

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

**DATE:** FRIDAY, APRIL 12, 1991  
**TIME:** 8:30 A.M.  
**PLACE:** COUNTY COUNCIL CHAMBERS  
KAUAI COUNTY BUILDING  
4396 RICE STREET  
LIHUE, KAUAI, HI

**ROLL  
CALL**

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

**MEMBERS:** Mr. John Arisumi  
Mr. Herbert Apaka  
Mr. Christopher Yuen  
Mr. William Paty

**ABSENT & EXCUSED:** Ms. Sharon Himeno

**STAFF:** Mr. W. Mason Young  
Mr. Roger Evans  
Mr. Michael Buck  
Mr. Gordon Akita  
Mr. Sam Lee  
Mr. Tom Telfer  
Ms. Dorothy Chun

**OTHERS:** Mr. Johnson Wong, Deputy Attorney General  
Mr. Peter Garcia, Dept. of Transportation  
Mr. Warren Perry (Item F-5)  
Mr. Allen Smith, Mr. Raymond Ho,  
Dr. George Kanna, Mrs. Helen Kaneakua,  
Mr. Tom Worley, Mr. Manuel Medeiros,  
Mr. Michael Sheehan, Ms. Linda Brooks,  
Mr. Andrew McClinty, Mrs. Linda Wong,  
Ms. Dorothea Hayashi, Mr. Dennis Kurokawa,  
Mr. Gregg Kamm (Item F-9)  
Mr. Patrick Sullivan, Mr. Bob Bourke (Item H-2)

Chairperson Paty said that apparently there was a little conflict in the announcement of the time of this meeting. A news release was put out relative to the Hale Opio situation which said 9:00 a.m. It's a normal practice to begin the Land Board neighbor island meetings at 8:30 a.m. so the Board will proceed with the regular agenda and undertake the Hale Opio matter at 9:00 a.m. so that the people who read the notice and understood it to be 9:00 a.m. will be afforded the opportunity to be here.

**MINUTES** The minutes of August 10, 1990 were approved as circulated. (Arisumi/Apaka)

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

**Item F-1e Cancellation of Revocable Permit No. S-6518 To AMFAC Agribusiness, Inc., and Issuance of Revocable Permit to Hawaiian Sweet, Inc., Government Land at Waiakea, South Hilo, Hawaii, Tax Map Key 2-1-13:154 and 155**

Mr. Young informed the Board that the company Hawaiian Sweet, Inc. has bought out the operation and the assets of AMFAC. As part of the purchase they also would like to continue the operation of the papaya cultivation on State land. Therefore staff is recommending that two actions be taken today. 1) that the Board authorize the termination of Revocable Permit No. S-6518 to AMFAC Agribusiness, Inc., dba as AMFAC Tropical Products. The effective date of the cancellation to be March 31, 1991. 2) The issuance of a Revocable Permit to Hawaiian Sweet, Inc. covering the same area previously occupied by AMFAC Tropical Products for growing and processing of papaya, the effective date of the permit to be April 1, 1991, the rental to be \$1,082 per month subject to the terms and conditions as described in the submittal.

**ACTION** Unanimously approved as submitted. (Arisumi/Apaka)

**ITEM C-1 REQUEST AUTHORIZATION OF OUT-SERVICE TRAINING FOR MR. THOMAS KAAIAKAPU**

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**ACTION** Unanimously approved as submitted. (Arisumi/Apaka)

**ITEM C-2 OUT-OF STATE TRAVEL REQUEST FOR WAYNE F. CHING, RESOURCE MANAGEMENT FORESTER OF THE DIVISION OF FORESTRY AND WILDLIFE, TO ATTEND THE WESTERN STATE FOREST RESOURCES PLANNERS ASSOCIATION WORKSHOP IN PHOENIX, ARIZONA, APRIL 18-20, 1991**

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**ACTION** Unanimously approved as submitted. (Arisumi/Yuen)

**ITEM D-1 PERMISSION TO HIRE CONSULTANT FOR JOB NO. 8-HW-H, KALAOA WELL A DEVELOPMENT (WELL NO. 4358-01, HAWAII)**

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**ACTION** Unanimously approved as submitted. (Yuen/Apaka)

**ITEM D-2 PERMISSION TO HIRE CONSULTANT FOR JOB NO. 5-OW-G, IMPROVEMENTS TO MAUNAWILI DITCH INTAKE STRUCTURES, WAIMANALO IRRIGATION SYSTEM, OAHU**

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**ACTION** Unanimously approved as submitted. (Apaka/Arisumi)

**ITEM D-3 PERMISSION TO HIRE CONSULTANT FOR JOB NO. 9-OF-M, KAHAWAI STREAM IMPROVEMENTS, OAHU**

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**ACTION** Unanimously approved as submitted. (Apaka/Arisumi)

**ITEM D-4 PERMISSION TO HIRE CONSULTANT FOR JOB NO. 9-OF-N, KAUKONAHUA STREAM IMPROVEMENTS, OAHU**

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**ACTION** Unanimously approved as submitted. (Arisumi/Yuen)

**APPOINTMENT OF SOIL AND WATER CONSERVATION DISTRICT  
DIRECTOR**

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**ITEM D-5**

**ACTION** Unanimously approved appointment of Ms. Millicent Kim to serve as a director of the Hamakua Soil and Water Conservation District. (Yuen/Apaka)

**REQUEST FOR A PERMIT TO HOLD A CHARITY SURFING CONTEST OFF  
AINA MOANA STATE RECREATION AREA, OAHU (MAGIC ISLAND)**

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**ITEM E-1**

Item E-1 was presented to the Board by Mr. Mason Young.

**ACTION** Unanimously approved as submitted. (Apaka/Arisumi)

**ITEM F-1      DOCUMENTS FOR BOARD CONSIDERATION**

**Item F-1-a** Issuance of Land License to O. Thronas, Inc., Government Land at Kawaiele, Mana, Kauai, Tax Map Key 1-2-02:Por. 1

**Item F-1-b** Issuance of Land License to Grove Farm Rock Company, Government Land at Kawaiele, Mana, Kauai, Tax Map Key 1-2-02:Por. 1

**Item F-1-c** Issuance of Land License to Hale Kauai, Inc., Government Land at Kawaiele, Mana, Kauai, Tax Map Key 1-2-02:Por. 1

**Item F-1-d** Issuance of Land License to D.K.P. & Sons Trucking, Inc., Government Land at Kawaiele, Mana, Kauai, Tax Map Key 1-2-02:Por. 1

Mr. Young asked to take up Items F-1-a through F-1-d together as they all pertain to the same subject matter and request. Staff is recommending that all four licenses be approved. They would like to issue the sand mining license with the idea that the supervision of the licenses will be under the Division of Forestry and Wildlife and done in such a way that the result would be the sanctuary. There will be a fee of \$3.00 per cubic yard, payments would be made quarterly in advance.

Mr. Young explained that the quality of sand at Kekaha and Kawaiele is not pure. There are some bad spots that don't have the high grade of the sand. The monitoring of the taking of sand will be by the Division of Forestry and Wildlife.

Mr. Apaka's question had to do with the sanctuary. He understood that there was a time table and it started as of January 1991. He also asked if all the applicants were informed of the conditions.

Mr. Young responded that was the reason staff was trying to get these licenses out. It was his understanding that all the applicants were informed of the conditions and replied to the Kauai Land Agent.

Mr. Yuen asked if the design for the project is completed as far as the wildlife habitat. Also who would be responsible for the final sculpting of the landscape.

Mr. Young explained that the design is completed and the supervision, the sculpting and actual taking will be by the Division of Forestry and Wildlife personnel.

Mr. Yuen asked if there were water birds in the area now. Mr. Young deferred the question to the wildlife biologist who was present to answer that question. Mr. Tom Telfer from the Kauai staff explained that at the present time there is virtually no standing water in sight. About half a mile up the highway is the only place on the island where the Hawaiian stilt nests. Kauai population of stilts migrated between Niihau and Kauai and do most of their nesting on Niihau.

**ACTION** Mr. Apaka moved for approval of Items F-1-a, F-1-b, F-1-c and F-1-d. Seconded by Mr. Arisumi, motion carried.

**Item F-1-e** See page 2 for action.

**AMENDMENT TO PRIOR BOARD ACTION OF JULY 7, 1967 (AGENDA ITEM F-16) AUTHORIZING DIRECT GRANT OF EASEMENT TO HAWAIIAN ELECTRIC CO., INC. AT WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP 4-1-14:PORS. 4 & 13**

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**ITEM F-2**

**ACTION** Unanimously approved as submitted. (Arisumi/Apaka)

**DIRECT ISSUANCE OF PERPETUAL, NON-EXCLUSIVE EASEMENT FOR GUY WIRE AND ANCHOR WITHIN THE ALOHA STADIUM COMPLEX AT HALAWA, EWA, OAHU, TAX MAP KEY 9-9-03:POR. 61**

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**ITEM F-3**

**WITHDRAWN** Mr. Young requested that this item be withdrawn.

**DIRECT AWARD OF PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ELECTRICAL TRANSMISSION LINE, POLE AND ANCHOR AT WAIANAE, OAHU, TAX MAP KEY 8-5-06:POR. 1**

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**ITEM F-4**

**ACTION** Unanimously approved as submitted. (Arisumi/Apaka)

**RESUBMITTAL--LEASE - PUBLIC AUCTION, LOT 28, LAWAI HOMESTEADS, LAWAI, KAUAI, TAX MAP KEY 2-5-05:4, 5, AND 6**

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**ITEM F-5**

Mr. Young presented Item F-5 which was a resubmittal from the last meeting as a result of Mr. Mike Aki who came before the Board to make certain statements that he wanted some time to review the matter. Mr. Young again explained the system that Land Management uses at the expiration of a lease.

Chairperson Paty commented that by way of background, the purpose of the lease was for pasture residential.

Mr. Young explained that the statutes does not allow one to extend the term of a lease that is for pasture purposes, nor for residential. This is different from Waimanalo where the Board has in the past extended the terms on leases for extensive agriculture.

Mr. Warren Perry addressed the Chair saying that he was retained to represent Mr. Aki. He had a submittal that summarized Mr. Aki's position and the issues that staff is facing. He passed copies out to the members of the Board.

Mr. Perry said Mr. Aki tried to convey to the Board that because of the timing when the lease was issued, that the lease was done under the auspices of the Organic Act, Section 73 of the State of Hawaii. Under the provisions of that Act, he acquired certain rights as being able to request purchase or extension of the lease, etc. The lease was done in 1961 after Statehood. There was an Attorney General's opinion in 1961 that said that at the time that this lease was entered into, in fact the Organic Act was in existence and it wasn't until 1962 with the passage of the predecessor of Chapter 171 that the Organic Act no longer became in existence. From Mr. Aki's perspective, he should have been offered the opportunity to purchase the land or apply for residence under various sections of the Organic Act as he has outlined in his submittal.

Mr. Perry said there seems to be some notice requirements that Mr. Aki was entitled to from the Board as far as disposition of this lease upon the expiration of it. Given the fact that this notice did not come through in a timely fashion, his options as far as his ability to plan and remove the improvements that have been on this land for basically, eliminated or curtailed and that is what the submittal contains. In trying to resolve the problems, there are a lot of issues that have been raised because of the Attorney General's opinion and the applicability of the Organic Act. He believes that under the present statutes and regulations, the Board is empowered to extend the lease, either under HRS 171-40 which allows holdovers under HRS 171-55 and at this time that's basically what the request is, to have an extension of a specific period of time in which to resolve these issues.

Mr. Arisumi's question to Mr. Perry was, "You are telling the Board members here that we should inform Mr. Aki of what he is entitled to and what he's not entitled to?"

Mr. Perry said, "No." No, I don't think I'm saying that. He quoted Section 171-33 Subparagraph 9 of the Hawaii Revised Statutes (HRS), under the planning portion of the statutes, the statutes say to the Board, basically, "A couple of years before any lease expires, the Board has to determine what they're going to do with that land and whether it's going to be used for the same uses, whether it's going to be re-leased, etc."

Mr. Arisumi stated that with so many leases that come by the Board, were they expected to keep track of all the peoples' leasees and inform all the lessees.

Mr. Perry quoted from Section 171-33 (9), "The Board shall determine two years before the expiration of the term of any lease, whether the premises are to be demolished for the same use or uses under a new lease. Or whether all or any part is to be reserved for other use or uses and then promptly notify the lessee of the determination."

Chairperson Paty addressed Mr. Perry saying that when Mr. Aki took the lease over, are you saying that he was not aware of the remaining term on the lease.

Mr. Perry said that he was not saying that at all.

Chair Paty asked how much time did he have on the lease when he took it over.

Mr. Perry said that he thought it was 6 years.

Chair Paty said that when someone takes over a lease with 6 years to go and he discusses with DLNR's staff that there is 6 years, wouldn't one presume that he would want to set himself up in such a way that he would capitalize on the remaining time. You're coming before the Board now and saying that it's the 11th hour, that we're letting you know that the lease is running out, when indeed he knew he had 6 years to go and time was running out.

Mr. Perry said that he thought what happened is the original lessee and subsequent lessees to whom it flowed all understood with the knowledge that you could do a whole lot of things. He said he thought all of the lessees, assignees were working on that belief and that is why with such a short duration of the lease, a six year period, Mr. Aki was not interested in capitalizing, etc. Now we've come to the 11th hour and that's where we're at and it seems fairly harsh as to what is to be done with the house, what's to be done with all the other improvements on the land at this time as far as Mr. Aki not being able to have any control after the period of the lease being expired.

Chair Paty responded by saying that while the Board will undertake to look at the legal aspects of it, it appears you're putting the Board in a situation by reason of the lessee's inaction over the last couple years in any case to move ahead with relative to trying to enter into negotiation or submit a plan or the like. Now you're putting it to the Board on a hardship basis to extend him in order to give him time to do what he should have done two years ago. We're not in a position where we want to run around and take over residences or incur hardships because the record will show that we don't try to do that but this does put the Board on this situation in an awkward position.

Mr. Yuen asked the Kauai land agent how long ago he started the termination of the lease with Mr. Aki.

Mr. Sam Lee, Kauai Land Agent said that he and Mr. Aki had a number of conversations over the period of time he's had the lease about 5-6 years. Quite early on they've had discussions relative to the expiration of the lease and what steps might be available. He chose to implement them where he might possibly get an extension of the lease. Early on and up until recently there have been discussions.

Mr. Yuen asked, "Did you ever tell him that he would be able to, he might be able to buy the land?"

Mr. Apaka asked relative to Mr. Yuen's question, "Was there any discussion with Mr. Aki on the possibility of getting to change the classification of the lease, for pasture to agriculture?"

Mr. Lee said there was. He was not interested.

Mr. Apaka asked for an explanation of Mr. Lee's recommendation.

Mr. Lee said that this lease which was originally let for a 30 year term is much different than the current kind of leases that the Land Board currently issues. In that this particular lease allowed as other older type leases did with Land Board approval, the change of use of the lease. This lease was issued for pasture

residential purposes. What this one particular provision allows in plain language is if the lessee wanted to change the use of the premises, what he needed to do was approach the Board and secure that approval and if necessary pay a difference in rent if the new use commanded a higher rent. What we essentially suggested as a possible scenario for Mr. Aki to consider in the immediate aftermath of taking this lease by assignment, was that first settling in on the property and literally learning the lay of the land. Staff suggested that he might consider at that time developing some kind of a farm plan, presenting that to the Board for its approval. In other words, asking the Board at that point to consider changing the terms, the use of the lease, then to agriculture, then use the land for agricultural purposes for a couple of years or whatever would be an appropriate term to prove his use of the land was sincere and working. Then go to another statute that allows the Land Board to consider extending agricultural leases based on his willingness to farm the land and to borrow money to improve that State property. In other words we suggested that as a means to extend the term of the lease which at that point was going to expire in May of 1991.

Mr. Perry said that Mr. Aki is thankful that he had the discussions with the staff because he provided a farm plan. He provided a farm plan and I think it was submitted to this Board at the last meeting. He again referred to the Organic Act, Section 73, saying a person or lessee with two years of farming experience could purchase the land.

**Executive Session** Mr. Apaka moved for an executive session. Seconded by Mr. Arisumi, motion carried.

9:15 a.m. - 9:25 a.m.

Chairperson Paty called the regular meeting back to order and asked if there were any further questions

**MOTION** Mr. Apaka moved that the Board allow Mr. Aki to remain as a holdover on the premises and to come back immediately after the expiration date of May 10, 1991. In the one year period Mr. Aki would have choices 1) to remove the residence and all other buildings if he wants to, and 2) he can bid on the new lease when the time comes about. He will have the timeframe for it. This motion will allow Mr. Aki a timetable. The Board believes that they were fair enough to give him some time so that he can come back with a different concept so that he remain on the property. Motion was seconded by Mr. Arisumi.

Mr. Young asked if the holdover in the motion was for one year.  
Mr. Apaka responded, "Yes."

**AMENDED MOTION** Mr. Yuen asked to amend the motion. That the Board also approve item F-5 as recommended by Staff, as staff is asking the Board for authorization to submit the lease to public auction. Also authorize the holdover for one year during that time period and the public auction would then be scheduled after the end of the holdover.

**ACTION** Mr. Apaka and Mr. Arisumi were satisfied with the amendment and had no problem with the amendment. Calling for the question, motion carried unanimously.

**AUTHORIZATION TO CANCEL EXECUTIVE ORDER NO. 3077 AND ISSUE DIRECT LEASES TO HALE OPIO, INC., GOVERNMENT LAND AT KAPAA, KAUAI, TAX MAP KEYS 4-6-05:POR. 2 AND 4-5-08:4 AND HANAPEPE, KAUAI, TAX MAP KEY 1-8-08:POR. 17**

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**ITEM F-9**

Mr. Young said that an informational meeting was held on this item and at that time it showed some vocal opposition to staff's proposed recommendation of leasing out some State land out to Hale Opio. Back in September 1989, the Federal government sold the Coast Guard Station from which Hale Opio presently occupies. With that sale Hale Opio has had to find a new site, the Board and administration entered into a Memorandum of Understanding or Agreement with the Federal government whereby funds of \$1.5 million were appropriated by the U.S. Congress with the idea of relocating Hale Opio to State lands on Kauai.

Public hearings were held and a task force was formed. About 50 sites were considered for relocation. As a result of the hearings the list of sites have come down to several sites that are listed in the Board submittal. Four potential sites were identified by Hale Opio. Nearly two years have passed. Staff has looked at the task force recommendation and have also considered the financial capability of Hale Opio with respect to their ability to construct.

Staff is recommending today that two sites be given for the residential facility and one site be given for their administration site. The submittal identifies the the site in Kapaa, Kapahi and Hanapepe. Mr. Young explained about the original sites requested by Hale Opio and the changes in their request and the size of the lot requested.

Staff is recommending for four negotiated leases as provided in the statutes. Because of the entitlements of OHA, with respect to these lands, they're ceded revenue lands, staff is recommending that the rent be 20% of the valuation of the fair market rent be accessed at 55 year separate leases. Three separate leases covering the sites at Kapahi, Kapaa and Hanapepe be issued for their respective uses as described in the submittal.

Mr. Apaka asked Mr. Young when the State Land Board was given permission to provide an area for Hale Opio, was it permission to provide just one site?

Mr. Young said, "Yes it was. Orignally it was for one site."

Mr. Apaka asked, "Whose idea was all these several sites?"

Mr. Young said that it originally came from Hale Opio and the idea was to mainstream effectively in the community by constructing residential, single family residents facility in as many neighborhoods. As far as the Land Board is concerned, it is to provide an area only.

There being no further questions of Mr. Young, Chairperson Paty invited the applicant or representative to come forward.

Mr. Allen Smith said he was representing their president, Mr. Hartwell Blake who is unfortunately in court today. He then proceeded to read a letter from Mr. Blake dated April 12, 1991 regarding the site selection. They will proceed



expeditiously with development of their required facilities, at the Kapaa, Kapahi and Hanapepe sites. They have no objections to the leasing of the lands instead of conveyance in fee simple. They request the condition to fence the property be deleted. They also ask to reserve the Omao and Wailua Houselots sites for future residential facility consideration and please seek exemption from the 20% lease rent conditions.

Mr. Yuen asked Mr. Smith to explain the program as he was not familiar with it. Also how many youths are currently involved and anticipated.

Mr. Smith said that this was a program for troubled youth. The organization serves these troubled youths with facilities on Kauai, getting them back into school with proper guidance and training, ages up to 18 years of age. Right now there are about 11 youths involved in the program now. It is anticipated that there will be about 5 in each facility if this proposal goes through.

Mr. Raymond Ho addressed the Board saying that he sits on the Board of Directors for the Kauai Humane Society. They were just made aware last week of this proposal of Hale Opio with the Department of Land and Natural Resources. They are located central to the proposed site and to Hanapepe. Their concern is not for the program itself but they have a fear of being a bad neighbor. Most humane societies try to stay in the removed area because of the type of activities that have to take place at the shelter. There are a lot of animals and the noise level is very high twenty-four hours a day.

Mr. Ho said that they have not approached the Board yet and a bit premature on their part to do so at this time but he would just like to mention that they need to expand their facility. Their facility handles about 500 to 600 animals a month. Another concern they have is the proposed site is down wind of their existing facility and one of the functions they have is destroying animals using their incinerator and the odor it creates.

Mr. Ho mentioned another aspect, because of having to put down a lot of animals, they do administer controlled drugs. They don't have the best security as their facility is rather old and that is a concern of their staff also.

Dr. George Kanna, a dentist of Hanapepe said he was representing the Hanapepe Association and Ms. Wilma Holi who has worked on this project for many months and years. Hale Opio picked Hanapepe as one of their first sites several years ago. The members of their community and surrounding community gave their opinions and thoughts as to Hale Opio. Their concern this morning is the request of the Board approving a site that is in Hanapepe, not because they are against Hale Opio's presence in this particular area but more in regards to the method by which this site was recommended for the site to be used by Hale Opio. In two handouts which he passed out this morning, there is a letter from Miss Holi dated February 6 to Mr. Paty which explains the reasons why they are concerned to recommendations of staff. The other is a letter from Hale Opio to Mr. Paty in which there are recommendations of the task force which was decided by secret ballot and believed to be the top sites by which Hale Opio would receive their land to proceed building. The letter from Hale Opio shows eight sites which were chosen by the task force. There are four sites that are shown to be the top four areas, Hanapepe being 6 and 7. The concern of the Hanapepe people has been that in this letter there is recommended Hanapepe salt pond area from the four top areas.

They feel that the Board should reconsider the action that is recommended by staff today because there are some inconsistencies and there are some areas that are very important to be considered and he feels if discussed properly between the peoples involved so that they do not have any hard feelings within the community and by people involved on Kauai. He feels that if the Board would defer action that much of this can be accomplished and they can have the full support of the community on the island of Kauai for Hale Opio and its program.

Dr. Kanna said that he would like to have the Board consider their request for deferment on this particular issue.

Mr. Apaka questioned Mr. Kanna regarding his request for deferment, what is the purpose or plan of action for a deferment.

Dr. Kanna responded, "I think the time frame is for the Hale Opio Board with its task force and with the people involved in Hanapepe to get together and discuss these areas of discrepancies and hopefully by the time you have your next meeting, maybe, in a community framework he would say 3 to 4 months he feels would be a good timeframe."

Mr. Apaka said, "It seems that from your presentation, the community was not really involved with the site selection of Hanapepe Salt Mine. Is that true?"

Dr. Kanna said the community was involved in the selection through the task force and the vote at that time, the community felt this was great, that this was honest and sincere, the vote taken by the task force. I think that the final decision and recommendation to Hale Opio to the Chairman, Mr. Paty, was not their community's input. They were quite shocked, their community to see all of a sudden, Hanapepe being up no. 5 in this area. The people involved with the task force were quite sincere. Mr. Steven Kurokawa, who is not present here, yesterday was quite concerned and emotional because he felt that the decision of the task force was something that Hanapepe would say "yes, let's go." Mr. Kurokawa excused himself as he felt he would have no input at this time.

Mr. Yuen asked if the Hanapepe community have a preferred site in the Hanapepe area for a Hale Opio facility.

Dr. Kanna responded, "No, we don't have any sites because these sites were actually chosen by the Board, actually there were 30 sites that were presented to the task force. There were two sites in Hanapepe, I guess in the 30's. They didn't have much choice as to where the sites would be."

Mr. Yuen said his question was, "There was a list of 30 or 40 State sites that were available. You testified that you support the program and so it's gotta have a site some place. Of the available sites, is there a site that you prefer that's somewhere in the Hanapepe area?"

Dr. Kanna said he could not answer this. He said the answer would be in the task force because they set the criteria by which land would be best for Hale Opio. The task force did chose 4 sites and none from Hanapepe were recommended or chosen.

Mr. Arisumi expressed to the Chair that he felt this item should be deferred to the next Kauai meeting to allow the people of Kauai to come and express their feelings.

Mr. Apaka commented that when the Board first heard Hale Opio's request at the Convention Hall, one of the criterias of this whole selection was 1) site selection and 2) need to have community support. Without the community support was a "no go." He believed the task force worked on that criteria and what he hears today, "Hey, we have no input and all of a sudden it's on the agenda." Now he's quite surprised to hear it.

Mrs. Helen Kaneakua said she is one of the members of the salt makers hui, Hui of Hanapaakai of Hanapepe. She said that the site that was chosen is near the salt making area. It bothers her because of the fact. They have people in the area that make salt just once a year and she believes that is the only area in the whole State of Hawaii that they are able to make salt. If they are going to select that area she says she knows they are going to close their salt area because the Board once upon a time wanted to close them up because they did not have the health clearance. They feel that it should be a historical site. She has contacted someone in the DLNR to assist her in this quest.

She said the name Hale Opio in Hawaiian means, 'the House of the Youth' and she does have grandchildren but she does not want it to be in that area because of the salt making area. She pleaded with the Board not to select that area because she and the members of the Hui of salt makers would not want the area closed to them. She said that they are not allowed to sell the salt but they share it.

Mr. Tom Worley, Administrator of the Wong Care Home in Kapahi addressed the Board. He said he understood the difficult job of the Board. He said that the Wong Care Home cares for 33 clients, most seriously disabled and mentally ill. If they had to look for a new site they would be faced with a lot of opposition. They have been in place in the Kapahi area since 1974 and they are embraced by the community. Just recently now, KEO has put in a program for the homeless right across the street from them and now Hale Opio wants to come in right behind them and set up a shelter for troubled youth.

He said that he heard the concept of Hale Opio was to mainstream and to get an integration into the community. He feels the placement in Kapahi is contrary to that concept. It is inundating the area more than mainstreaming. He said that the Governor, four years ago formed a dispersal review counsel that was supposed to look at the establishment of group homes, care homes in areas because they didn't want one certain area to have all these types of facilities.

There is no argument that this service is needed, these programs are needed. They don't want to jeopardize what they have going in the community by having a sprawling campus of service programs being provided in one area.

Mr. Manuel 'Mac' Medeiros said he was from Maui and represented the Omao Community. He said that although Omao, Maui is not being considered at this point, the members and residents of Omao would just like to speak about the February 1 letter and the January 1 letter that was just transmitted and also to indicate that at this time they have the additional petitions to present to the

indicate that at this time they have the additional petitions to present to the Board requesting that they not release the site at Omao for the intended purpose. The other point was that no member from Omao was called to be represented on the task force and no member from Omao saw the list of all the sites and to assist in the selection of sites.

Mr. Michael Sheehan said that about 14 years ago a fellow by the name of Bill Cashman came to him with an idea and this idea turned into Hale Opio. He said that he went to bat with his wife's family and Bishop Trust Company and got an area here and it's now called, Kilohana, 35 acres in Puhi. This was after Mr. Cashman had tried. He sees history repeating itself. Nobody wanted this program, everybody thought the concept was great, nobody wanted it in their backyard. They always wanted it some place else. He feels it's a tragic thing we're seeing today and this is the only reason that he is prompted to speak because this program has done so much for so many troubled youths. If this Hale Opio program were not able to operate in these approximate last 14 years, I think they've done a remarkable thing and for the period of time that he was involved, for approximately 7 years until Bishop Trust Company wanted to use this property for a higher and better use and Hale Opio had to relocate. They were fortunate to find surplus Federal land. He made an appeal to those present who were opposed to this concept that he believed that this program is the only program that offers any help at all for those types of youth. To those that are saying put it somewhere else, somewhere else to search in their heart and try to understand that this program can't continue to be shoved around. It requires the community at large to get behind it for the benefit of the troubled youths both in the present and the future.

Ms. Linda Brooks said that she was aware of this meeting just about a week ago when a woman passed a petition around having people sign against Hale Opio. She feels sorry for people that are trying to go against this program. It's very important and the man that spoke before her has said most of what she was going to say. She lives in Omao and is all for them going there. She feels that the community should get involved with helping these youth and get them involved in different projects. She asked for community support for the program.

Mr. Andrew McGlincy of the Kapahi area said that he was strongly against Hale Opio having a residence in the Kapahi area. He said they already have Wong's Care Home and KEO is proposing a home for the homeless and feels that Hale Opio is too much for that area. The area is secluded, houses are spaced apart and it doesn't fit in. He said his family would have to live with this Hale Opio problem 24 hours a day from generation to generation because they plan to stay there. Another thing he pointed out that in the early '80's Keith Williams was murdered on that same parcel of land and till this day they haven't found the murderer because that area is so secluded.

Mr. Yuen asked Mr. McGlincy if he had an area that he would suggest, a better site?

Mr. McGlincy said in his opinion he feels they should look at some land just Kealia side of Mahelona Hospital. There's a big open area about two acres that's not being used at the present time. That would seem like a nice area, it's right next to Kapaa Elementary and Mahelona Hospital. It has a sewer treatment plant and has everything right there.

Mrs. Linda Wong of the Wong Care Home said that she has been there for 17 years and she has really controlled her clients of which half are psychiatric. Her clients are from 19 years old up to 89 years old. She hasn't been concerned with the community because if anything happened up there they would look at them first. The only reason she is against the program is that she feels if you have a program you really have to have good control on it, otherwise you will be liable to the residents around the area. They have had no trouble for 17 years because they have a control there. She feels that Hale Opio should have a larger area where they can teach the youths to work. If they have too much idle time they will get into trouble and she stressed that you also have to give them love and show them you care. She feels there are more homes coming up in their area and feels with Wong Care Home there the community might not be able to handle another one.

Ms. Dorothea Hayashi of Hanapepe Bay Association said that she would like to ask the Board to defer action on Hale Opio's request because when they originally came to Hanapepe for the very first informational meeting they understood that they were going to request for only one site. They were shown plans of the home and the office. At that time the community was upset and they did investigate and checked and found a lot of discrepancy in what they told them. After that they submitted a petition of a 1700 names of people opposing from Hanapepe area and with that petition they were not able to look into the records because they were juveniles. They submitted the petition to the Governor and Mr. Paty and there came about a task force. The task force was supposed to have community input and Wilma Holi represented them. After every meeting Ms. Holi would report back to their association. It first started out with 35 sites, then the committee selected 8 sites, then it was ranked for the top four for the selection by Hale Opio's Board. The selection they know were two sites. Ms. Holi came back and reported all of this and for some reason the January meeting that she attended and she brought back the letter that was submitted by Hale Opio to Mr. Paty. It was completely different from all the previous meetings that Ms. Holi had reported. She said that she feels that because Hale Opio did not in the end come through with what the task force recommended, she feels that Hale Opio should resubmit what they originally submitted and what they believed the task force's duty was, which was to get community input and all agree together on sites.

Mr. Dennis Kurokawa testified that he is a latecomer in this issue whereas his brother has been involved with this for a long time. He said that he is not against the program as he did not know enough about it. In all sincerity he said he would support the program and hope that Hale Opio would do a good job in protecting the community, that was his main concern. Mr. Kurokawa said that his main concern is that the task force was formed, a selection was made as to the priorities of sites and now, I don't know where Hanapepe came in, my understanding was they were No. 7 on the list and now they're pushed up. A reason given was that it was isolated from the community. He feels they should stick to the recommendation of the task force.

Mr. Gregg Kamm said that he did not prepare any testimony today and said that there weren't that many people present today because they were given to understand by the staff that Omao was not being considered. It's unclear to him being given Hale Opio's letter to the Board, if Omao is still being considered. In any case he just wanted to mention that in this citizen's task

force process, not only was Omao not represented on the task force but there was no effort to communicate with the people of Omao. They only learned of its possible inclusion relatively recently. The other point he wanted to make is that the State can fulfill its obligation to the Federal government under the memorandum by selecting a single site where all of Hale Opio's activities could take place and that this spreading out is really Hale Opio's request and as perhaps goes beyond what the obligation of what the State is.

Mr. Yuen asked Mr. Kamm if he had a preferred site or location.

Mr. Kamm said that he didn't have a particular parcel in mind, but it seems to him that it would be best located in a central location generally in the center of population in Kauai.

Mr. Tom Worley of Kapahi, wanted to add to what he had stated, as far as the nimby 'not in my backyard attitude,' he said he was also president of the Kapaa Business Association and their business association has readily accepted Friendship House which is a clubhouse for the mentally ill right in their town which has 60 clients. They have just placed Serenity House, as a matter of fact, Wong Care Home is leasing it to them right in town for substance abuse, house for teenagers. They do accept these programs into their community and he hopes that everyone would cut away from the emotions and look at the facts which they are trying to present and that the placing of Hale Opio is just too close to existing facilities that are there already.

**EXECUTIVE  
SESSION**

Mr. Apaka moved for an executive session to confer with counsel on the legal applications on the U.S. Government land exchange. Motion was seconded by Mr. Yuen and carried.

**10:40 am -10:48 am**

Chairperson Paty called the regular meeting back to order.

Mr. Apaka said after conferring with legal counsel, he feels they have an obligation to the the U.S. government to provide these lands to Hale Opio and in that mission he believes that here is no out but to go with the recommendation.

**MOTION**

Mr. Apaka moved to defer action relating to the issuance of direct lease covering the Hanapepe site until the next Land Board meeting on Kauai in July, 1991. He moved to authorize the direct issuance of a lease covering the State lands at Kapaa Town Lots, Lots 6, 7 and 8, TMK 4-5-08:4 and the Kapaa Homesteads Lots, First Series, Lots 36-A, 49 and 50 under the terms and conditions described in Item F-9.

**DISCUSSION** Mr. Young recommended to the Board that they make an administrative amendment. Staff has been informed that name should be Hale Opio Kauai, Inc., as well the recommendation should have a condition with respect to the compliance of Chapter 343, regarding environmental assessments.

Chairperson Paty added that the Board recognizes the real genuine concerns of the people in these communities and they recognize that it's natural to have

concerns of the relocation of this facility in an area where you're involved, where you have real genuine reservations. The Board, however feels they have to make these decisions from time to time. They do have an obligation to stand up and bite the bullet and recognize their obligation under the Memorandum of Agreement with the U. S. Government to proceed. There's no site that is acceptable, there's no site that will be totally acceptable to anybody under all conditions and what the Board is trying to do is accommodate this problem that they have before them in the best way that they can.

**ACTION** Unanimously approved as amended.

(See Page 18 for further Clarification on Item F-9)

**ITEM F-6** **REQUEST FOR AUTHORIZATION TO ACQUIRE LAND AND IMPROVEMENTS THEREON, FOR DEVELOPMENT OF ONSHORE PARK FACILITIES AT WAIMEA PIER, WAIMEA, KAUAI, TAX MAP KEY 1-6-07:2**

**ACTION** Unanimously approved as submitted. (Apaka/Yuen)

**ITEM F-7** **LEASE--PUBLIC AUCTION, LOTS 33, 34, 35, 36, 36-A, AND 39 HANAIEI HOMESTEADS TRACT, HANAIEI, HALELEA, KAUAI, TAX MAP KEY 5-4-01:34 AND 38**

**ACTION** Unanimously approved as submitted. (Apaka/Arisumi)

**ITEM F-8** **AMENDMENT TO PRIOR BOARD ACTION OF JUNE 14, 1985 (AGENDA ITEM F-14), AUTHORIZING DIRECT AWARD OF LEASE TO PRINCEVILLE COMMUNICATION COMPANY AT MT. WEKIU, KAWAIIHAU, KAUAI**

**ACTION** Unanimously approved as submitted. (Apaka/Arisumi)

**ITEM F-9** See pages 14-15 for motion and action.

**ITEM F-10** **COUNTY OF KAUAI'S REQUEST FOR RIGHT-OF-ENTRY AND GRANTS OF PERPETUAL, NON-EXCLUSIVE EASEMENT FOR SEWER LINE, KAPAA SEWAGE PROJECT, KAPAA, KAUAI**

**ACTION** Unanimously approved as submitted. (Apaka/Arisumi)

**ITEM H-1** **CONSERVATION DISTRICT USE APPLICATION (CDUA) FOR SHORELINE IMPROVEMENTS AT KAPALUA, MAUI; TAX MAP KEY 4-2-1:35 (POR.); APPLICANT: MAUI LAND AND PINEAPPLE CO., INC.**

Mr. Evans presented Item H-1 pointing out that although it is in a limited subzone, generally staff would have difficulty because this would not be consistent with the objective of the limited subzone. The caveat here is that it is an application as a follow-up to the Hawaiian burial settlement at Kapalua. That agreement was reached and these shoreline improvements were part of that agreement.

**ACTION** Unanimously approved as submitted. (Arisumi/Apaka)

**ITEM H-2**

**CDUA FOR EIGHT SURVEY BUOY MOORINGS AT KAWELA BAY, TURTLE BAY, AND KUILIMA BAY (NEARSHORE, KAHUKU POINT, OAHU);  
APPLICANT: KUILIMA DEVELOPMENT COMPANY**

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Mr. Evans explained the circumstances that led to the filing of a CDUA. Staff's recommendation is to approve the mooring of eight buoy systems for environmental monitoring at Kawela Bay, Kuilima Bay, and Turtle Bay subject to the conditions listed in the submittal. Staff is also recommending that the applicant be fined \$500 for each unauthorized mooring which totals to \$2000.

In fairness to the applicant they may want to have an opportunity to address the violations. They do admit it but they may have reasons as to why they put the moorings.

Mr. Patrick Sullivan, President of Oceanit Laboratories. Oceanit Laboratories is the Oceanographic and ocean consultant to Kuilima Development Company. They prepared the CDUA. He said the subject buoys were deployed to enable them to monitor or to execute the monitoring program that addresses existing permit requirements for monitoring the nearshore marine environment. The monitoring program which is included as an appendix to the application, is a composite of Federal, State and County permits, i.e. at the Federal level, the Corps of Engineers permit; Department of Health, Water Quality Certification; and CDUA for the east and west main drain outlets.

Mr. Sullivan apologized to the Board for this situation where they are applying for an after-the-fact permit. The buoys are in Kawela Bay. The time the buoys were installed they were not aware of permit requirements. Until the last few years it wasn't a standard practice for their industry, the ocean research industry to go through a CDUA process for marker buoys. They're very similar to stakes that you might survey a beach. These are stakes in the ocean and they're relatively passive and when they're done, they'll pull them out. In preparing the monitoring program which is part of the appendix, there is a diagram showing the buoys, how they're fixed to the bottom, in this case in their preliminary design, bolt them into the bottom. This went to the Federal agencies, the State agencies and the County agencies and nobody said anything about a permit and at that time he thought it wasn't a standard procedure. In order to work under water at Kawela Bay, they need to know position and direction. These provide that position and without this it would be impossible to do the survey.

Marine biologist Bob Bourke on staff at Oceanit Laboratories said that they were asked to do a marine survey of this site. He then presented a color photo to the Board for comparison. There were three things they were surveying out there, 1) surveying turtles, (they don't need the buoys for that); 2) water quality, (they don't need the buoys for that also) and 3) the benthic community, meaning all the corals, the fish and invertebrates that live on the bottom of the bay, for this, in a situation like Kawela Bay, you would need very precise conditioning if you're going to come back over a period of time and resurvey and see if any changes have occurred. He continued to explain how his survey is done.

Mr. Sullivan addressed the Chair and asked if the fine could be reduced.



**ACTION** Mr. Yuen moved for approval of staff recommendation of Item H-2 and to reduce the fine to \$25.00 per violation for a total of \$100.00.

Mr. Arisumi addressed the Chair stating that there was a policy that the minimum fine is \$500.00 and requested to amend Mr. Yuen's motion to place the fine at \$500.00 in total. Mr. Yuen had no objection to the amendment. The motion as amended was seconded by Mr. Apaka and motion carried unanimously.

**TEMPORARY VARIANCE REQUEST FOR PLANTING APPROXIMATELY ONE HUNDRED TREES ON A PARCEL ON THE HAMAKUA COAST OF HAWAII, TAX MAP KEY 2-7-10:01; APPLICANT: DANIEL J. LUTKENHOUSE**  
**HAWAII TROPICAL BOTANICAL GARDENS**

**ITEM H-3**

After his presentation, Mr. Evans said staff would like to add an additional condition should the Board approve this item. Condition No. 9, That a list of the species of trees in the pots be transmitted to the State's Division of Forestry and Wildlife.

**ACTION** Mr. Yuen moved for approval as further amended by staff this morning. Seconded by Mr. Apaka, motion carried unanimously.

**CDUA FOR AQUACULTURE DEVELOPMENT OF A FISHPOND AT UALAPUE, MOLOKAI, TAX MAP KEY 5-6-3:35; APPLICANT: ZELDA KAPUNI**

**ITEM H-4**

Mr. Evans said that this was a request for a commercial fishpond use. A public hearing was held and staff is recommending approval. They feel that they are consistent regarding restoration of fishponds. In Condition No. 2, the applicant is to come in with a business plan prior to going out and selling the seaweed on the market.

**MOTION** Mr. Apaka moved for approval. Mr. Yuen said that he would like to second the motion with an amendment. Staff recommendation talks about not introducing a certain type of seaweed that's not found there. He would like to add a condition to be that they not introduce any limu that is not already growing in the area without having the required governmental approval such as Department of Agriculture, Department of Health or Division of Aquatic Resources. Also in communicating to the applicant that we try to use the common names or the Hawaiian names as much as possible because they seem to understand those rather than the Latin scientific names.

**ACTION** Unanimously approved as amended.

**APPOINTMENT OF HUNTER EDUCATION INSTRUCTORS, ISLANDS OF OAHU, KAUAI, HAWAII, MAUI, LANAI AND MOLOKAI**

**ITEM I-1**

**ACTION** Unanimously approved the appointment as Volunteer Hunter Education Instructors, Ernest L. Ventura, Kauai; Keith S. Shiroma, Molokai; and Jon G. Giffin, Hawaii for a period of two years. (Arisumi/Apaka)

**\*ITEM F-9 CLARIFICATION REQUEST**

Mr. Young asked the Board for a clarification with respect to Hale Opio regarding Mr. Apaka's recommendation. He said in the submittal there was a cancellation of the Executive Order (E. O.) in Hanapepe because the site is unencumbered and vacant and hasn't been used. Staff wanted to be sure that the amendment will allow staff to go ahead and cancel the E. O. It does not have any inference with respect to the decision for the deferment for the lease. He was asking the Board if they would approve cancelling the E. O.

Mr. Apaka said he had no problem as long as there's no problem with the County.

**ITEM J-1 AMENDMENT NO. 3 LEASE NO. DOT-A-84-25, HAWAII DISTRICT AIRPORTS, HAWAII (BUDGET RENT-A-CAR SYSTEMS, INC.)**

**ACTION** Unanimously approved as submitted. (Yuen/Apaka)

**ITEM J-2 AMENDMENT NO. 1 TO LEASE NO. DOT-A-87-30, KEAHOLE AIRPORT, HAWAII (KONAMALIA CORPORATION)**

**ACTION** Unanimously approved as submitted. (Yuen/Arisumi)

**ITEM J-3 RENEWAL OF REVOCABLE PERMITS 2527, ETC., AIRPORTS DIVISION**

**ACTION** Unanimously approved as submitted. (Yuen/Apaka)

**ITEM J-4 APPROVAL OF CONSENT TO SUBLEASE, HARBORS DIVISION LEASE NO. H-82-4, HONOKOHAU BOAT HARBOR HAWAII (GENTRY PROPERTIES)**

**ACTION** Unanimously approved as submitted. (Yuen/Arisumi)

**ITEM J-5 ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY FOR VEHICLE ACCESS, HARBORS DIVISION, WAIKIKI, OAHU (OUTRIGGER HOTELS HAWAII)**

**ACTION** Unanimously approved as submitted. (Arisumi/Yuen)

**ITEM J-6 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEWALO BASIN AND PIERS 6 AND 41, HONOLULU HARBOR, OAHU (ISLAND NAVIGATION CO., LTD.)**

**ACTION** Unanimously approved as submitted. (Yuen/Arisumi)

**ITEM J-7 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEEHI SMALL BOAT HARBOR, HONOLULU, OAHU (MR. MERV NOVAK DBA THE BLOCK ICE CO.)**

**ACTION** Unanimously approved as submitted. (Arisumi/Apaka)

**ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, MAUNALUA  
BAY BOAT LAUNCHING RAMP, OAHU (HAWAIIAN DREDGING &  
CONSTRUCTION CO.)**

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**ITEM J-8**

**WITHDRAWN** Mr. Garcia asked to withdraw Item J-8.

**CONTINUANCE OF REVOCABLE PERMITS H-85-1281, ETC., HARBORS  
DIVISION**

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**ITEM J-9**

**ACTION** Unanimously approved as submitted. (Arisumi/Apaka)

**CONTINUANCE OF REVOCABLE PERMITS H-89-1614, ETC, HARBORS  
DIVISION**

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**ITEM J-10**

**ACTION** Unanimously approved as submitted. (Arisumi/Apaka)

**ADJOURNMENT** There being no further business the meeting was adjourned at 11:16 a.m.

Respectfully submitted,

  
Dorothy Chun  
Secretary

APPROVED FOR SUBMITTAL



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William W. Paty, Chairperson

dc