4. Vehicular and pedestrian access to park premises shall be kept open at all times unless given prior State Parks approval.
5. Any required shut down of a comfort station shall be with prior State Parks approval and shall require posting of appropriate signs, barricades at entries, and when appropriate portable toilet. If project adversely affects existing waste disposal from comfort stations, provision should be included to hookup to project.
6. Applicant should be aware of existing County sewer line along proposed alignment.
7. Project vehicles and equipment and materials shall not be parked/stored on paved parking or driveway areas, except when construction traverses such areas. Otherwise these areas shall be kept open to general public use to the fullest extent possible.
8. The monkeypod tree, located approximately 575 feet north of Lahaina Sewer Pump Station No. 3, shall be pruned, to include cleaning out of dead growth and thinning of tree canopy, when its root structure is cut by trench excavation.
9. The existing park comfort station wastewater system shall be tied into new sewer transmission pipeline at stub-out when project is completed and new sewer pipeline system is hooked-up to Lahaina Sewer Pump Station No. 3.

ACTION Unanimously approved as amended. (Arisumi/Himeno)

ITEM B-1 REQUEST FOR APPROVAL TO AMEND THE AGREEMENT WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII (RCUH) FOR NATIVE FRESHWATER SPECIES AND STREAM ECOSYSTEM STUDIES

ACTION Unanimously approved as submitted. (Apaka/Arisumi)

ITEM B-2 REQUEST FOR APPROVAL TO ENTER INTO TWO AGREEMENTS TO SUPPORT FEDERAL FISHERY MANAGEMENT-RELATED ACTIVITIES OF THE DIVISION OF AQUATIC RESOURCES DURING 1991

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM C-1 OUT-OF-STATE TRAVEL REQUEST FOR RONALD L. WALKER, TO ATTEND THE 56TH NORTH AMERICAN WILDLIFE AND NATURAL RESOURCE CONFERENCE IN ALBERTA, CANADA

ACTION Unanimously approved as submitted. (Arisumi/Apaka)

ITEM E-1 REQUEST FROM THE HAWAIIAN CRUISES, LTD. TO OCCUPY STATE-OWNED LANDS WITHIN KEALAKEKUA BAY

See page 16 for action.

ITEM E-2 REQUEST FROM HANA LIKE, INC. TO OCCUPY STATE-OWNED LANDS WITHIN KEALAKEKUA BAY

See page 14 for action.

- ITEM E-3 REQUEST TO USE THE IOLANI PALACE GROUNDS FOR A CEREMONY TO COMMEMORATE THE OVERTHROW OF THE HAWAIIAN MONARCHY ON JANUARY, 1893
- ACTION** Unanimously approved as submitted. (Himeno/Apaka)
- ITEM F-1 DOCUMENTS FOR BOARD CONSIDERATION
- Item F-1a ASSIGNMENT OF GRANT OF EASEMENT NO. S-4830 TO NANSAY HAWAII, INC., EASEMENTS A AND B, OOMA, KOHANA'IKI, NO. KONA, HAWAII, TAX MAP KEY 7-3-09:POR. 5
- See page 11 for action.
- Item F-1b ASSIGNMENT OF GRANT OF EASEMENT (LAND OFFICE DEED NO. S-27766) BETWEEN JOHN H. CONNORS AND MARGARET S. CONNERS, ASSIGNORS, AND SOGA LEISURE PLANNING CO., A JAPAN CORPORATION, ASSIGNEE, OPU, MAKIKI, HONOLULU, OAHU, TAX MAP KEY 2-5-05:5
- Item F-1c ISSUANCE OF REVOCABLE PERMIT TO MOTOROLA COMMUNICATIONS INTERNATIONAL, INC., GOVERNMENT LANDS OF KILAUEA AND KAHILI, HANA'LEI, KAUAI, TAX MAP KEY 5-2-04:POR. 40
- Item F-1d SALE OF LEASEHOLD BY AGREEMENT OF SALE, GENERAL LEASE NO. S-3782 TO GERTRUDE PAK-CHONG, LOT 48, WAIMANALO AGRICULTURAL SUBDIVISION, WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-26:17
- Item F-1e SUBLEASE OF GENERAL LEASE NOS. S-4331 AND S-4332 BY AND BETWEEN GEORGE R. MADDEN, JR. AND JEAN S. MADDEN AND PACIFIC CONSOLIDATED INVESTMENTS, SUBLESSORS, AND LOVELAND INDUSTRIES, INC., SUBLESSEE, WAI'AKEA, SO. HILO, HAWAII, TAX MAP KEY 2-2-37:144 & 145
- WITHDRAWN** Mr. Young requested that this item be withdrawn.
- Item F-1f AMENDMENT OF SALE OF LEASEHOLD BY AGREEMENT OF SALE OF GENERAL LEASE NO. S-4330 BY AND BETWEEN SUSANNAH V. TEHO, SUCCESSOR TRUSTEE, ET AL, SELLERS AND GLENN Y. NAKAMURA, BUYER, WAI'AKEA, SO. HILO, HAWAII, TAX MAP KEY 2-2-37:122
- Item F-1g ASSIGNMENT OF GENERAL LEASE NO. S-3653 FROM ANDREWS TRUCKING SERVICE, INC., ASSIGNOR, AND JACK L. AYERS, JR. AND ELSIE M. AYERS, ASSIGNEES, KANO'ELEHUA INDUSTRIAL LOTS, WAI'AKEA, SO. HILO, HAWAII, TAX MAP KEY 2-2-50:81
- Item F-1h ISSUANCE OF REVOCABLE PERMIT TO LORRIE A. AKINA, TEACHER'S COTTAGE DUPLEX AT KANAHONUA, HAMAKUA, HAWAII, TAX MAP KEY 4-8-06:POR. 10
- ACTION** Mr. Apaka moved for the approval of Items F-1b, F-1c, F-1d, F-1f, F-1g and F-1h; seconded by Ms. Himeno motion carried.
- ITEM F-2 HOUSING FINANCE AND DEVELOPMENT CORPORATION REQUESTS GRANT OF NON-EXCLUSIVE WASTEWATER TRANSMISSION PIPELINE EASEMENT TO COUNTY OF MAUI AT WAHIKULI, LAHAINA, MAUI, TAX MAP KEY 4-5-21:POR. 7
- See page 17 for action.
- ITEM F-3 DEPARTMENT OF LAND AND NATURAL RESOURCES REQUESTS SET ASIDE OF GOVERNMENT LAND AT HOOLEHUA, PALAAU-APANA 2, MOLOKAI, FOR DEPARTMENTAL OFFICES, BASEYARD AND NURSERY PURPOSES, TAX MAP KEY 5-2-01:6
- See page 12 for action.

ITEM F-4 REQUEST FOR TERMINATION OF REVOCABLE PERMIT NO. S-6402 TO WAIMANALO DAIRY, INC. AND ISSUANCE OF NEW REVOCABLE PERMIT TO MEADOW GOLD DAIRIES, INC. (HAWAII), WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-18:5

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM F-5 ACCEPTANCE AND RETURN OF CEDED LANDS FROM UNITED STATES GOVERNMENT, SITUATED AT BELLOWS AIR FORCE STATION, WAIMANALO, OAHU

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM F-6 CITY AND COUNTY OF HONOLULU REQUESTS SET ASIDE OF STATE LAND AT KAHALUU, KOOLAUPOKO, OAHU, FOR ADDITION TO LAENANI BEACH PARK, TAX MAP KEY 4-7-10:ADJ. 17

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM F-7 LONG AND ASSOCIATES ON BEHALF OF KIKUEI CORPORATION, LTD. REQUEST AMENDMENT OF A PEDESTRIAN SHORELINE RIGHT-OF-WAY EASEMENT AT DIAMOND HEAD, OAHU TAX MAP KEY 3-1-37:6

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM F-8 AUTHORIZATION TO LEASE AT PUBLIC AUCTION AND ISSUANCE OF INTERIM REVOCABLE PERMIT, GOVERNMENT LANDS AT WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-13:23

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM F-9 CONSIDERATION OF PRE-TRIAL MOTIONS IN THE MATTER OF THE SHORELINE CERTIFICATION APPLICATION OF ROBERT P. SCURICH, L. M. CASE OA-123 FOR LOTS 18 AND 19, SUNSET BEACH LOTS SITUATE AT PUPUKEA, KOOLAUPOKO, OAHU, HAWAII (TAX MAP KEY 5-9-20:39 AND 40)

ACTION Mr. Apaka moved for approval of Item F-9; seconded by Mr. Arisumi motion carried. Chairperson Paty abstained from voting on this issue as he signs all Shoreline Certifications.

****See page 22 for additional review and action on Item F-9.**

RECESS 12:15 PM -12:20 PM

ITEM F-10 AMENDMENT TO PRIOR BOARD ACTION OF JANUARY 12, 1990 (AGENDA ITEM F-16), SET ASIDE OF STATE LAND TO OAHU CORRECTIONAL FACILITY, KALIHI-KAI, OAHU, TAX MAP KEY 1-2-26:32, 33 AND 34

ACTION Unanimously approved as submitted. (Apaka/Arisumi)

ITEM F-11 CITY AND COUNTY OF HONOLULU REQUESTS SET ASIDE OF FORMER HONOLULU STADIUM SITE AT HONOLULU, OAHU, FOR PARK PURPOSES, TAX MAP KEY 2-7-08:2

ACTION Unanimously approved as submitted. (Apaka/Arisumi)

ITEM F-12 AUTHORIZE RELOCATION OF STATE DITCH RIGHT-OF-WAY, ACCEPT CONVEYANCE OF RELOCATED DITCH RIGHT-OF-WAY IN FEE SIMPLE FOR GRATIS AND APPROVE DIRECT SALE OF EXISTING LATERAL DITCH RIGHT-OF-WAY NO. 1 AS A REMNANT, WAILUA, KAUAI, TAX MAP KEY 4-2-02:13

ACTION Unanimously approved as submitted. (Apaka/Arisumi)

- ITEM F-13 AMENDMENT TO PRIOR BOARD ACTION OF JUNE 9, 1988 (AGENDA ITEM F-10) PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ACCESS AND UTILITY PURPOSES, KAPAA HOMESTEADS, KAPAA, KAUAI, TAX MAP KEY 4-6-06
- ACTION Unanimously approved as submitted. (Apaka/Arisumi)
- ITEM F-14 STAFF REQUEST TO AMEND REVOCABLE PERMIT NO. S-6074 TO KAUAI MOUNTAIN TOURS, WAIMEA, KAUAI
- ACTION Unanimously approved as submitted. (Apaka/Arisumi)
- ITEM F-15 HAWAII ELECTRIC LIGHT COMPANY, INC. REQUEST FOR PERPETUAL, NON-EXCLUSIVE EASEMENTS FOR TWO ELECTRICAL TRANSMISSION LINES AT PUNA, HAWAII, TAX MAP KEYS 1-4-01:04; 1-4-03:08; 1-5-08:01, 06 & 07; 1-5-09:09 AND 1-5-10:03
- See page 3 for action.
- ITEM F-16 WATER COMMISSION OF THE COUNTY OF HAWAII REQUEST FOR GOVERNOR'S EXECUTIVE ORDER FOR ADDITION TO THE LALAMILO WATER SYSTEM AT LALAMILO, WAIMEA, SO. KOHALA, HAWAII, TAX MAP KEY 6-6-1:POR. 02
- See page 10 for action.
- ITEM F-17 COUNTY OF HAWAII REQUESTS DEDICATION FOR ROAD PURPOSES, POR. OF ALANUI KAUHINI, KALAOA 4TH, NO. KONA, HAWAII, TAX MAP KEY 7-3-10:POR. 29
- ACTION Unanimously approved as submitted. (Apaka/Yuen)
- ITEM F-18 KAHIKOLU CONGREGATIONAL CHURCH REQUEST FOR DIRECT CONVEYANCE OF GOVERNMENT LANDS AT KAWAWAIWAAWA AND KAHAUOLA 1ST, SO. KONA, HAWAII, TAX MAP KEY 8-2-07:07 & 09
- See page 12 for action.
- ITEM F-19 WATANABE FLORAL, INC. REQUEST TO CONSTRUCT A FARM LABOR DWELLING ON LOT 9, LALAMILO FARM LOTS, LALAMILO, SO. KOHALA, HAWAII, TAX MAP KEY 6-6-05:02
- ACTION Unanimously approved as submitted. (Yuen/Arisumi)
- ITEM F-20 PALANI RANCH CO., INC. REQUEST FOR DIRECT GRANT OF EASEMENT, HONUULA TRACT NO. 2, NO. KONA, HAWAII, TAX MAP KEY 7-4-01:POR. 03
- ACTION Unanimously approved as submitted. (Yuen/Arisumi)
- ITEM F-21 WAIAKEA SETTLEMENT YMCA OF HAWAII COUNTY REQUEST FOR DIRECT ISSUANCE OF LEASE AT WAIMEA, SO. KOHALA, HAWAII, TAX MAP KEY 6-6-03:07 AND 6-6-08:ROAD RESERVE
- See page 11 for action.
- ITEM F-22 REQUEST TO GRANT FINAL APPROVAL--PROPOSED LAND EXCHANGE BETWEEN STATE OF HAWAII AND COUNTY OF MAUI INVOLVING THE CONVEYANCE OF UKUMEHAME FIRING RANGE AND FORMER WAILUKU COURT HOUSE PARCELS TO MAUI COUNTY AND CONVEYANCE WAILUKU JAIL SITE PROPERTY TO STATE OF HAWAII, LAHAINA AND WAILUKU, MAUI
- ACTION Unanimously approved as submitted. (Arisumi/Apaka)

ITEM H-1 CONSERVATION DISTRICT USE APPLICATION (CDUA) FOR SINGLE FAMILY RESIDENCE PUNA, HAWAII, TMK 1-3-2:98; APPLICANT: PHILIP G. KAHN

See page 11 for action.

ITEM H-2 CDUA FOR A NON-CONFORMING SINGLE FAMILY RESIDENCE AND FARM AT NUAAIALU BAY, MAUI, TMK 1-1-02:04; APPLICANT: CLAUDIA GERBAULET

Mr. Evans said he was asked to notify the Board that the applicant was unable to attend because of a sick child. The applicant has reviewed and does accept the conditions.

Before beginning his presentation, Mr. Evans said that he needed to modify Condition No. 1, there has been a follow-up by the Division of Historic Sites so that there will be a Condition 1a and 1b. Basically this is a non-conforming single family residence and farm and in the limited subzone. The application was routed for review and there were concerns relative to the taro planting as well as the initial concerns by Historic Sites, that there would be potentially significant damage done. Applicant has been in contact with Historic Sites and the outcome are the two new conditions, 1a and 1b.

The Division of Forestry and Wildlife recommended denial and they voiced concern of the value of open space and the coastline preservation. However, they also indicate if the Board approves the application there are several conditions that they would like to include.

The new conditions recommended by Historic Sites is:

- 1a. Clearing of vegetation, the southwest quad of the property. Where the taro terraces are located, shall be done only by hand operated tools. After clearing, the State Historic Preservation Division will be notified to enable the staff to record the terraces; and
- 1b. No planking or use of heavy equipment shall be done over and around the terraces without prior approval from the State Historic Preservation Division.

MOTION Mr. Arisumi moved for approval, seconded by Ms. Himeno.

DISCUSSION Mr. Yuen had one question on Condition No. 7, he couldn't understand the reference to the obstruction.

Mr. Evans explained that it's a cautionary condition that arose from the the Maui Planning Department. Currently there is public access that's in place. The County is asking that we take steps to insure that the public access remain.

ACTION Mr. Yuen asked to amend the motion to say, "There shall be no impact on present public access without prior departmental approval."

Mr. Arisumi voiced no objection, and moved to approve as amended, motion carried.

ITEM H-3 TEMPORARY VARIANCE--MALAIHI (MAUI) WATER TANK REPLACEMENT/ABANDONMENT, TMK 3-2-13:POR. 15; APPLICANT: DEPARTMENT OF WATER SUPPLY, COUNTY OF MAUI

ACTION Unanimously approved as submitted. (Arisumi/Himeno)

- ITEM H-4 TEMPORARY VARIANCE-TO CONDUCT A LIMITED ARCHAEOLOGICAL TEST EXCAVATION AT WAILUKU DISTRICT, MAUI, TMK 3-2-10:03; APPLICANT: PAUL H. ROSENDAHL, PH.D
- ACTION Unanimously approved as submitted. (Arisumi/Apaka)
- ITEM H-5 AUTHORIZATION TO APPOINT A PUBLIC HEARING MASTER FOR CDUA
- Mr. Evans requested to amend his request. He would like to add another recommendation No. 2: To authorize the Chairperson to appoint a master on a continuing basis until rescinded by the Board. Also with the understanding that the Board members can attend and the Board member of that County to be given the opportunity to be the master.
- ACTION Ms. Himeno moved for approval as amended. Seconded by Mr. Yuen, motion carried.
- ITEM H-6 OUT-OF-STATE TRAVEL REQUEST FOR A BOARD MEMBER AND OCEA STAFF TO ATTEND A WORKSHOP ON LAND USE AND THE U.S. CONSTITUTION AT SAN DIEGO, CALIFORNIA (MARCH 1-2, 1991)
- ACTION Approved as submitted. (Himeno/Arisumi)
- Mr. Evans asked to modify the request, that the Board authorize the Chairman to pursue any other approvals required for Board member's travel.
- The Chairperson responded that it would be somewhat inappropriate for the Board to vote their own travel, so to allow the Chair to address the issue at the appropriate time or take the sense of interest, proceed from there.
- ITEM H-7 REVIEW OF CONSERVATION DISTRICT USE PERMIT FOR MINAMI GOLF COURSE AT KOOLAUPOKO, OAHU, TMK 4-5-42:1 & 6; APPLICANT: MINAMI GROUP (USA), INC.
- See page 2 for action.
- ADDED
ITEM H-8 FILLING OF AN EXEMPT HISTORIC PRESERVATION ADMINISTRATOR POSITION NO. 26869E, OAHU
- ACTION The Board unanimously approved the appointment of Dr. Don J. Hibbard, Ph.D. to fill Position No. 26869E, the State Historic Preservation Administrator. (Arisumi/Himeno)
- **REVIEW
ITEM F-9 CONSIDERATION OF PRE-TRIAL MOTIONS IN THE MATTER OF THE SHORELINE CERTIFICATION APPLICATION OF ROBERT P. SCURICH, L. M. CASE CASE OA-123 FOR LOTS 18 AND 19, SUNSET BEACH LOTS SITUATE AT PUPUKEA, KOOLAUPOKO, OAHU, HAWAII (TAX MAP KEY 5-9-20:39 AND 40)
- Chairperson Paty asked to review Item F-9. He said that we have a memo from Deputy Attorney General Dona Hanaike relative to Item F-9 and in it by reason of the site visit and the other aspects of concerns. His concern was, given that situation, an inadvertent site visit raises some questions relative to this...
- Deputy Attorney General Wong said that the memo from Dona Hanaike suggested that the Board disclose on the record the site visit and recommends also that the Board approve and authorize the Chairman to utilize the services of a master to remove or avoid any taint of prejudice.

The Chair expressed the need for a motion so that when the Board makes a disclosure for the record and secondly to authorize the Chairman to designate a master which would remove the Board from sitting on it per se, given the situation that they're concerned with.

- ACTION** Mr. Arisumi declared, "I so move." Seconded by Ms. Himeno, and motion carried.
- ITEM I-1** APPOINTMENT OF LICENSE AGENT: KILANI ROD & TACKLE, ISLAND OF OAHU
- ACTION** Unanimously approved as submitted. (Himeno/Arisumi)
- ITEM I-2** OUT-OF-STATE TRAVEL REQUEST FOR NOAH PEKELo, JR.
- ACTION** Unanimously approved as submitted. (Himeno/Arisumi)
- Commissioner Himeno commented that although funds would be provided by the Federal Government or another agency, staff should list in the submittal the cost of the out-of-state travel.
- ITEM I-3** OUT-OF-STATE TRAVEL REQUEST FOR WENDELL W.S. KAM
- ACTION** Unanimously approved as submitted. (Himeno/Arisumi)
- ITEM J-1** VENDING MACHINE AGREEMENT, PASSENGER TERMINAL BUILDING, LANAI AIRPORT, LANAI (MAUI SODA AND ICE WORKS, LTD.)
- ACTION** Unanimously approved as submitted. (Arisumi/Apaka)
- ITEM J-2** AMENDMENT NO. 4 TO LEASE NO. DOT-A-84-3, LIHUE AIRPORT, KAUAI (K. PACIFIC INC., DBA THRIFTY RENT A CAR)
- Ms. Himeno requested to be excused because of a conflict.
- ACTION** Approved as submitted. (Apaka/Arisumi)
- ITEM J-3** REQUEST FOR ISSUANCE OF A LEASE BY PUBLIC AUCTION, HONOKOHAU SMALL BOAT HARBOR, KAILUA-KONA, HAWAII
- ACTION** Unanimously approved as submitted. (Yuen/Apaka)
- ITEM J-4** ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY AGREEMENT, SAND ISLAND CONTAINER FACILITY, OAHU, NON-EXCLUSIVE EASEMENTS FOR REEFER MONITORING AND EASEMENT FOR CRANE RAILS, (MATSON TERMINALS, INC.)
- Ms. Himeno requested to be excused because of a conflict.
- ACTION** Approved as submitted. (Arisumi/Apaka)
- ITEM J-5** ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY AGREEMENT, SAND ISLAND CONTAINER FACILITY, OAHU, FOR CONSTRUCTION AND MAINTENANCE OF AUTO LOT, OFFICE BUILDING AND PARKING, (MATSON TERMINALS, INC.)
- ACTION** Approved as submitted. (Apaka/Arisumi)
- ITEM J-6** HOLDOVER OF HARBOR LEASE NO. H-70-5, HARBORS DIVISION, AT THE HEAD OF SLIP BETWEEN PIERS 35 AND 36, HONOLULU HARBOR, OAHU (CASTLE & COOKE, INC.)
- ACTION** Approved as submitted. (Himeno/Arisumi)

- ITEM J-7 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIERS 1 AND 2, 6-29, 31-36, 39 AND 40, 51A-53, HONOLULU HARBOR; AND KEWALO BASIN, OAHU (ISLAND NAVIGATION CO., LTD.)
- ACTION** Approved as submitted. (Himeno/Apaka)
- ITEM J-8 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIERS 37 AND 38, HONOLULU HARBOR, OAHU (CHEVRON U.S.A., INC.)
- ACTION** Approved as submitted. (Himeno/Arisumi)
- ITEM J-9 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 39, HONOLULU HARBOR, OAHU (GRACE PACIFIC CORPORATION)
- ACTION** Approved as submitted. (Himeno/Arisumi)
- ITEM J-10 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NAWILIWILI HARBOR DISPOSAL AREA, NIUMALU, KAUAI (MARK O'DELL, DBA GARDEN ISLAND INFLATABLES)
- ACTION** Approved as submitted. (Apaka/Arisumi)
- ITEM J-11 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 9 SHED, ALOHA TOWER COMPLEX, HONOLULU HARBOR, OAHU (CHARLES PANKOW BUILDERS, LTD.)
- ACTION** Approved as submitted. (Himeno/Arisumi)
- ITEM J-12 CONTINUANCE OF REVOCABLE PERMITS H-87-1426, ETC., HARBORS DIVISION
- ACTION** Approved as submitted. (Arisumi/Himeno)
- ITEM J-13 CONTINUANCE OF REVOCABLE PERMITS H-84-1160, ETC., HARBORS DIVISION
- Ms. Himeno requested to be excused from acting on R.P. H-82-1032, Aloha Petroleum.
- ACTION** Approved as submitted. (Arisumi/Apaka)
- ITEM J-14 ISSUANCE OF REVOCABLE PERMIT NO. HY-90-047, HIGHWAYS DIVISION, HONOLULU-PEARL HARBOR ROAD, OAHU (HAWAII STEVEDORES, INC.)
- ACTION** Approved as submitted. (Himeno/Arisumi)
- ITEM J-15 LEASE-BUILDING 306, MAIN TERMINAL BUILDING, SPACE NOS. 308 AND 309, LIHUE AIRPORT, OAHU (UNITED STATES OF AMERICA, FEDERAL AVIATION ADMINISTRATION)
- Mr. Garcia made a correction in the title of the Item J-15, it should be Lihue Airport, Kauai.
- ACTION** Approved as submitted. (Himeno/Apaka)
- ITEM J-16 SECOND CONSENT TO ASSIGNMENT OF LEASE NO. DOT-A-84-2, LIHUE AIRPORT, KAUAI (WAIMEA GARAGE, LTD. DBA RENT-A-WRECK OF KAUAI--LINDO'S RENT-A-CAR OF HAWAII, INC.)
- Ms. Himeno requested to be excused because of a conflict.
- ACTION** Approved as submitted. (Apaka/Arisumi)

ITEM J-17 AMENDMENT NO. 4 TO LEASE NO. DOT-A-84-3, LIHUE AIRPORT, KAUAI (K. PACIFIC, INC., DBA THRIFTY RENT A CAR--RENT-A-CAR CONCESSION)

Ms. Himeno requested to be excused because of a conflict.

ACTION Approved as submitted. (Apaka/Arisumi)

ITEM J-18 APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT 4733, HONOLULU INTERNATIONAL AIRPORT, OAHU (ALOHA ISLANDAIR, INC.)

Ms. Himeno requested to be excused because of a conflict.

ACTION Approved as submitted. (Arisumi/Apaka)

ITEM J-19 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4739, ETC., AIRPORTS DIVISION

ACTION Approved as submitted. (Himeno/Apaka)

ITEM J-20 RENEWAL OF REVOCABLE PERMITS 3799, ETC., AIRPORTS DIVISION

Ms. Himeno requested to be excused because of a conflict.

ACTION Approved as submitted. (Apaka/Arisumi)

RESOLUTION The Board adopted a resolution to express its appreciation for the services rendered by Mr. Leroy Liwai Mollena upon his retirement after more than thirty-two years of service with the State of Hawaii. The Board extends to him its sincere congratulations and best wishes in his well-earned retirement, and good health and happiness in his future endeavors.

ADJOURNMENT There being no further business, the meeting adjourned at 12:51 p.m.

Respectfully submitted,


Dorothy Chun
Secretary

APPROVED FOR SUBMITTAL



William W. Paty, Chairperson