

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

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

**ROLL
CALL**

Vice-Chairman John Arisumi 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. Herbert Apaka
Ms. Sharon Himeno
Mr. Christopher Yuen
Mr. T. C. Yim
Mr. John Arisumi

ABSENT AND EXCUSED:

Mr. William Paty

STAFF: Mr. Michael Buck
Mr. Dean Uchida
Mr. Roger Evans
Dr. Don Hibbard
Mr. Gordon Akita
Mr. Richard Fasseler

OTHERS: Mr. Edwin Watson, Deputy Attorney General
Mr. Peter Garcia, Department of Transportation
Ms. Sandra Schutte (Item F-1-b)
Mr. David Nakamura (Item F-11)
Mr. Herman Soares (Item H-9)
Mr. Bruce Yoshida (Item F-14)
Mr. Don Kitaoka (Item H-3)
Mr. Jeff Rewald (Item H-2)
Mr. Peter Moynahan (Item F-13)
Mr. Michael Schmidt (Item H-1)
Mr. Don Anderson, Mr. Charles Rose (Item F-16)
Mr. Mike Nakama (Item F-10)

**ADDED
ITEM**

Upon motion by Mr. Apaka and second by Ms. Himeno, motion carried to add the following item to the agenda:

Item H-9 Conservation District Use Application for a Single Family Residence at Waialua, Oahu, TMK 6-8-8:5; Applicant: Herman Soares

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

Vice-Chairman Arisumi called upon the Administrator of the Division of Forestry and Wildlife to make his presentations first due to an emergency with fires on the Big Island.

REQUEST TO ENTER INTO SUPPLEMENTS NO. 2 OF THE APPROVED MASTER COOPERATIVE AGREEMENTS WITH THE NATIONAL TROPICAL GARDEN (NTBG) AND WAIMEA ARBORETUM (WA) AND SUPPLEMENTS NO. 1 OF THE APPROVED MASTER COOPERATIVE AGREEMENTS WITH LYON ARBORETUM (LA) AND AMY GREENWELL ETHNOBOTANICAL GARDEN (AAGEG)

ITEM C-1

Mr. Michael Buck made the presentation of Item C-1 asking the Board's approval. Basically it includes collecting rare and endangered plants in the field and propagating them for future out planting.

Mr. Apaka asked if these cooperative agreements were cleared by the Attorney General's office.

Mr. Buck said that the Master Cooperative Agreements were approved and the Supplements are in process for approval.

ACTION Unanimously approved as submitted. (Apaka/Himeno)

REQUEST FOR APPROVAL OF CONTRACT WITH MS. TERESA TRUEMAN-MADRIAGA TO COORDINATE A FEDERAL FUNDED AMERICA THE BEAUTIFUL PROGRAM WITH THE DIVISION OF FORESTRY AND WILDLIFE

ITEM C-2

ACTION Unanimously approved as submitted. (Yuen/Apaka)

REQUEST TO APPROVE AGREEMENT BETWEEN THE DEPARTMENT OF ATTORNEY GENERAL AND THE DEPARTMENT OF LAND AND NATURAL RESOURCES FOR THE PURPOSE OF PROVIDING LEGAL SERVICES TO THE NA ALA HELE PROGRAM

ITEM C-3

Ms. Himeno said that she was not sure that there was a conflict in fact and thus asked to be excused.

ACTION Approved as submitted. (Apaka/Yuen)

SPECIAL PRESENTATION--TAKE PRIDE IN AMERICA

Mr. Ralston Nagata said that this presentation was made on behalf of the Secretary of the Interior and is addressed to the **Na Ala Hele Program** and it reads:

"On behalf of the **Take Pride in America Campaign**, I'm pleased to inform you that the judging process is now complete. You have been selected as a National Finalist in the 1990 Take Pride in America National Awards Program. The fifth annual Take Pride in America National Awards Ceremony will be held in Washington, D.C. on July 22, 1991....

"I do want to take this opportunity to commend you for the outstanding work you are doing to promote wise use of our nation's public resources. Your involvement in this campaign by Americans for America helps to insure

that future generations can enjoy and benefit from public resources. Enclosed is your Take Pride in America Certificate of Honor in recognition of your efforts and contributions you are making to this great nation. Once again congratulations on your selection as a National Finalist and I look forward to seeing you at the awards ceremony this summer. Sincerely, (signed) Manuel Lujan, Jr., Secretary of the Interior."

Mr. Michael Buck accepted the Certificate and commended all the department individuals, people like Debbie Chang that worked so hard on the Na Ala Hele Program and hoped it will continue.

Item F-1-b Sublease between Lanihau Partners LP., Sublessor and Old Kailua Town Associates, Sublessee, Government Land at Auhauke, North Kona, Hawaii, TMK 7-5-09:43

Mr. Dean Uchida made the presentation of Item F-1-b on the Consent Calendar, a request by Lanihau Partners on a sublease from Lanihau Partners to Old Kailua Town Associates for commercial purposes in North Kona, Hawaii. Staff has reviewed the sublease agreement and arrangements and is recommending that the Board consent to the sublease arrangement.

Ms. Sandra Schutte said she was representing the applicant, Old Kailua Town Associates. She requested to give a little background and felt it would answer some of Mr. Yuen's questions to staff.

She said that Old Kailua Town Associates leased a much larger area which included this particular parcel from Lanihau Corporation several years ago and then applied for the necessary government permits to develop a commercial complex on resort zoned land. During the permitting process, it was uncovered that there was a dispute between Lanihau and the State as to the ownership of this particular parcel that was leased by the State. The State and Lanihau finally reached a resolution whereby Lanihau leased the property under a general lease from the State. At the time of the general lease, there already was a lease in place between Lanihau and Old Kailua Town for the entire parcel. In the permitting process this particular parcel was deleted from the project and permits were obtained for everything but this parcel. Unfortunately, this parcel was supposed to be a public park, the development surrounds it and the public park was to be on Alii Drive, a passive park with park benches, a gazebo, walkways and an artificial stream for a waterfall. Finally the matter was resolved with the State and the State issued the lease to Lanihau.

After that was done, Lanihau immediately went to sublease the property to Old Kailua Town Associates and the settlement reached with Old Kailua Town was that Lanihau would pick up a portion of this lease because she guessed it was all factored in. Otherwise, Old Kailua Town would be paying more than what was originally agreed to with Lanihau for the property.

Mr. Yuen asked what happened to the park. Ms. Schutte said that after the lease was executed and a draft sublease was submitted to the department,

at the end of 1989, they applied for an SMA permit to allow for the park. They also obtained the consent from the Land Department to apply at this point even though the sublease had not been approved by the Board as yet. The SMA permit has been issued. Her client is now waiting for approval of the sublease so that her client can begin construction.

To summarize, and in response to your question, Lanihau is getting half initially because that was agreed, because otherwise Old Kailua Town would have to pay an extra premium for this parcel over and above its lease. The terms of this do provide increases. If the department decides to increase rent, anything over \$20,000 in lease rent, Old Kailua Town pays all of that.

Deputy Attorney General (A.G.) Watson asked for clarification that the assignment of the sublease, the original lease was sold at public auction. Ms. Schutte responded that was correct.

Deputy A.G. Watson said that they should be aware that whatever they build on it is called for under the lease. The second thing is, because it's a part of your overall complex, because it was done on Kauai, where the State lease was integrated with the private portions and the previous straddled the boundaries. That was his concern that the lease agreement allows it.

Mr. Schutte said that as far as improvements straddling the boundaries, because it is a State lease, her client has taken great care that the buildings will not straddle the boundaries for that very reason. Actually they redesigned some of the project to accommodate this unusual situation with the State parcel in Manele.

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM F-11 TERMINATION OF AN EXISTING EASEMENT NO. S-4652 AND DIRECT SALE OF A NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT AT WAKIU AND KAWAIPAPA, HANA, MAUI, TMK 1-3-04:POR. 6 & 12

Mr. Uchida presented the request of Mr. and Mrs. Robert Omer who were also requesting an immediate right of entry in order to begin construction. The applicants are proposing to create a new easement in order to provide better access and enable them to make maximum use of their property.

Mr. Uchida pointed out a State interest involved in this easement, that parcel 12 is the proposed site of the Hana Ag Park. Some time in the future this easement may be used to access the ag park. The Division of Forestry and Wildlife has also expressed an interest in using an easement to access the Hana Forest Reserve across parcel 12.

Consent has been received from the existing lessee of the property, Zen at Hana Ranch to go ahead with the realignment of the easement.

Mr. David Nakamura, attorney representing the applicant, answered Mr. Yuen's question regarding the length of the easement to be approximately 2,500 feet. He said that his client has had an opportunity to review the

conditions and has no problems in meeting them. The only thing they would like to bring to the Board's attention is that within the existing easement area are utility poles and there's reference in the submittal that the utility poles would be removed. They would like to have those poles maintained because those poles would also be in the new easement.

Mr. Uchida was concerned that the poles remaining would be in the alignment of the new easement. Their concern was once the old easement was cancelled there should be nothing left on the State property. If it's overlapping then they can leave it. Mr. Nakamura responded that the poles would be in the new easement.

Deputy A.G. Watson clarified that while construction was going on the applicant would have to use the old easement. Then he will utilize the new easement area while he replaces the old area to its original condition.

ACTION Unanimously approved as submitted. (Himeno/Yim)

**ADDED
ITEM H-9** CONSERVATION DISTRICT USE APPLICATION FOR A SINGLE FAMILY
RESIDENCE AT WAIALUA, OAHU; TMK 6-8-8:5, APPLICANT: HERMAN
SOARES

Mr. Evans informed the Board that this item was deferred at the last meeting on Kauai so that the applicant could be present to discuss his concerns.

Mr. Evans then corrected the title on page one saying that it should be an "After-the-fact" application. He then continued to describe the area and the applicant's current use of the property. Based upon staff's analysis and comments from a number of agencies and departments of the State and City the recommendation is in two parts. A. Under the proposed use, staff is recommending that the Board deny the applicant's after-the-fact request for approval of the property's existing residential use for the following reasons: 1) SMA clearance from the City and County of Honolulu has not been obtained. 2) The number of structures are excessive for single family residential use. 3) Approval from all the landowners involved is not and has not been forthcoming. B. Violation. There are total of one violation relative to clearing and four violations relative to structures. Staff is asking for the maximum fine of \$500 allowable by law for each violation for a total fine of \$2500.

Vice-Chairman Arisumi asked if there were explanations why the approval of all the landowners were not presented. Also are there 18 different people living on the property or 18 different landowners? Mr. Evans said there was no explanation. He said that this was a case of basically one person living on the property and there's joint ownership among 18 separate people.

Mr. Evans then explained to the Board the reason for having all landowners sign off on an application before final approval.

Deputy A.G. Watson asked how many of the four structures had been used

as a residence. Mr. Evans said he believed one.

Regarding the fines, Mr. Apaka said it was mentioned earlier that this applicant had 20% interest in the property so will his share be 20% of the fine?

Should the Board sustain staff on the fine, Mr. Evans said that they would notify the applicant that the fine belongs to him. Should the applicant not pay, ultimately the matter would be turned over to the Attorney General's office.

Mr. Herman Soares said he was the occupant of the property at 68-805 Farrington Highway. He said that he had submitted an SMA just recently he thought his surveyor, Mr. Harry Matsuo was doing it for him. He talked to Mr. Matsuo who informed him that he was putting in a shoreline survey paper for him. So he submitted an SMA just recently.

Mr. Soares presented some photos of the existing buildings. The building he has now existing, the hollow tile and the shed and the platform next to the hollow tile and his trailer and garage lean to. He resides in the trailer and there's no electric and there's no out-house. Since 1978 he needed this existing hollow tile for bath room. This was P-1 zone, this area which he understood is conservation and private property and just went ahead and built this make-shift temporary building. The only one that was permanent is the hollow tile and the others temporary woodshed for picnicking in the area and usage. He had just reactivated a cesspool that existed back in 1930. He excavated that during 1979 and right now it's in use. He was hoping to update these things as far as putting in a regular septic tank. So, when he reactivated it he needed a bathroom, shower and just went and dug it up and found this existing cesspool which he knew was there but never did have access to it or finding it. The rest of the citations was put up prior when he was living here back in 1978, he needed all these places at the time but it can be demolished except the bathroom is the one he really wanted, that he's concerned about. He said if he had to move this bathroom he would be less a lot area and wouldn't have anything to put on. The 40 foot setback from the railroad, he can't see where he'll have any room. Then according to this map that the surveyor had made, there was no way that he could move these things or try to resettle it. The area that I would obtain would be only about 20 foot; 10,169 square foot out of a half an acre and this was granted on a mahele grant land to my grandfather in the 1853 I believe. But the land started to erode in years past almost 11,600 square foot and I just wanted to live on this land and I'm a single parent and this is my grandfather's area. Now all I'm asking is that the existing building that I have there is removable, it's temporary. Only the bathroom there which is built with cement flooring and hollow tile and that's the only one that I'm looking forward to obtaining with the trailer. That's the whole thing about it. I have submitted papers and the CD which I must made the SMA and I have applied for building permit but have been held back two weeks ago I think we applied and we haven't heard anything from the City.

Ms. Himeno asked, "Who lives on the property at the present time?"

Mr. Soares said, "I do, ma'am." Just himself.

Ms. Himeno asked, "Who are the other owners of the property, are they family members or friends?"

Mr. Soares replied, "There's one family member in there that is not a family on my side which is the Goo's and they have I think 16 of them, their family is the Goo family which is Titcomb and all those people. I had approached them for the signatures that was required and he gave me some of them but he couldn't reach a few of them that are back in China and he didn't know if he could contact them. I approached him at different times, twice or more about that and he was helpful but he couldn't get some of the names which was missing. The other one which is Gora, one of my immediate family and my side the Soares, my mom and I. That's the only thing that I have my family side. Actually it was supposed to have been my grandfather's which was mahele back in 1853, Kaimoku, this was his area and he owned a lot of other places which was taken during the war in the same area, mauka side of this here. This is the only place that has been left for the family, there's no other property that we have except this one, that existed in this area. So presently I'm living, this is my home, my address and everything in this trailer and there's no electric, I never apply for electric, I just using whatever I could utilize as far as hot water and the water I'm getting from now, it was coming from the army back, I don't know how long ago but I would say about 30 years now and that water line is running in through my property going to the next door neighbor's property and this line been there for all those years. So this is the one that I am using right now, when the Army was operating the water system there it was there and was never moved or anything so I am now using this water. So now the State came by and the Army sold their rights to the State, which the State operate the same water system and I approach one of the supervisor about this, in fact they approached me about it and we talked about this. We never got no document or anything. But after listening to my story what I told you about this water line, if they wanted to they could have moved this line outside on the highway and give me this water system. But right now they have left it there since 1986 or somewhere around there and it still exists in there. So this is the water line I have been getting from the State which is in the back of the Dillingham Airfield, this is where the water is coming from."

Ms. Himeno asked, "Procedurally now, if the application is denied, what happens?"

Mr. Evans responded that if the application were denied that the house would ultimately go. The Board may want to consider stretching out the length of time before the matter may get turned over to the Attorney General and this would allow the applicant the opportunity to obtain an SMA clearance. There also may be a way the A.G.'s office can work it out if other landowners are in China. He also mentioned possibilities of working on the subzone question and trying for a non-conforming use basis.

Ms. Himeno cited couple of problems, first is obtaining an SMA from the City and second, getting the other 19 or 20 owners to sign off on the application. She mentioned that it seems a little harsh to make a decision now which may have some consequences to Mr. Soares. If the Board denies the application, the house has to go and then should the City say the SMA is approved and here we have an approval, can we hold off any action pending these other things being resolved.

Mr. Evans said that staff has some difficulty because they do have 180-day expiration date and a private property owner does have a right to have a decision made by the Board in the 180-days. He said that staff's recommendation for denial was because he did not have an SMA and landowners signing off. As a private property owner, he will have the right to reapply.

Deputy A.G. Watson had some questions regarding the fines. There is a lean-to and a platform, which is being suggested a \$500 fine each and he would like to know if the platform, the cement portion that's under the lean-to is separate.

Mr. Soares answered that it was movable, probably just leaning on top of 2 x 4's. Under the platform, it's just dirt. It's just a lean-to".

Deputy A.G. Watson said if the applicant agrees to withdraw his application and resubmit less than three months to allow him time to submit an SMA application. So in the three month period, if he submits an SMA, he applies to the county for building permits for his trailer, he applies to the Department of Health for a permit for the cesspool and he could be grandfathered because by the affidavits the cesspool was from the '30's or '40's and although today rules are more stringent you may be in the door. The building permits may be similar with the county, couple of them. Then it would be a matter of, "can he obtain a CDUA application for whatever structures that remain, let's say the county may allow a couple, not all?"

Then the fines could be worked based upon the application at that time, an after-the-fact application on whatever the county is allowing. If the SMA doesn't apply and the building permit does not apply and the sewer doesn't apply, he has to remove it anyway. Either the County's going to bang on him or we're going to do it, so he has to comply. It might be to his benefit, for the record, ask to withdraw his application with the understanding that he'll come back within three months on it. Because if he doesn't come back in three months on it, the Land Department can act on it on its own under the CDUA and go in because he has an illegal structure in the Conservation District without any permits.

As far as the signature part, from that standpoint, he owns 20% in relation to the other people and he has a right to use it just as much as the other people. He's been living there since 1979 and none of the other interest holders have complained. If he has 13 out of the 18 signatures or even 10 he would define it as agreeable.

Mr. Watson suggested at this point, if the Board has to act, a portion of the act is going to be bent on the fines, then deny it. But if he volunteers on the record that he wishes to withdraw with the understanding that he will resubmit within a three month period and during the three month period he will seek to obtain the building, the sewer, and the SMA permits.

Mr. Evans said that the request would have to come from Mr. Soares to the Board. The Board would then have to make a judgment whether or not they would allow that withdrawal to occur being the request is on the agenda and staff would work with Mr. Soares to get it back on the agenda in three months.

Mr. Soares then asked the Board to allow him to withdraw his application. He said that the only problem would probably be with getting the signatures of the other owners.

Deputy A.G. Watson said he feels three months should be sufficient. Should the applicant have any delays in obtaining any of the permits, he could work it out with staff.

Mr. Yuen also stated that should the applicant be having difficulty in getting the signatures, he should at least be able to show the Board that they've given their best efforts and to also give written notice to the other owners that they're making an application and if their application is granted that it may be the only dwelling that is allowed on the property.

ACTION Ms. Himeno moved to permit withdrawal of this application. Seconded by Mr. Yim, motion carried.

Board member Yim addressed the Chair to say that he appreciated the comments by legal counsel. Mr. Yim said it helps the new board members to understand certain conditions.

**REQUEST FOR CERTIFICATE OF RELEASE OF RESTRICTION
AGAINST ALIENATION CONTAINED IN LAND PATENT GRANT NO.
S-12,712, LOT 14, WAIMANALO FARM LOTS, WAIMANALO,
ITEM F-14 KOOLAUPOKO, OAHU, TMK 4-1-24:29**

Mr. Uchida said that the applicant and his attorney are making a formal request to have the Board consider having a certificate issued to release the restriction of aliens holding interest in the property. Staff finds the request is consistent with the applicable statute and they recommend approval.

Responding to Mr. Yuen's questions, Deputy A.G. Watson explained that it's merely an appropriate document to be determined by the A.G.'s Office and its been done in the past. They are coming in now for a removal on the basis that it is no longer appropriate and the law allows the Board to remove it. It may have been in place for a five or ten year period but the law was repealed and is no long applicable. They are merely trying to clear the title because the patent does have the restriction on it.

Mr. Bruce Yoshida, attorney, said he was representing Mr. Frank Schenk and he did not have anything to add.

ACTION Unanimously approved as submitted. (Himeno/Yim)

ITEM H-3 TIME EXTENSION REQUEST FOR CDUA OA-2441 FOR PROPERTY CONSOLIDATION, RESUBDIVISION, AND SINGLE FAMILY RESIDENCE AT ROUND TOP DRIVE, TANTALUS, OAHU; TMK: 2-9-55:04; APPLICANT: DR. AND MRS. J. GROBE; AGENT: JAN SULLIVAN

ACTION Unanimously approved as submitted. (Himeno/Yim)

ITEM H-2 REQUEST FOR TIME EXTENSION, CDUA TO DEVELOP A CABLE SHIP TERMINAL AND STORAGE FACILITY, SAND ISLAND, OAHU; TMK: 1-5-41:03(OFFSHORE); APPLICANT: AMERICAN TELEPHONE & TELEGRAPH CO.; AGENT: R. M. TOWILL CORP.

Mr. Evans presented the request for time extension explaining that there have been difficulties with the requirements of the City and County of Honolulu. There has been good faith effort put forth by the applicant and staff is recommending approval.

Mr. Jeff Rewald representing American Telephone & Telegraph Co. did not have anything to add. He did not have any objections to the conditions.

ACTION Unanimously approved as submitted. (Apaka/Himeno)

ITEM F-13 AUTHORIZATION TO ASSESS FINE, ASSESS RETROACTIVE RENT, SELL REMNANT, AND ISSUE REVOCABLE PERMIT, KEEHI, MOANALUA, OAHU, TMK 1-1-03:29

Mr. Uchida presented Item F-13 to the Board.

During the discussion it was determined that the Department of Transportation's (DOT) lot is roughly 6,000 square feet and they were going to sell their portion as a remnant. DLNR's portion is roughly 2,600 square feet.

Deputy A.G. Watson questioned the reasoning why DOT was selling their lot as a remnant when the adjoining DLNR lot, which is also State owned, if combined would be about 8,600 square feet and may constitute a separate parcel.

Mr. Uchida responded that there was no access to the property. Staff had the same question when DOT was going to sell and they were told that the parcel was a remnant and DLNR had no access to that parcel.

Deputy A.G. Watson informed staff that the law says the lack of access does not make a parcel a remnant. He said that DOT was correct, their parcel of 6,000 square feet is a remnant. DLNR is right next door, they have a 2,600 square feet parcel which they are saying is a remnant. To

combine it, it may constitute an entire parcel, 8,000+ square feet.

Mr. Uchida said they asked this question of DOT when the original request came in because DLNR was interested in developing that lot as a part of an industrial lot. They were told that they couldn't get access to the property and that is why it didn't have any value. That is why DOT was going to sell it.

Mr. Uchida informed the Board that this item could be deferred should the Board wish to have staff check this out further.

Mr. Peter Moynahan said he was representing his grandmother and grandfather's trust. He said that they began the application for the acquisition of these two apparently physical remnants over thirteen years ago. The DOT agreed to sell theirs quite a long time ago and its been in process.

He said the reason you can't access from Nimitz Highway is because all of the access rights were condemned. He thought the State condemned them and they and the property next door agreed to the condemnation. He said that you can't enter onto the DOT parcel from the highway. Physically these two parcels are land locked by the property that the Mullin Trust owns around. He thought the State owned the park behind it.

Mr. Moynahan said it has been over 13 years, his grandmother has died, his mother is 81 and he's trying to resolve these things for them. He felt they had reached an agreement in a very awkward situation where they've master leased the property 25 years ago to somebody whose tenants created encroachments and they've had quite a battle with them. With the assistance of the staff they're hoping to resolve that issue. As the master lessee, they feel powerless to enforce against the sub-tenants. They've spent a good deal of time and resources trying to get that done on behalf of both party's interest. They are willing to go another month or couple months after 13 years but would like to get it settled.

Mr. Yuen asked why did it take so long?

Mr. Moynahan said that part of the time one of the parcels was used by DOT while the overhead was being built. At that time when DOT said, we need that, then DLNR said, so long as they need it then this little triangular remnant, we'll will put them both into suspense. He thought it was in 1988 when DOT came to them and said they're now prepared to dispose of the remnant to them and they appraised it and the action was approved by DOT and was on its way to the Board for approval and contacted DLNR and said, "Now can we proceed on the little parcel?" At that time this encroachment was discovered, we made an effort to cure the encroachment which he believed it was and then the encroachment took place again some months later. By the time we got it ready to be submitted again, something was encroaching again and so he thinks its been resolved.

DEFER Ms. Himeno entertained a motion to defer Item F-13; seconded by Mr. Apaka, motion carried.

ITEM H-1 **CDUA FOR A SINGLE FAMILY RESIDENCE AT HAENA, KAUAI, TAX MAP KEY 5-9-2:56; APPLICANT: BRIAN KRONE**

Mr. Evans presented the request for a single family residence at Haena, part of the Haena Hui Partition back in 1967. Following the standard review, process, analysis and applying the principles particularly to the ones that are relative to Haena Hui Partition lands, staff has one exception to the standard recommendation.

As part of the process, it was revealed that a storage shed was found on the property absent Land Board permission. Staff is recommending a fine of \$500 be imposed for the violation and relative to the land use, that the Board approve the land use as represented subject to the conditions on pages 4, 5 and 6.

Vice-Chair Arisumi pointed out to Mr. Evans that there was no recommendation in the submittal for approval or disapproval.

Mr. Evans then requested to amend the submittal on page 4 under Land Use, before paragraph 1., it should read, "That the Board approve the land use as represented subject to the following condition:"

Upon recommendation by legal counsel, Mr. Evans also added under Violation, "3. Failure to pay the fine within 60 days of the notice of approval renders the approval null and void."

Mr. Michael Schimdt said he was representing the applicant. He said the shed was placed there for temporary purpose. Once the house is built it would be removed as it's a limited shed.

Mr. Arisumi asked him if a permit was obtained to put up the shed.

Mr. Schmidt said that no permit was obtained and applicant was prepared to pay the fine for the violation. He said it was a 10 x 8 shed and applicant was also prepared to sign some sort of form that it would be removed upon completion of the home. Responding to Mr. Arisumi, he said that the shed was placed there before his partner acquired the property. They just left it for strictly temporary use.

He had one question relating to the condition of the archaeological survey. They didn't know what that entailed and wanted to know if they had to hire an architectural consultant.

Mr. Evans informed him that should the application be approved, the applicant should get together with the Department's Historic Preservation Administrator and be guided by their requirements.

Mr. Schmidt said their concern was if this would be a lengthy process,

would it alter the period of time that they need to commence the building construction and completion date.

Deputy A.G. Watson pointed to Condition No. 3, saying that staff should qualify the need for an archaeological survey with the Division of Historic Sites if they require one. Mr. Evans said that it was a specific recommendation by the Division of Historic Sites as stated on page two of the submittal.

Deputy A.G. Watson clarified with staff regarding the applicant's concern getting back to the construction time frame, if there is some legitimate reason that may cause a delay, he may come back to the Board and ask for an extension. Mr. Evans said that was correct.

ACTION Mr. Apaka moved that Item H-1 be approved as recommended by staff with a fine of \$500 for the Violation and the land use approved as amended:

- 1) That failure to pay the fine within 60 days of notice, that the permit be null and void.
- 2) That upon completion of construction of the house, applicant is to remove the tool shed.

Motion was seconded by Ms. Himeno and carried unanimously.

ITEM H-4 CDUA FOR A SINGLE FAMILY RESIDENCE AT LAUPAHOEHOE POINT, HAWAII; TMK 3-6-2:12, APPLICANT: JOHN GRACE

DEFERRED Mr. Evans requested that Item H-4 be deferred to the next meeting. Staff needs to confer with the Attorney General's office. There being no objections by the Board, Item H-4 was deferred.

Mr. Yuen added a note on H-4 to staff. He would like to see a plot plan when there is a CDUA for a house to see where they plan to locate it on the property. Whenever you have a house that is proposed in a heavily vegetated area he would like to see discussion of what they plan to cut down.

ITEM F-16 REQUEST FOR AUTHORIZATION TO ACQUIRE LAND FOR ULUPO HEIAU STATE MONUMENT (KAWAINUI MARSH RESOURCE MANAGEMENT PLAN), KAILUA, KOOLAUPOKO, OAHU, TAX MAP KEY 4-2-13:POR. 31

After staff's presentation, Mr. Yuen asked what would be the funding source and whether there were appropriations for this.

Mr. Ralston Nagata, State Parks Administrator answered that there was some money that was recently appropriated and some remaining funds from federal reimbursement funds for the Kawainui Marsh.

Mr. Nagata explained that they had met with the YMCA people and they're

really not for it. They'd like to see the State provide them with lands elsewhere.

Mr. Uchida added that today's action would be just to start the acquisition process and authorize Land Management to begin the acquisition of the property.

Mr. Nagata said some of the land is grassed over and about 15-20 years ago to his understanding, the State was able to work it out with the YMCA whereby the parking lot area has been put in.

Mr. Don Anderson, President of the YMCA addressed the Board and said he was also representing the owners of the property under consideration. He said the YMCA received less than 24 hours notice of this meeting and their Board of Directors, chaired by Michael Chun have not met to take an official position on this. They've had some preliminary discussions in the past and they'd like to express some sentiments of the YMCA at this time even though none are in official position.

- 1) The YMCA fully supports the preservation of Hawaii's historical assets in general in the Ulupo Heiau, specifically. The YMCA will be an ally with the State with the preservation of the heiau and can be relied upon not to commence any developments which would have a negative impact to the integrity of the heiau.
- 2) The YMCA's roll in contributing to the lives and the children of the citizens of the community also merits preservation and should be balanced with the preservation of our past. There are presently 300 children on the site in the summer programs and they represent our future.
- 3) The majority of the lands desired for the park, the YMCA lands could be acquired by the State and developed by the State without jeopardizing the YMCA's ability to serve the community and all its children. The vast majority of what's being proposed does not present a problem to what the YMCA would like to do there. Some of the upper land, subject property, including the parking area, is vital to our operations and we would be adverse to its loss. We would favor the development of an agreement regarding this portion of land that the YMCA would not develop, any facility or change in the property in any way with the significant number of feet from the heiau which would be predetermined.

One item worth exploring may be land swap between the State and the YMCA or between the State, the YMCA and a third party. They have some specific ideas on that and it might be explored.

Vice-Chair Arisumi asked if he would prefer that this item be deferred to a later date.

Mr. Anderson said he would prefer it being deferred so that it could be defined what property would be condemned and what the working relationship might be.

Mr. Charles Rose, member of the Kailua Hawaiian Civic Club requested to testify. He said that his organization has a community service project which undertook the preservation of the Ulupo Heiau. They entered into a curator contract with this Board and that occurred in December of 1987. At that time the Ulupo Heiau was overrun with overgrowth and had very limited access. They have been maintaining the heiau for three and a half years and in that process with the assistance or approval of the YMCA, they've also cleaned their property, some of which is in this request. The areas that are part of this request are areas that they clean on a weekly basis. The problem is that the heiau itself has insufficient land area. If it stays as it is now, then the overgrowth just comes over, so there is need for a buffer area and they have requested of the State for some time now to attempt to acquire. He also said that they also did not get any notice about this meeting too. His understanding this proposal before the Board is just a request to start in motion the acquisition process, not necessarily any kind of condemnation.

Mr. Uchida clarified that the submittal is in two parts, to allow for the start of negotiations and if necessary condemnation.

Mr. Rose then asked instead of deferring this item, that the Board allow this exploratory process to begin. As he understands, Mr. Anderson of the YMCA are not opposed to the State acquiring a buffer, it's just a matter of what amount the buffer would be.

Mr. Anderson added that there are working relationships and there's some access issues need to be looked at. He was also concerned that the language referring to condemnation.

Mr. Uchida suggested to the Board to consider, that the Board merely authorize staff to begin negotiations with the YMCA and affected parties and any further action to return to the Board to finalize any agreement or requesting authorization for condemnation.

Mr. Uchida said that the Recommendation could be amended by deleting sections B., C. and D. and A. would be amended to 'Approve negotiations and authorize staff to commence negotiations with the affected parties in future acquisitions.'

ACTION Ms. Himeno moved to approve Item F-16 as amended; seconded by Mr. Apaka, motion carried.

RECESS 11:00am--11:10am.

The meeting was called back to order by Vice-Chair Arisumi.

ITEM F-10 **REQUEST FOR AUTHORIZATION TO ACQUIRE LAND FOR KAHULUI CIVIC CENTER PURPOSES, KAHULUI, WAILUKU, MAUI, TMK 3-7-04:3**

Ms. Himeno requested to be excused from action on this item.

Mr. Uchida made staff's presentation to the Board asking that the Board authorize staff to commence acquisition of the property with Hawaiian Commercial and Sugar Company (HC&S) and acquire it either through negotiation or condemnation. Once acquired, set it aside to DAGS for the Kahului Civic Center.

Mr. Mike Nakama said he was representing A & B Hawaii, Hawaii's subsidiary of Alexander Baldwin. He said he was specifically working for the Properties Division which coordinates all the land development, acquisition and sale activities for A & B. HC&S is the sugar manufacturing division and he is not employed by them so he is not familiar with HC&S's comments and discussions. Discussion followed on ownership of the parcel of land.

Mr. Nakama did not have anything to add. He did mention that they would be willing to discuss alternatives.

ACTION Unanimously approved as submitted. (Apaka/Yim)

ITEM A-1 APPROVAL TO AMEND CONTRACT WITH INTERNATIONAL
ARCHAEOLOGICAL RESEARCH INSTITUTE TO COVER A SECOND
PHASE OF ARCHAEOLOGICAL STUDY AT OHIKILOLO AND KEAAU,
OAHU

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM A-2 AWARDING OF GRANTS-IN-AID

Dr. Hibbard went over the various grants-in-aid. He pointed out that the grant for the Molokai Museum and Cultural Center to restore 'Ipukaiole Fishpond is on hold presently. They won't be issuing any contract until satisfied that everything is going according to plan.

Regarding the grant to Jodo Mission of Hawaii, after the legislature approved the authorization for this, the Attorney General from the DAGS office issued an opinion that we were not to give grants to religious organizations because of separation of church and State. Because of this they will not enter into a contract until they get the view point of the Attorney General.

ACTION Unanimously approved as modified. (Himeno/Yim)

ITEM A-3 APPROVAL TO ENGAGE THE SERVICES OF TWO CONSULTANTS TO
ASSIST IN THE REINTERMENT OF NATIVE HAWAIIAN SKELETAL
REMAINS

ACTION Unanimously approved as submitted. (Himeno/Yim)

ITEM C-1 See page 2 for Action.

ITEM C-2 See page 2 for Action.

ITEM C-3 See page 2 for Action.

ITEM D-1 APPROVAL TO AWARD CONTRACT FOR JOB NO. 80-HP-H6, WAILOA RIVER STATE PARK COVERED WALKWAYS, HILO, HAWAII

ACTION Unanimously approved as submitted. (Yuen/Himeno)

ITEM D-2 APPOINTMENT AND ELECTION CERTIFICATION OF SOIL AND WATER CONSERVATION DISTRICT DIRECTORS

ACTION Unanimously approved as submitted. (Himeno/Yuen)

ITEM F-1 DOCUMENTS FOR BOARD CONSIDERATION

Item F-1-a Cancellation of Revocable Permit No. S-6730 and Issuance of Revocable Permit to Richard Haviland dba Kokee Mountain Bikes, Puu Ka Pele, Waimea (Kona), Kauai

Item F-1-b See page for Action.

Item F-1-c Assignment of Sublease Between Makai Nursery. Assignor and Vantage Partners, Assignee, General Lease No. S-4445 to Green Point Nurseries, Inc., Lots 12, 13, 14, Panaewa Farm Lots, Second Series, Waiakea, So. Hilo, Hawaii, TMK 2-4-49:Por. 26

Item F-1-d Amendment of Revocable Permit No. S-6543 to Department of Public Safety, Kaakaukui, Honolulu, Oahu, TMK 2-1-15:22

Item F-1-e Assignment of General Lease No. S-5078, Lot 48, Puu Ka Pele Park Lots, Waimea (Kona), Kauai, TMK 1-4-02:42

ACTION Motion was made by Mr. Apaka to approve Items F-1-a, F-1-c, F-1-d and F-1-e. Seconded by Ms. Himeno, motion carried.

ITEM F-2 CANCELLATION OF LAND LICENSE BEARING GENERAL LEASE NO. S-2964 TO EDWARD C. HUSTACE TRUST AND STILLMAN TRUST, NORTH KONA, HAWAII

ACTION Unanimously approved as submitted. (Yuen/Himeno)

ITEM F-3 REQUEST FOR RIGHT-OF-ENTRY TO A PORTION OF THE GOVERNMENT LANDS SITUATE AT KAOHE V. HAMAKUA, HAWAII, TMK 4-4-16:POR. 01

ACTION Unanimously approved as submitted. (Yuen/Himeno)

ITEM F-4 REQUEST FOR AUTHORIZATION TO ACQUIRE LAND FOR ADDITION TO KALAMA INTERMEDIATE SCHOOL AND SUBSEQUENT SET ASIDE TO DEPARTMENT OF EDUCATION, MAKAWAO, MAUI, TMK 2-4-32:110

ACTION Unanimously approved as submitted. (Himeno/Apaka)

REQUEST FOR AUTHORIZATION TO ACQUIRE LAND FOR ADDITION TO IAO INTERMEDIATE SCHOOL AND SUBSEQUENT SET ASIDE TO DEPARTMENT OF EDUCATION, WAILUKU, MAUI, TMK 3-4-09:5, 6, 7 AND 3-4-11:3

ITEM F-5

After staff's presentation, Vice Chair Arisumi pointed out that not too long ago the National Guard had asked the Board for land in Puunene. Presently the armory is located on this land where there is a request for additional facilities. He also mentioned that there are people living in the back that are retired and if they can relocate these people or find land to exchange it would seem to be okay. He commented that C. Brewer would be putting up a large subdivision on Honoapili Highway and they will be talking about knocking down this armory and putting up additional school buildings. He didn't think it was fair to these people and thus suggested that staff to check further into this.

DEFERRED Unanimously approved to defer. (Himeno/Yuen)

ONE (1) YEAR HOLDOVER OF GENERAL LEASE NO. S-4348, LOT 36-A, WAILUA HOMESTEADS, WAILUA, HANA, MAUI, TMK 1-1-06:43

ITEM F-6

After Mr. Uchida's presentation of Item F-6, Deputy A.G. Watson pointed out that the letter to the lessee should stress that this is a holdover and not an extension of the lease because the legal requirements are different.

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ONE (1) YEAR HOLDOVER OF GENERAL LEASE NO. S-4345, LOT 9-a WAILUA HOMESTEADS, WAILUA, HANA, MAUI, TMK 1-1-05:22

ITEM F-7

Mr. Uchida said that Item F-7 is similar to Item F-6. Mr. Uchida said that they will also notify the applicant that it is a holdover and not an extension of the lease.

ACTION Unanimously approved as submitted. (Himeno/Apaka)

DIRECT SALE OF PERPETUAL, NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT OVER AND ACROSS PORTION OF THE KOOLAU FOREST RESERVE, HANA, MAUI, TMK 1-1-02:POR. 7

ITEM F-8

ACTION Unanimously approved as submitted. (Apaka/Himeno)

REQUEST FOR AUTHORIZATION TO (1) ACQUIRE PERPETUAL, NON-EXCLUSIVE EASEMENTS FOR SURVEY TRIANGULATION STATION "HAWEA 2" AND FOR ACCESS PURPOSE AND (2) SET ASIDE SAID EASEMENTS TO DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES, SURVEY DIVISION, HONOKAHUA, LAHAINA, MAUI, TMK 4-2-04:POR. 10

ITEM F-9

ACTION Unanimously approved as submitted. (Yuen/Himeno)

ITEM F-10 See page 16 for Action.

ITEM F-11 See page 5 for Action.

REQUEST AUTHORIZATION TO (1) CANCELLATION OF GENERAL LEASE NO. S-4232 (PASTURE LEASE); (2) ISSUE INTERIM REVOCABLE PERMIT FOR PASTURE PURPOSES, AND (3) PUBLIC AUCTION SALE OF PASTURE LEASE AT HAMAKUALOA, MAKAWAO, MAUI, TMK 2-9-06:7 & 8

ITEM F-12

Mr. Uchida presented Item F-12. Applicants are Joseph and Willett Range. Current lessees are Mr. and Mrs. Frank Pacheco. Mr. Pacheco recently passed away and his wife Isabella subsequently sold all of the cattle they had to Mr. and Mrs. Range. There's about 2-3 years remaining on the lease and under the statutes, pasture leases are not eligible for any kind of extension. Staff is trying to cancel the lease, issue an interim Revocable Permit and get the lease back on public auction. Mr. and Mrs. Range understand they will have to bid for the lease then.

Deputy A.G. Watson said staff would need to check if the name on the lease is Frank T. Pacheco or Mr. and Mrs. Frank Pacheco. The executor of the estate or administrator would need to be contacted if Mrs. Pacheco's name was not on the lease in regards to the cancellation.

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM F-13 See page 12 for action to defer.

ITEM F-14 See page 10 for Action.

DEPT. OF TRANSPORTATION REQUEST FOR ISSUANCE OF GOVERNOR'S EXECUTIVE ORDER SETTING ASIDE LAND FOR ADDITION TO HONOLULU INTERNATIONAL AIRPORT, MOANALUA, HONOLULU, OAHU, TMK 1-1-02:POR. 2

ITEM F-15

Mr. Uchida informed the Board that there is a correction on page 1. The applicant should be Department of Transportation, Airports Division and not Harbors Division.

ACTION Unanimously approved as submitted.

ITEM F-16 See page 15 for Action.

ISSUANCE OF A DIRECT LEASE TO HAWAII HOUSING AUTHORITY FOR A PUBLIC HOUSING PROJECT AT PUUIKI, HONOLULU, OAHU, TMK 1-7-04:94 & 97

ITEM F-17

ACTION Unanimously approved as submitted. (Himeno/Apaka)

DEPT. OF HEALTH REQUEST FOR ISSUANCE OF GOVERNOR'S EXECUTIVE ORDER SETTING ASIDE LAND FOR A SPECIAL DRUG (ALCOHOL TREATMENT FACILITY) AT PUU MANAWAHUA, EWA, OAHU, TMK 9-2-05:14

ITEM F-18

ACTION Unanimously approved as submitted. (Himeno/Yuen)

REQUEST AUTHORIZATION TO (1) CANCEL GOVERNOR'S EXECUTIVE ORDER NO. 2399; (2) WITHDRAW LANDS FROM GOVERNOR'S EXECUTIVE ORDER NO. 2229; AND (3) ISSUE DIRECT LEASE TO THE HAWAII HOUSING AUTHORITY FOR PUBLIC HOUSING AT PORTION OF THE WAIANAE INTERMEDIATE SCHOOL SITE, WAIANAE-KAI, OAHU, TMK 8-5-28:42

ITEM F-19

ACTION Unanimously approved as submitted. (Apaka/Himeno)

HAWAII COMMUNITY DEVELOPMENT AUTHORITY (HCDA) REQUEST FOR CONVEYANCE IN FEE OF REMNANT PARCEL 6B AT KAKAAKO, HONOLULU, OAHU, TMK 2-1-51:6

ITEM F-20

ACTION Unanimously approved as submitted. (Himeno/Apaka)

KAPAA HONGWANJI MISSION REQUESTS TERMINATION OF GENERAL LEASE NO. S-4674, DIRECT ISSUANCE OF 55-YEAR LEASE FOR MULTI-PURPOSE YOUTH EDUCATIONAL USE AND PARKING AND AUTHORIZATION TO SEEK COUNTY OF KAUAI PERMITS AND APPROVALS, KAPAA, KAUAI, TMK 4-5-06:8

ITEM F-21

It was determined that the existing lease is for parking. Applicant wants to build a two-story building.

ACTION Unanimously approved as submitted. (Apaka/Himeno)

WITHDRAWAL OF GENERAL LEASE NO. S-4412, SET ASIDE TO DIVISION OF STATE PARKS, DESIGNATION OF EASEMENT FOR DITCH PURPOSES AND GRANT RIGHT-OF-ENTRY, WAILUA, KAUAI, TMK 3-9-02:POR. 12 AND ALL OF 13

ITEM F-22

ACTION Unanimously approved as submitted. (Apaka/Yuen)

ITEM H-1 See page for Action.

ITEM H-2 See page for Action.

ITEM H-3 See page for Action.

ITEM H-4 See page for Action.

ITEM H-5 **REQUEST FOR APPROVAL TO ENTER INTO FOUR RESEARCH CONTRACTS WITH THE UNIVERSITY OF HAWAII**

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM H-6 **REQUEST OR APPROVAL TO ENTER INTO FOUR RESEARCH CONTRACTS WITH THE UNIVERSITY OF HAWAII**

Mr. Fasseler explained the different researches on mahimahi.

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM H-7 **REQUEST FOR AUTHORIZATION TO ALLOW THE UNIVERSITY OF HAWAII TO PURSUE PATENT APPLICATION FOR A PROCEDURE TO DETECT SHRIMP RHABDOVIRUSES AND THE OTHER CRUSTACEAN VIRUSES**

ACTION Unanimously approved as submitted. (Himeno/Yuen)

ITEM H-8 **REQUEST FOR APPROVAL TO ENTER INTO FOUR RESEARCH CONTRACTS FOR SMALL-SCALE AQUACULTURE DEVELOPMENT**

ACTION Unanimously approved as submitted. (Himeno/Yim)

ADDED ITEM H-9 **CDUA FOR A SINGLE FAMILY RESIDENCE AT WAIALUA, OAHU, TMK 6-8-8:5; APPLICANT: HERMAN SOARES**

ACTION See page 9 for Withdrawal action.

ITEM J-1 **RENEWAL OF REVOCABLE PERMITS 2877, ETC., AIRPORTS DIVISION**

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM J-2 **GRANT OF EASEMENT, CONSTRUCTION RIGHT-OF-ENTRY, AND CONVEYANCE OF WATER FACILITY, HARBORS DIVISION, NAWILIWILI BOAT HARBOR, KAUAI (BOARD OF WATER SUPPLY, COUNTY OF KAUAI)**

ACTION Unanimously approved as submitted. (Apaka/Himeno)

ITEM J-3 **DIRECT SALE OF LEASE OF EASEMENT AT HONOLULU HARBOR, OAHU, PIERS 21-24 (CHEVRON U.S.A. INC.)**

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM J-4 **DIRECT SALE OF LEASE OF EASEMENT AT HONOLULU HARBOR, OAHU, PIERS 23-24 (CHEVRON U.S.A. INC.)**

ACTION Unanimously approved as submitted. (Himeno/Apaka)

CONSTRUCTION RIGHT-OF-ENTRY AND DIRECT SALE OF LEASE OF EASEMENT, KAUNAKAKAI HARBOR, MOLOKAI (ISLAND PETROLEUM, INC.)
ITEM J-5

ACTION Unanimously approved as submitted. (Himeno/Apaka)

CONSTRUCTION RIGHT-OF-ENTRY FOR RELOCATION OF ELECTRICAL POLES AND POWERLINES, SAND ISLAND CONTAINER FACILITY, OAHU (HAWAIIAN ELECTRIC COMPANY, INC.)
ITEM J-6

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

ACTION Approved as submitted. (Yuen/Apaka)

DIRECT SALE OF LEASE OF EASEMENT AT HONOLULU HARBOR, OAHU (UNION OIL COMPANY OF CALIFORNIA (UNOCAL))
ITEM J-7

ACTION Unanimously approved as submitted. (Himeno/Yuen)

ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 2 TRANSIT SHED, KAHULUI HARBOR, MAUI (VALLEY ISLE EXPRESS, LTD.)
ITEM J-8

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ADJOURNMENT There being no further business, the meeting was adjourned at 12:15 p.m.

Respectfully submitted,


Dorothy Chun
Secretary

APPROVED FOR SUBMITTAL:



WILLIAM W. PATY, Chairperson

dc