

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

DATE: APRIL 26, 1991
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING, ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII

**ROLL
CALL**

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

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

STAFF: Mr. Henry Sakuda
Mr. Michael Buck
Mr. Mason Young
Mr. Roger Evans
Mr. Ralston Nagata
Mr. Carl Watanabe
Mrs. Sandy Furukawa
Mrs. LaVerne Tirrell

OTHERS: Mr. Johnson Wong, Deputy A.G.
Mr. Peter Garcia, Dept. of Transportation
Ms. Tamar Chotzen (Item C-1)
Mr. Harold Sugiyama (Item F-1-b)
Mr. Clyde Okinaga (Item F-2)
Mr. Rex Johnson (Item F-7)
Mr. Kerry Komatsubara (Item H-2)
Mr. Thomas Cestare & Ms. Hoppy Smith (Item H-3)

MINUTES: Mr. Apaka moved for approval of the December 7, 1991 minutes as circulated. Seconded by Ms. Himeno, motion carried.

**ADDED
ITEM:** Upon motion by Mr. Arisumi and a second by Mr. Apaka, the board voted unanimously to add the following item to the Agenda:

Item G-1 Filling of Deputy Registrar of Conveyances, Position No. 137, Oahu.

ITEM F-1-h **SUBLEASE OF GENERAL LEASE NO. S-4447 COVERING LOT 23, PANAEWA FARM LOTS, 2ND SERIES, WAIAKEA, SO. HILO, HAWAII, TAX MAP KEY 2-4-49:07.**

ACTION Unanimously approved as submitted. (Yuen/Himeno)

CONSERVATION DISTRICT USE APPLICATION FOR AN ACCESS EASEMENT AT KAUPULEHU, NO. KONA, HAWAII; TMK 7-2-3:01; APPLICANT: KAUPULEHU DEVELOPMENTS AND KONA VILLAGE ASSOCIATES; AGENT: GRAY, HONG, BILLS AND ASSOCIATES.

ITEM H-1

Mr. Evans, at the request of the applicant, asked that this item be deferred.

ACTION

Deferred. (Arisumi/Apaka)

CONSERVATION DISTRICT USE APPLICATION FOR AMENDMENT TO PREVIOUSLY APPROVED CDUA NO. OA-1017 FOR THE CONSTRUCTION OF A SINGLE FAMILY RESIDENCE AT NUUANU VALLEY, HONOLULU, OAHU; TMK 2-2-42:86; APPLICANT: KERRY M. KOMATSUBARA.

ITEM H-2

Mr. Evans presented this submittal with a recommendation for approval, and called the Board's attention to Condition No. 14, which states: "that all representation relative to mitigation set forth in the accepted Environmental Assessment for this proposed use are hereby incorporated as conditions of the approval.

Mr. Evans explained that if this had been a first time application staff would have recommended denial. An original application, however, had been approved by the board.

Mr. Arisumi asked if the applicant's roofline was in line with the rest of the neighborhood. Mr. Evans was not sure so asked that this question be referred to the applicant.

Mr. Kerry M. Komatsubara, attorney for the applicant, Mr. Frank Carlos, in answer to Mr. Arisumi's question explained that this property is a long-shaped property, and the closest homes are far down on the right side and are about the same roofline, although it's hard to tell since all of the homes are in the wooded area. With respect to visual impact, from the street level, he felt that there would be less visual impact since the home is being set back further on the lot and into the trees.

Mr. Yuen asked Mr. Evans whether any condition existed with respect to cutting trees. Mr. Evans said that there is a condition that all exposed and disturbed ground shall be revegetated within thirty days. There is also a condition relating to color selection, etc. However, there is no specific condition relating to landscaping but they could include one.

Mr. Komatsubara explained that the reason they have come back to the board is that when his client bought the property, and went to the City for the necessary permits, the City recommended that the home be constructed further back of the lot.

ACTION

Unanimously approved as submitted. (Himeno/Arisumi)

ITEM C-1

REQUEST TO ENTER INTO SUPPLEMENT NO. 2 TO MASTER COOPERATIVE AGREEMENT WITH THE HAWAII NATURE CENTER.

Mr. Buck explained that Supplement No. 2 would provide \$20,000 to the Hawaii Nature Center for a pilot project for a "hands-on" educational field curriculum experience for fifth and sixth grade children. It would utilize materials developed through Supplement No. 2. The Hawaii Nature Center would provide in-kind materials, office space and a minimum of \$5,000 towards the project.

Mr. Paty asked how the liability situation would be handled. Mr. Buck referred this question to Ms. Tamar Chotzen, Director of the Hawaii Nature Center.

Ms. Chotzen, in response to Mr. Paty's question, said that the Hawaii Nature Center carries a co-insurance policy with the department of land and natural resources, in the amount of \$1,500,000+, and in any situation where they are involved with the transportation of kids, they use transportation companies with PUC licenses.

Mr. Paty asked about the type of transportation vehicles they would be using. He didn't feel too comfortable with some of the grades in the area. Ms. Chotzen agreed and replied that they use van-type vehicles. She is hoping that the exchange will go through so improvement of the road could take place before any large numbers of children would be brought up to the area. In the meantime, in order to pilot-test the curriculum to see if this is even feasible they hope to use small 8-16 passenger vans, one of which is presently owned by the Nature Center. Back up resource to that would be many of the 4-wheel type trucks that are available.

Mr. Arisumi asked how many sixth graders would be involved in this program. Ms. Chotzen stated that currently on Oahu the total number of children are about 76,000 (kindergarten through 6th grade) so sixth grade alone would be about 15-16,000. This program, however, would not be able to serve all of these children in one year.

If this program were expanded, Mr. Yuen asked whether DOE would be handling it or the Nature Center. Ms. Chotzen replied, "the Nature Center." Currently their relationship with the DOE is a very good one, but they do operate independently. At this point, DOE is not interested in serving in any of the field programs which they offer. They do have environmental programs, but they are different from that of the Nature Center.

Mr. Yuen asked who would be funding the children going up to the area if this became a big problem. Ms. Chotzen said that the Nature Center raises close to \$400,000 a year, primarily from private sources, and from small fees for services. There would be a fee charge to the children, primarily to cover the cost of food. They are trying to stay away from gearing this toward camping -- they don't want it to be viewed as a camping thing. It is really an educational program.

Ms. Chotzen explained that this would be done during the school year. However, if they are successful with this facility, and the State gives them the lease, they would probably also offer it to community programs and other groups such as scouting groups. However they do not want to compete with other camping programs.

Mr. Buck felt that this program would be a win-win situation for DLNR since there would be a permanent presence up there to control access and some of the vandalism problems. Ms. Chotzen added that they hope this will become a model program that can be used statewide in terms of bringing people into natural area reserves that are controlled, and in an educational manner.

ACTION Unanimously approved as submitted. (Arisumi/Yuen)

ITEM F-1-b DEVELOPMENT AGREEMENT FOR CONSTRUCTION AND OPERATION (LEASE) BETWEEN COUNTY OF HAWAII, A MUNICIPAL CORPORATION, BY ITS MAYOR, LESSOR, AND KEALAKEHE ASSOCIATES, INC., A HAWAII CORPORATION, DEVELOPER/LESSEE, KEALAKEHE, NO. KONA, HAWAII, TMK 7-4-08:POR. 17.

Questions were raised by Mr. Yuen regarding the revenues. Mr. Harold Sugiyama of the Hawaii County Department of Public Works clarified that the user fee of \$.50 per 1,000 gallons of effluent was based on revenues which they need to operate the pump to pump it across the street, which comes to approximately \$200,000 a year. Previously, when the golf course was proposed around the treatment plant the pump issue was smaller. But having to go across the street has entailed additional costs to run the pump station.

Mr. Yuen asked if the user charge was worked into the gross revenues. Mr. Sugiyama explained that the \$.50 is only to cover the cost of pumping the effluent to the site.

ACTION Unanimously approved as submitted. (Yuen/Himeno)

ITEM F-7 KAKAAKO DISTRICT -- MAKAI AREA CONVEYANCE OF STATE-OWNED PROPERTIES TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY, KAKAAKO, HONOLULU, OAHU.

Mr. Young said that DLNR was informed by HCDA that pursuant to Act 86, SLH 1990, they would like to have title to certain parcels transferred to them as described in Exhibit 1 of this submittal.

HCDA has also indicated that they would like to have the transfer of only properties listed in the Exhibit, and that the remaining properties remain with DLNR because of their lack of personnel to manage this.

Mr. Young continued that it appears, that by operation of law, the Legislature has already passed title with disregard to Chapter 171 which deals with powers of the board. However, with respect to the request of HCDA, the Land Management Division believes that the conveyance of all properties should be done as a "package" rather than "piece meal". The properties being described is everything makai of Ala Moana Boulevard, from Ala Moana Park to Pier 4, and covers approximately 39 parcels, comprising a little over 166 acres.

Mr. Young asked for board approval as recommended in the submittal.

Mr. Young said that he was contacted by Mr. Peter Garcia of the Department of Transportation, and they are concerned about the bond revenue. He called the board's attention to Paragraph C which states: "Pursuant to Act 86, SLH 1990, authorize the conveyance of the fee simple title to all of the state-owned properties described in the submittal to the Hawaii Community Development Authority subject to those conditions listed in the submittal.

Mr. Rex Johnson, Executive Director of the Hawaii Community Development Authority (HCDA) stated that they are appreciative of DLNR's support in this matter. He explained that the legislature's intent was to facilitate the State's efforts to implement the Waterfront Plan makai of Ala Moana Boulevard. Specifically, this request deals with the Kakaako area of Ala Moana Blvd. The Kakaako Waterfront Park is presently under construction. HCDA also has immediate plans for the property at Kewalo Basin, and along Ala Moana Blvd. They requested the transfer of this property, which they expect to use immediately.

Mr. Johnson said that this Item F-7 would require the entire area makai of Ala Moana Blvd., which is known as the Kakaako Peninsula, to be transferred over to HCDA. The bottom line, said Mr. Johnson, is that they feel DLNR is the expert at managing land (they are not), and given that, they would like to take only those parcels which they would be using immediately. Accordingly, they believe that the transfer of the eight properties that they have requested would be best for the HCDA.

Mr. Paty was not sure he understood the situation. Mr. Young explains that all of these properties are to be moved, and Rex is saying that he wants to do it a "bite at a time".

Mr. Young said, that although Mr. Johnson is asking for a temporary transfer and DLNR staff to continue management of whatever is remaining, by law, DLNR does not have title; it has already passed over to HCDA. Staff is recommending that, rather than a piecemeal, the whole package be sent over and that they take over management immediately. The exchange will be effectuated by the assignment of the leases.

Mr. Paty said that Rex is asking not to buy into all of these problems at this point. He asked Mason whether a management fee or whatever could be discussed.

Deputy Attorney General Johnson Wong suggested that DLNR keep all rental revenues.

In reply to Mr. Apaka's question as to whether we are getting the rent, Mr. Young said, no. By law, the land is no longer ours. Unless, as recommended by counsel, DLNR can work out an agreement to keep all of the rental revenues.

Even though the titles have already gone over, Ms. Himeno asked if it would be workable for Land Management to continue to manage the area which HCDA is saying they are not able to manage, but the rental and lease payments be assigned back to Land Management. Mr. Johnson said that he had no problem assigning the rental revenues over to DLNR.

Because all of the rental goes to the general fund, Mr. Young recommended tacking on a 10% management fee. Johnson Wong suggested 20%, which was fine with Mr. Young.

Mr. Young said that he would recommend that the conveyance be done; HCDA can then turn around and turn back whatever they don't want to manage, subject to a 20% management fee of the rental revenues.

Ms. Himeno clarified that title will stay with HCDA. HCDA will simply transfer the management to Land Management. Johnson Wong agreed, but by separate

agreement. He said that it would not make sense to transfer to HCDA and then HCDA transfers back to DLNR. Mr. Wong suggested transferring only those eight parcels which HCDA needs immediately, the other parcels to remain with DLNR based on HCDA's promise to assign the rental revenues and pay the management fee. Mr. Young felt this was fine as long as it was legal. Mr. Wong said that their office would work out the details.

Ms. Himeno asked Mr. Johnson if this was o.k. with them. He replied that it was.

Mr. Young said that if it is not permissible to do this under the general fund then he has to try from somewhere else. Mr. Wong said that all they can do is try. Ms. Himeno suggested trying this, and if it doesn't work out then everyone can come back to the board to see what can be worked out.

Mr. Yuen asked Mr. Johnson, "if the rent went to you, where would it go, to you or into the general fund?" Mr. Johnson said that they would try to work it into a "special fund." Mr. Young said the difficulty he has is that the law says the money has to go into the general fund. Also, there's a problem with handling of OHA's 20% share. Another concern of Mr. Young's was, "what is 20% of only \$50,000.00?"

Mr. Paty suggested working out an agreement in concept, subject to approval of details by the parties concerned.

Mr. Peter Garcia of the Department of Transportation said that, because they have bonds, their people are concerned that this transaction will be done in a way where they can be assured that it will satisfy their consulting engineers and their bond counsel. Where consideration is listed as "gratis", they would like to change this to "subject to Act 86, SLH 1990". He asked also to amend staff's RECOMMENDATION by adding after words "that the Board", "pursuant to Condition C.1 herein".

ACTION

Ms. Himeno moved that an agreement, in concept, be worked out, subject to approval of details by all parties concerned and the Board of Land and Natural Resources.

ITEM H-3

REQUEST FOR CONTESTED CASE HEARING ON WACOR INC.'S CDUA FOR A SINGLE FAMILY RESIDENCE, KAIWA RIDGE, KAILUA, OAHU; TMK 4-4-02:17; APPLICANT: WACOR, INC.

Mr. Evans asked to amend condition no. 2, page 2, by adding a period after the words "subject contested case hearing", and deleting all words thereafter.

Mr. Evans explained that on January 25, 1991, the board declared void the subject CDUA to Wacor Inc. Because of this action, the landowner, through his counsel, requested a contested case hearing at that meeting, followed by a written request. However, because the date of receipt of the written request was time stamped 12 days after the date of the meeting, instead of the required 10 days, and the envelope the request came in was not saved, the question arose on whether the filing requirement had been met.

Staff did ask the attorney general's office for advice and it was their opinion that the written petition for a contested case was filed in a timely manner with the Department of Land and Natural Resources.

Mr. Yuen asked for clarification with respect to the time a request for contested case hearing must be made. Mr. Evans stated that, "when a public hearing is involved you must make the oral request at the public hearing. If there is no public hearing involved, then the request must be made at the decision-making meeting, in both cases to be followed up by a written request within ten (10) days.

Mr. Yuen asked whether the minutes of the meeting showed that a request was made for a contested case hearing. Mr. Evans said that this is what he understood, but was not positive.

Mr. Thomas Cestare of the Lanikai Community Association passed out copies of the statute in question. He stated that he did take issue with some of the facts, as presented by the staff. He continued:

"The Lanikai Association does oppose any contested case hearing on the revocation of Permit CDUA 1030 and the Lanikai Association urges the board to adhere to its January 25, 1991 decision voiding the permit, and denying WACOR's attempt to have a contested case hearing.

'We believe that there should be no contested case hearing for a number of reasons. First, and the most important one has just been mentioned. First of all the petitioner, WACOR, has not complied with Title 13, Chapter 1, Section 29, by requesting a contested case hearing on a timely manner. Unfortunately, we are aware of this statute because we've run afoul of this ourselves couple of years ago, so, the statute is very specific and it says: "oral or written request for a contested case hearing must be made by the close of the public hearing, if one is required, or the board meeting at which the matter is scheduled for disposition if no public hearing is required. In either situation, it goes on to say about filing the petition in support of that request.

'In any event, the members of the Lanikai Association have listened to the transcript of the tape recording of the January 25th meeting -- no oral request was made at that time. We've reviewed the file and there is no written request made at any time during this whole time by the petitioner for contested case hearing. The rules are very specific. It was not made by the close of the hearing. There is no oral or written request made. Based upon that alone, the request for contested case hearing should be denied.

'Secondly, with respect to the issue of receipt of the petition in this matter, the petition is not a request for a contested case hearing. If you read further in 13.1.29, it states: "in either situation the person or agency requesting a contested case hearing must file or mail and postmark a written petition with the board not later than 10 days of the close of the public hearing or the board meeting, whichever is applicable. And then it goes on to say what is to be included in that petition, which is basically a factual and legal support for the request they supposedly would have made at the close of the board hearing. It's undisputed that WACOR did not personally file this written request. They had no time-stamped document that comes within the 10-day period, which should have been February 4th. Unfortunately for the petitioner, there was no evidence that it was postmarked on February 4th. Therefore, they did not meet its burden of proof in showing that it was submitted within the timeframe allowed in 13.1.29. The burden is on them to show that it came within the

timeframe, not on the state, not on community associations. The burden is squarely on them and it has not been demonstrated. They could have if they had chosen to do so, remedied this situation by sending it by certified mail or by personally delivering it, but they did not."

Ms. Himeno asked about the February 4th Certificate of Service. Mr. Cestare replied that "certificate of service" is a date that, in theory, if the attorney was present, maybe he could say that he personally delivered it in mail the that day. However, there is no sworn statement, in fact there is no proof of that. Mr. Cestare said that he is also an attorney and that is not a proof of service. The green card, if they had sent it by certified mail, would have been of service by February 4th. But that statement alone is not. He could have given it to a secretary who might have mailed it out the next day, which would have been untimely, so there is no proof of that either.

Ms. Himeno did not feel that a "certificate of service" was something to be taken lightly. You are certifying that this was placed in the mail on February 4 and you signed it. I agree it may have been dropped in the mail on the 5th or 6th, but when an attorney signs a "certificate of service", it's not like an ordinary letter. You are certifying that you, in fact, placed it in the mail on that day.

In any event, there is a two-step procedure, said Mr. Cestare. A request is to be made orally or in writing, and this was not done. Also, they feel that the petition was not timely filed.

Finally, stated Cestare, they do believe that the board made a well-formulated decision on January 25th, and he will not go into the petition and discuss all the matters which they may disagree factually and legally, because there are many. He felt that there was nothing presented by the petitioner that was not considered by the board on January 25th.

Therefore, said Mr. Cestare, based upon the fact that they did not comply with 13.1.29 by making the oral or written request for a contested case hearing by the close of business -- they have listened to the transcript and this was not done -- and there is nothing in the file to indicate that at anytime a request for contested case hearing was made. Additionally, it has been thirty-one days since that time and they have not requested a waiver of the time period in any fashion and, to do so at this time, would make a mockery of the department's own rules.

In conclusion, Mr. Cestare said that the people in their community have been living with this over their head for about thirteen years and they believe that the location, as proposed, has presented problems which directly affect the integrity of their community's safety, security, environment and aesthetics and, considering the fact that the board had carefully considered the issue presented and has voided the above permit, he urged the board to adhere to their original, well-formed decision of January 25, 1991 and deny WACOR INC.'s request for a contested case hearing.

Mr. Yuen asked Mr. Cestare if he had tried to intervene with the circuit court action. Mr. Cestare replied that he was not aware of any circuit court action. Mr. Yuen said there is an appeal that was taken by WACOR on the board's decision. Mr. Cestare added that WACOR could always re-file their application for a permit.

Mr. Yuen asked Mr. Evans if there was ever a situation where the board waived a request because someone came in late to ask for a contested case. Mr. Evans said that the board had waived an oral request. Mr. Yuen said that he was aware of a court case where the fellow did not make an oral request for a contested case, which went up to the supreme court and the court said that he should be given a chance to have a contested case. This fellow did not have an attorney. Mr. Evans said that this was the Simpson case. However, Mr. Yuen felt that in this case, the guy did have an attorney who knew what was coming. Mr. Yuen said that he would need to have a reason to waive. Otherwise, this guy comes in, he doesn't make a motion but the board gives him a waiver. Another guy comes in and we look at him real hard and say, "how come you didn't do what you were supposed to do and we don't give him a waiver". The rationale the court used in the Simpson case was that the guy was unsophisticated, and doesn't know what's going on, so give him a break.

Ms. Himeno understood that from the community's perspective they feel that perhaps he did not comply with the rules and therefore he should not get a contested case, so the board denies the request. It goes up to the Supreme court and two years later they say he should have a contested case hearing on it and he's right back and the community has been living with this for 11-13 years so it's going to be 18-20 years by the time this is all well and done. Mr. Cestare said that their position is that they would rather have that. Mr. Cestare said that WACOR has an attorney who isn't present at the meeting and they still have not made a request for a waiver.

Mr. Yuen remarked, "Roger, you let the applicant know that this was on the agenda, right"? Mr. Evans replied that this is standard practice.

MOTION

Mr. Yuen moved to go into executive session. Ms. Himeno seconded, motion carried.

**EXECUTIVE
SESSION:**

9:55 a.m.

The meeting reconvened at 10:10 a.m.

Ms. Himeno commented that it appeared that the applicant did not comply with 13.1.29(a) as far as making the oral request for contested case hearing by the close of the public hearing or board meeting, and even if the board gives him the benefit of the doubt as to a timely filing of the written request in the sense that the certificate of service was signed by the attorney, Dennis King, on February 4th, and stamped by the department on February 6th, even if the board gave him the benefit of the doubt on that, that he was timely on that aspect, there is no evidence that he was timely on his oral request. Ms. Himeno felt that it was attendant on the applicant to come forward to give the board a reason why the board should waive the lack of the oral request, and the applicant, as well as his attorney, who made a previous appearance before the board is not present this morning so she personally saw no reason to waive that in this instance where he had an attorney at the time of the board meeting, and the attorney should have been aware of the rules of the Land Board. In the case of the Simpson applicant, he did not have an attorney, and was apparently unsophisticated in many of these irregular affairs. In light of the fact that this applicant did have an attorney, and his attorney, Mr. King, was very familiar with the rules, and although she felt that a request for a contested case hearing is not something to be denied lightly, in this case she did not see the justification for waiving the lack of oral request.

ACTION

On the basis of the above, Ms. Himeno moved to deny the petition of WACOR INC. to be a party to the contested case hearing. Mr. Arisumi seconded, motion carried unanimously.

- ITEM B-1** **REQUEST FOR APPROVAL TO SELL FRESHWATER PRAWN SEED TO HAWAII'S PRAWN FARMERS IN 1991.**
- ACTION** Unanimously approved as submitted. (Arisumi/Himeno)
- ITEM B-2** **REQUEST FOR APPROVAL TO AMEND/EXTEND AGREEMENTS WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII (RCUH) DURING FY 1991-1992.**
- ACTION** Unanimously approved as submitted. (Himeno/Arisumi)
- ITEM B-3** **OUT-OF-STATE TRAVEL REQUEST FOR DR. ROBERT NISHIMOTO TO PARTICIPATE IN THE 71ST ANNUAL MEETING OF THE AMERICAN SOCIETY OF ICHTHYOLOGISTS AND HERPETOLOGISTS, JUNE 25-20, 1991, IN NEW YORK CITY.**
- ACTION** Unanimously approved as submitted. (Himeno/Apaka)
- ITEM C-1** **REQUEST TO ENTER INTO SUPPLEMENT NO. 2 TO MASTER COOPERATIVE AGREEMENT WITH THE HAWAII NATURE CENTER.**
- ACTION** See Page 4.
- ITEM C-2** **REQUEST FOR BOARD APPROVAL TO ENTER INTO A MASTER COOPERATIVE AGREEMENT WITH THE BOARD OF WATER SUPPLY, CITY AND COUNTY OF HONOLULU.**
- ACTION** Unanimously approved as submitted. (Himeno/Arisumi)
- ITEM C-3** **REQUEST TO ENTER INTO A MASTER COOPERATIVE AGREEMENT WITH ATTRACTIONS HAWAII DBA SEA LIFE PARK.**
- ACTION** Unanimously approved as submitted. (Himeno/Arisumi)
- ITEM G-1** **FILLING OF DEPUTY REGISTRAR OF CONVEYANCES, POSITION NO. 137, OAHU.**
- ACTION** Mr. Arisumi moved to approve the appointment of Carl T. Watanabe to Position No. 137. Mr. Apaka seconded, motion carried unanimously.
- ITEM F-1** **DOCUMENTS FOR CONSIDERATION:**
- Item F-1-a** ISSUANCE OF REVOCABLE PERMIT TO HAITSUKA BROTHERS LIMITED COVERING GOVERNMENT LAND AT KAPALAMA, HONOLULU, OAHU, TMK 1-6-09:POR. 1.
- Item F-1-b** See Page 4 for Action.
- Item F-1-c** ISSUANCE OF REVOCABLE PERMIT TO HAWAII STEVEDORES, INC., GOVERNMENT LAND AT SAND ISLAND, HONOLULU, OAHU, TAX MAP KEY 1-5-41:POR 130.
- Mr. Young, on behalf of the applicant, asked that this item be deferred.**

Item F-1-d ASSIGNMENT OF GENERAL LEASE NO. S-4210 COVERING LOT 4-A, KEANAE HOMESTEADS, KEANAE, HANA (KOOLAU), MAUI, TAX MAP KEY 1-1-03:59.

Item F-1-e ASSIGNMENT OF GENERAL LEASE NO. S-4982 COVERING LOTS 17 AND 18, KOKEE CAMP SITE LOTS, WAIMEA (KONA), KAUAI, TMK 1-4-04:38.

Item F-1-f ASSIGNMENT OF NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT (LAND OFFICE DEED S-27,844) AT KAPAA, KAWAIHAU, KAUAI, TMK 4-6-06.

Item F-1-g SUBLEASE OF GENERAL LEASE NO. S-4447 COVERING LOT 23, PANAEWA FARM LOTS, 2ND SERIES, WAIAKEA, SO. HILO, HAWAII, TMK 2-4-49:07.

Item F-1-h See Page 1 for action.

ACTION Mr. Arisumi moved to approve Items F-1-a, d, e, f and g, as submitted. Ms. Himeno seconded, motion carried unanimously. The board deferred action on Item F-1-c.

Items F-1-b and F-1-h were considered earlier.

ITEM F-2 DEPARTMENT OF EDUCATION, HAWAII STATE LIBRARY SYSTEM REQUESTS TO LEASE PARKING AREA AT KAPAAU, NO. KOHALA, HAWAII, TMK 5-4-05:29.

Mr. Young informed the board that Mr. Clyde Okinaga was present to answer any questions posed by the board.

ACTION Unanimously approved as submitted. (Yuen/Himeno)

ITEM F-3 REQUEST TO (1) TERMINATE LEASE TO HAWAII UNTOUCHED, INC. COVERING PORTION OF TMK 7-2-05:3 AND (2) TERMINATE REVOCABLE PERMIT NO. S-5602 TO HAWAII UNTOUCHED, INC. COVERING TMK 7-2-05:2, MAHAIULA-KAULANA, NO. KONA, HAWAII.

Ms. Himeno asked to be excused from acting on this item.

Mr. Young replied yes to Mr. Yuen's question of whether the applicant had a CDUA. Mr. Yuen asked if this was also to be revoked. Mr. Young said that it would not.

Mr. Yuen asked if there was a general policy as to when we pursue people for back rent. Mr. Young explained that the way the lease reads, it requires that rental be paid in advance, whether it be quarterly, semi-annually or annually. At the aging of the account, when the rent is due, the next day if no rental is paid, a reminder letter is sent out. Should they still not pay, then a default letter is sent. The lease provides between 60-90 days to cure the breach by paying the rent. If they pay the rent then the default is cured. If they don't, then the lease provides staff the right to come before the board for the right to forfeit the lease and collect rentals to the state and take over occupancy, and serve a notice to vacate, if necessary.

As a matter of practice, do we collect on a situation like this. Mr. Young said we will try. However, the situation in this case is that Hawaii Untouched is a corporation so staff is not sure if they can get to it. In the event staff is not able to collect, then it will be referred to the Attorney General's Office to see if staff can get a judgment.

ACTION Mr. Yuen moved to approve as recommended by staff. Motion carried with a second by Mr. Arisumi. Ms. Himeno was excused from acting on this item.

- CANCELLATION OF GOVERNOR'S EXECUTIVE ORDER NO. 3058 AND RESET ASIDE TO DEPARTMENT OF EDUCATION FOR NEW KIHEI PUBLIC LIBRARY SITE AT KAMAOLE, WAILUKU (KULA), MAUI, TMK 3-9-12:13.**
- ITEM F-4**
- ACTION** Unanimously approved as submitted. (Arisumi/Himeno)
- DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES REQUESTS SET ASIDE OF STATE-OWNED LANDS AT IWILEI, OAHU, FOR THE LILIHUA CIVIC CENTER, TMK 1-5-07.**
- ITEM F-5**
- ACTION** Unanimously approved as submitted. (Himeno/Arisumi)
- DIRECT SALE OF REMNANT AT WAIKALUA, KANEOHE, OAHU, TMK 4-5-07:68.**
- ITEM F-6**
- Mr. Young asked that Condition C.5 under RECOMMENDATION be deleted.
- ACTION** Unanimously approved as amended. (Himeno/Arisumi)
- KAKAAKO DISTRICT--MAKAI AREA CONVEYANCE OF STATE-OWNED PROPERTIES TO THE HCDA, KAKAAKO, HONOLULU, OAHU.**
- ITEM F-7**
- ACTION** See page 6.
- STAFF REQUESTS AUTHORIZATION TO HAVE CANCELED, UNCOLLECTIBLE ACCOUNT REVOCABLE PERMIT NO. A-4745 TO MID-PAC TRUCKING, INC. BE DELETED FROM THE ACCOUNT RECEIVABLE RECORDS, LOT NO. 007102, LAGOON DRIVE SUBDIVISION, MOANALUA, HONOLULU, OAHU.**
- ITEM F-8**
- ACTION** Unanimously approved as submitted. (Himeno/Arisumi)
- AMENDMENT TO PRIOR BOARD ACTION OF FEBRUARY 22, 1991 (AGENDA ITEM F-7) COVERING CONSENT TO MORTGAGE AND EXTENSION OF TERM ON GENERAL LEASE NO. S-3763, LOT 15, WAIMANALO AGRICULTURAL SUBDIVISION, WAIMANALO, KOOLAUPOKO, OAHU, TMK 4-2-10:48.**
- ITEM F-9**
- ACTION** Unanimously approved as submitted. (Himeno/Arisumi)
- STAFF REQUESTS AUTHORIZATION TO CONVEY GOVERNMENT LAND TO THE HAWAIIAN HOMES COMMISSION AND THE DIRECT ISSUANCE OF A LEASE, KALAWAHINE, MAKIKI, OAHU.**
- ITEM F-10**
- Mr. Young asked to defer action on this item.
- ACTION** Withdrawn.
- DIRECT ISSUANCE OF PERPETUAL, NON-EXCLUSIVE EASEMENT FOR GUY WIRE AND ANCHOR WITHIN THE ALOHA STADIUM COMPLEX AT SALT LAKE HALAWA, EWA, OAHU, TMK 9-9-03:POR. 61.**
- ITEM F-11**
- ACTION** Unanimously approved as submitted. (Himeno/Arisumi)

AMENDMENT TO PRIOR BOARD ACTION OF JANUARY 11, 1991 (AGENDA ITEM F-1-b) COVERING ASSIGNMENT OF GRANT OF NON-EXCLUSIVE EASEMENT (LAND OFFICE DEED NO. S-27766) AT OPU, MAKIKI, HONOLULU, OAHU, TMK 2-5-05:5

ITEM F-12

ACTION

Unanimously approved as submitted. (Himeno/Apaka)

ACQUISITION OF LAND FOR PURPOSES OF LAND BANKING PRESERVATION OF CATTLE FEED OPERATION AND RELOCATION OF BUSINESSES DISPLACED BY GOVERNMENTAL OPERATIONS, HONOULIULI, EWA, OAHU, TMK 9-1-17:POR. 4, 9-1-16:POR. 25, 9-1-15:POR. 15 AND 9-1-31:1, 25, 26 AND 37.

ITEM F-13

Mr. Arisumi asked if this was cane land. Mr. Young said that it was and this is why DLNR wanted to pick up the 1100 acres so it could be kept in cane and work with Oahu Sugar to sustain their cane operation.

ACTION

Unanimously approved as submitted. (Arisumi/Apaka)

CANCELLATION OF GOVERNOR'S EXECUTIVE ORDER NO. 570 AND REMOVAL OF SEWER EASEMENT RESERVATION CONTAINED IN WARRANTY DEED, KALIHI, OAHU, TMK 1-2-26.

ITEM F-14

Mr. Young asked to have Item F-14 withdrawn.

ACTION

Withdrawn.

ITEM G-1

FILLING OF DEP. REGISTRAR OF CONVEYANCES POSITION NO. 137, OAHU.

ACTION

See Page 10.

ITEM H-1

CDUA FOR AN ACCESS EASEMENT AT KAUPULEHU, NO. KONA, HAWAII; TMK 7-2-3:01; APPLICANT: KAUPULEHU DEVELOPMENTS AND KONA VILLAGE ASSOCIATES, AGENT: GRAY, HONG, BILLS & ASSOCIATES.

ACTION

See Page 2.

ITEM H-2

CDUA FOR AMENDMENT TO PREVIOUSLY APPROVED CDUA NO. OA-1017 FOR THE CONSTRUCTION OF A SINGLE FAMILY RESIDENCE AT NUUANU VALLEY, HONOLULU, OAHU; TMK 2-2-42:86; APPLICANT: KERRY M. KOMATSUBARA.

ACTION

See Page 2.

ITEM H-3

REQUEST FOR CONTESTED CASE HEARING ON WACOR INC.'S CDUA FOR A SINGLE FAMILY RESIDENCE, KAIWA RIDGE, KAILUA, OAHU; TMK 4-4-02-17; APPLICANT: WACOR, INC.

ACTION

See Page 9.

- REQUEST FOR TIME EXTENSION OF CONSERVATION DISTRICT USE PERMIT
OA-2331, KUAPA POND, OAHU; TMK 3-9-17:37; APPLICANT:
HAWAII KAI YACHT CLUB.**
- ITEM H-4**
- ACTION** Unanimously approved as submitted. (Himeno/Apaka)
- REQUEST FOR TIME EXTENSION OF CONSERVATION DISTRICT USE PERMIT
HA-2328, PUNA, HAWAII; TMK 1-3-4:06; APPLICANT:
SAMUEL PRITIKIN.**
- ITEM H-5**
- ACTION** Unanimously approved as submitted. (Yuen/Apaka)
- Mr. Yuen said that he would appreciate it if hereafter a map could be included with the submittal, showing the location of the subject property.
- AIRPORT-AIRLINE LEASE, HONOLULU INTERNATIONAL AIRPORTS, OAHU
(JAPAN AIR SYSTEM COMPANY, LTD.).**
- ITEM J-1**
- ACTION** Unanimously approved as submitted. (Himeno/Apaka)
- AMENDMENT NO. 7 TO LEASE NO. DOT-A-73-31, HONOLULU INTERNATIONAL
AIRPORT, MAIN TERMINAL, OAHU (CHINA AIRLINES, LTD.).**
- ITEM J-2**
- ACTION** Unanimously approved as submitted. (Himeno/Arisumi)
- AMENDMENT TO A PREVIOUS SUBMITTAL -- AMENDMENT NO. 3 TO LEASE
NO. DOT-A-76-6, KAHULUI AIRPORT, MAUI (HOST INTERNATIONAL, INC.).**
- ITEM J-3**
- ACTION** Unanimously approved as submitted. (Arisumi/Himeno)
- APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4757, ETC.,
AIRPORTS DIVISION.**
- ITEM J-4**
- ACTION** Unanimously approved as submitted. (Arisumi/Apaka)
- APPLICATION FOR ISSUANCE OF REVOCABLE PERMIT 4764, HONOLULU
INTERNATIONAL AIRPORT, OAHU (MARRIOTT CORPORATION).**
- ITEM J-5**
- ACTION** Unanimously approved as submitted. (Apaka/Himeno)
- ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 38, HONOLULU
HARBOR, OAHU (GASCO, INC.).**
- ITEM J-6**
- ACTION** Unanimously approved as submitted. (Himeno/Arisumi)
- ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KEWALO BASIN,
HONOLULU, OAHU (SERVCO PACIFIC INC. DBA MCWAYNE MARINE SUPPLY).**
- ITEM J-7**
- ACTION** Unanimously approved as submitted. (Himeno/Apaka)

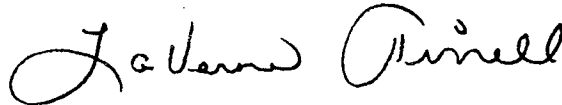
ITEM J-8

ISSUANCE OF NEGOTIATED LEASE, PIER 15, HONOLULU HARBOR, OAHU
(HONOLULU FIRE DEPARTMENT, CITY & COUNTY OF HONOLULU).

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

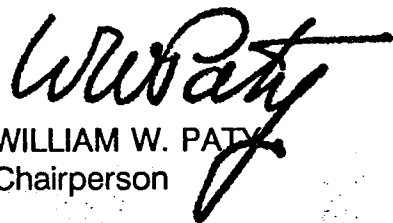
ADJOURNMENT: There being no further business, the meeting was adjourned at 11:40 a.m.

Respectfully submitted,



Mrs. LaVerne Tirrell
Secretary

APPROVED:



WILLIAM W. PATY
Chairperson

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