

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

DATE: FRIDAY, MARCH 13, 1992  
TIME: 8:30 A.M.  
PLACE: COMMUNITY SERVICE BUILDING  
MAUI COMMUNITY COLLEGE  
310 KAAHUMANU AVENUE  
KAHULUI, MAUI

**ROLL  
CALL**

Chairman 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  
Ms. Sharon Himeno  
Mr. T.C. Yim  
Mr. William Paty

**STAFF:** Mr. W. Mason Young  
Mr. Roger Evans  
Mr. Manabu Tagomori  
Mr. Alan Tokunaga  
Ms. Dorothy Chun

**OTHERS:** Mr. Johnson Wong, Deputy Attorney General  
Mr. Peter Garcia, Department of Transportation  
Messrs. Charles Toguchi, Steven Miwa, Mark Sheehan, Peter Baldwin, Richard Higashi, Frank Domingo, Fred Rolfing, Dick Mayer, Bill Meyer, Nelson Boteilho, Charles Maxwell, Allan Barr, James Sato, Mark Andrews, Phillip Swatek, David Fullaway, Charley Silva, Don Moore, Meyer Ueoka, Chris Halford, Steve Sutrov, Ms. Lokelani Lindsey, Mrs. Florence Keala, Ms. Ann Merritt, Ms. Dori Tiedeman (Item F-3)  
Mr. Tim Metenbrink, Mr. Charles Maxwell, Mr. Wayne Nishiki, Ms. Tanya Every, Mr. Rudy Lu'uwai, Mr. Peter Jones, Mr. Paul Hanna, Ms. Ruth Godson, Mr. Marlowe Baker (Item H-4)  
Ms. Darcy Bevens (Item H-2)  
Ms. Evelyn Dana, Mr. Isaac Hall, Mr. Michael Minn (Item J-3)

**MINUTES** Minutes of January 24, 1992 were approved as circulated. (Arisumi/Apaka)

**ADDED  
ITEM** Motion by Mr. Arisumi and second by Mr. Apaka, the following item was added to the agenda:

Division of Land Management

Item F-12 The Corps of Engineers Requests a Right-of-Entry to a Portion of State Land Situated at Mooloa, Makawao, Maui; Tax Map Key 2nd/1-2-06:26 and 80 for Survey and Exploration for Makena Beach Feasibility Study

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

**ITEM F-3** **REQUEST FOR AUTHORIZATION TO ACQUIRE LAND FOR PROPOSED  
UPCOUNTRY MAUI HIGH SCHOOL, KULA, MAKAWAO, MAUI, TAX MAP  
KEY 2-3-07:POR. 1**

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Mr. Young presented the request of the Department of Education (DOE) and the Department of Accounting and General Services (DAGS) for the assistance of the Department of Land and Natural Resources (DLNR) in acquiring about 50 acres in Kula for the UpCountry Maui High School site. An appropriation was made by the legislature and a site selection team was appointed. The team made a recommendation to the DOE and based on that they are recommending that DLNR as the acquiring agency proceed ahead. He then went over the different sites being considered and reasons pro and con. Site 2 was finally selected and for the following reasons:

1. Landowner opposed Site 4 because it is a portion of their best productive field and primary mauka/makai corridor for transportation of heavy field equipment.
2. The landowner, Maui Pine was willing to aid/donate a large water storage tank.
3. Provide access to the tank site and still sell land at a reasonable price.

Based on those provisions by the recommendation of the DAGS and the DOE, the Department of Land and Natural Resources has been asked to recommend to the Board today that they proceed with acquiring Site 2.

Mr. Yim asked staff if the site was selected and approved by the School Board, the State Legislature, the Governor and the site selection committee. Mr. Young answered, "Yes, it was, that is correct."

Chairperson Paty asked Mr. Young to review for the Board the role of the Division of Land Management with respect to this request.

Mr. Young explained that in this particular case the division was just a facilitator. The site selection, the appropriation was really a coordination between the DOE, DAGS and the Legislature. Because DLNR is an acquiring agency, they were asked to step in to acquire a site. In this particular case, DLNR was not part of the selection committee or the review board.

Superintendent Charles Toguchi, Department of Education said that he would like to share with the Board that he is concerned about the UpCountry High School as proposed. He asked for the Board's approval and also wanted to inform the Board that there's an urgency to build a high school in UpCountry Maui in the Pukalani District. There is a concern that the land acquisition funds would be lapsing on June 30, 1992. All of the monies are in place for the school construction. They are currently behind schedule and the completion date was planned for September 1994. As it is they may have some difficulty in completing by that date.

In terms of the legislation, by law they are very specific to a site. If another site is chosen, they would need to go back to the legislature regarding the land acquisition monies and renew it. There would be a need to renew construction monies and there is also a concern on the lapsing date.

Ms. Lokelani Lindsey, District Superintendent of the DOE on Maui addressed the Board regarding the need for acquiring the land to build the UpCountry Maui High School. She gave figures of enrollment for Baldwin High School, Maui High School and predicted figures by the year 2010.

She read part of the letter dated November 5, 1991 from Colin C. Cameron, Chairman and President of Maui Land & Pineapple Co., Inc. regarding UpCountry High School Site. In the letter Mr. Cameron says that Site 2, above the junction of the Kula Roads is significantly better than either Sites 3 or 4. He went on to say that the site would not cause them any farming or access problems and with the construction of the Pukalani Bypass access to Site 2 should be good to excellent from all directions. He said that Site 4 is highly undesirable from their point of view.

She also had a letter from the Chief of Police from which she quoted. They were also in favor of Site 2 for the construction of the high school.

Board Member Yuen asked Ms. Lindsey if she would explain the process of the site selection.

Ms. Lindsey said that it started three years ago, the committee would meet once a month. They narrowed down the number of sites to 15. At one of the meetings, Maui Land & Pineapple opposed Site 4 and asked the committee to look at other sites besides Site 4. They met with several community associations and felt that the process was in place.

The ad hoc committee gives recommendations to Superintendent Toguchi. The selection committee can only recommend.

Question was asked if the Board (DOE) gets involved with the selection .

Mr. Toguchi explained that they were not involved with the site selection but only going to the legislature for funding. They do have a policy in setting up a committee and this committee makes a recommendation. He then gave an example on island of Hawaii.

Mr. Toguchi said that they are concerned with the rising enrollment at Baldwin High School and Maui High School and lapsing funds.

Ms. Lindsey was asked to comment. She said that traffic has changed in the three years that they have been involved. She commented on the proposed by-pass road and traffic concerns and that different agencies will work together.

Chairperson Paty asked about the archaeological study. Mr. Toguchi said a study was done on all sites and during the field surveys, no remains were found.

Mr. Apaka asked if the EIS covered the impact of traffic coming into the community and how great an impact.

Mr. Toguchi said he thought the EIS report mentioned something about that but wasn't sure where in the EIS.

Mr. Steven Miwa of DAGS Planning section also talked about the site selection. He said that once the site was selected, in order to save some time they had to hire two consultants and told the DOE to go through with the EIS. They tried to cover as much as possible to do more intensive studies. Traffic impact studies they would consult with other agencies.

Mr. Toguchi commented on Mr. Miwa's presentation. He said that looking at the adequacy of the roads for the sites chosen, rating was given good. General comments on alternate access. Rating was fair. Traffic followup rated as fair. On other sites they are generally the same.

Mr. Apaka asked if the committee will be included when the final study is made on the traffic.

Mr. Toguchi said that the school committee would definitely be involved. Where they access and exit, they want to work with present flow of traffic.

Mr. Yim said that you mentioned site selection report and advantages and disadvantages. Regarding Site 2, were there any advantages in Site 2 not found in other sites? Were there any unusual advantages in Site 2.

Mr. Miwa responded that they were very close. There is a water tank to be built. Water would be a problem and would be a problem on all sites. Transmission lines, etc. will be needed for the reservoir for Site 2.

Mr. Miwa said that looking at the evaluation on property location, at the discussion with the landowner, Site 2 seemed more viable.

Responding to questions of the Board, Ms. Lindsey said that Site 1 was a consideration but all the students would have to travel all the way through the different counties. DAGS said that they could not access on certain streets. There was already concern on traffic. They didn't know if they could get 35 usable acres looking at the traffic reduction. Site 5 was less desirable, looking at mildew on books etc.

Mr. Mark Sheehan said that he was involved in real estate and higher education. He said that he is coming before the Board today to ask that the request be denied citing that traffic congestion is horrendous. He claims that the site selection committee met for three years and selected Site 4. He feels that only one person should not make the selection. He asked that the Board go back to review the recommendations and look at the entire presentation. He also felt, why can't you have two schools with 500 each.

Mr. Peter Baldwin, President of Haleakala Ranch said he was speaking on behalf of 5 other people today. He asked that the a number of issues be resolved before selection. The EIS talks about 5 candidate school sites but doesn't recommend a preferred site. He said that somewhere along the

process Site 2 was selected. Discussions with the Office of Environmental Quality Control (OEQC) have indicated that an environmental assessment would be prepared before action was taken to proceed to acquire any specific site. The EIS has not addressed issues concerning traffic conflicts, water, waste water and archaeological features on the site. They question whether the initial EIS is adequate. They felt that much of the community input on the draft EIS was omitted in the final. They also feel that the DOE comments which said that they took into consideration concerns of the community is not accurate, in their opinion. He asked that action be deferred on this matter of the UpCountry Maui High School until the issues are resolved.

Ms. Lindsey said going back to the letter of Colin Cameron. It says that Site 1 is not suitable. She also commented on cost whereby the legislature was cutting back about \$1.4 million. There were some petroglyphs near the site in the gulch but this archaeological report was not in the EIS.

Mr. Baldwin commented that there was some opposition to Site 4 and then they said move to Site 2. Some community people say that Site 2 is not the desired choice. People he knows that are against Site 2, do want a high school

Discussion turned to the petroglyphs. Mr. Miwa of DAGS didn't know where the petroglyphs exist. Ms. Lindsey said that they were next to the Site 2 in the gulch, to which Mr. Baldwin agreed.

Mr. Richard Higashi, quasi-Principal of Maui High School said he would reiterate what was already said by Superintendent Toguchi and Ms. Lindsey. Mr. Higashi said that there were 1700 students in Maui High School and they were his main concern. He projected that in 2 years the number of students would be over 2000. Presently there are 7 portable classrooms. Travel time for some students ranges from one hour coming and going home another hour. Some students can't participate in school activities because of travel time.

Mr. Higashi also commented on the lapsing of funds for construction. He said if the UpCountry High School is not built then there will be another 40 portable classrooms needed. He continued to testify for the needs of the students and school. He sited examples of new communities coming up and more homes mean more families. He said that there would be a problem if Site 2 was not selected. It has the support of the community and the students.

He was questioned as to the acreage of Maui High School. Mr. Higashi said there were 70 acres. In May they should be getting construction for a new track and field. They are also looking towards a new stadium. The War Memorial cannot accommodate everyone.

Mr. Yim posed the question if there were a delay, what would be the impact. Mr. Higashi again explained there would be a need for more portable classrooms and floating teachers. Ms. Lindsey commented that additional impact would be at Baldwin High School as they were already building on space available.

Mr. Higashi mentioned that he had attended a meeting of principals and there was talk of budget cuts in the millions. He stressed if the community of Maui doesn't get together now, they will be shortchanged.

Mr. Frank Domingo of Kuau addressed the Board and testified that he opposed all sites which were selected by the committee. He suggested going back to the old Maui High School which has new classrooms and a gym. He claimed that available was a bandroom, tennis courts and an athletic field. He talked of it as a 'sleeping giant'. Instead of acquiring land for a new school he strongly felt they should use the old Maui High School. He felt that the agriculture lands for pineapple products were valuable to the economy of the island and he again strongly recommended using the old Maui High School.

Mr. Fred Rolfing, past president of the Kula Community Association said that he and the association are strongly in favor of building the UpCountry Maui High School but they are against Site 2. He cited that the EIS was not complete i.e. there was no traffic analysis. He asked that the Board take a look at the site and see where the by-pass road is going. He said that there were many members in the area that oppose Site 2 and felt there should be a public hearing. He asked that the Board defer this issue.

Discussion followed with questions from Board Member Yim to Mr. Rolfing. Responding to Mr. Yim, Mr. Rolfing said that he was not directly involved in the beginning as Mr. Dick Mayer was a member of the selection committee. The community association was not included when the switch was made. He said that he got involved at the ending of October in 1991 because of the traffic concern.

Mr. Yim questioned the legislature's appropriation, whether it was for any particular site.

Mr. Toguchi said that the money appropriated was basically for an UpCountry High School.

Mr. Yim stated that being a former legislator he understood as to the legal authority to the Board and given to the school board who are elected by the people, that they all agree to the site. He personally felt that he could not vote against an appropriation by the legislature as it would also be like a veto over the Governor's approval. If any changes at all it should come from the legislature.

Mr. Rolfing said that the Board would still have a responsibility to follow up on the different procedures and if it were passed by the legislature as to the site he would accept it.

Mr. Yuen explained that the Board is authorized to assist in the purchasing of the land. Other State agencies will be involved and this Board comes in at the end. The DOE will be using the site so they are the department that does the EIS, planning, selection, etc.

Mr. Rolfing said that the Board was selected to do a policy function and he felt there were issues that have not been dealt with.

Mrs. Florence Keala of Pukalani asked to share her concerns on the UpCountry High School. She reflected that when a new intermediate school for Makawao was being considered, there were 10 different sites. It took over 13 years before the school was finally built and is known today as Kalama Intermediate.

She has two children that now attend Maui High School. They leave early for school and if they have school activities they return home late in the evening. She feels that much would change if there was a high school in the neighborhood. She emphasized, "Our children deserve the best! Don't penalize them."

RECESS 10:35 am - 10:45 am

The Chairperson called the meeting back to order.

Mr. Dick Mayer said that the past 3-1/2 years he has been the chairman/coordinator of the selection committee for the UpCountry High School. He said that there were several statements made where he felt were untrue that only a couple hundred students would be affected if the school is delayed. During the spring of 1989, the legislature appropriated \$1.2 million, for the acquisition of land. At that time there was no indication what site would be considered and the appropriation was made on that basis. Many sites were recommended and it came down to four and one additional site was added to the ones being recommended.

The EIS was prepared and he felt that it was faulty. The job of the committee was to select a site and they felt that Site 4 was the best site. They went into their final meeting in June of '91 and there was a large attendance. There were two groups that voiced opposition and one group was of residents adjacent to the site. The committee was trying to look at this objectively to see where the best site would be. The second group that opposed it had reservations and then in the next 4-5 days went out to gather 1300 signatures. After receiving a copy of that, Mr. Ueoka initiated discussions with Maui Land & Pine together with Ms. Lindsey. Thereafter a decision was made to move to Site 2. The decision was never brought back to the selection committee and was never discussed with them.

He continued to express his concerns regarding the different sites. He recommended that the decision be tabled at this point but go to the legislature and ask their two Maui Representatives Tsugi and Yamasaki to make an appropriation that would not lapse on June 30th but perhaps on September 30th to give them time to check on the costs of the infrastructures of the different sites.

He feels that the DOE is going slow and should get on a fast track as there is a valid need for a school in UpCountry Maui.

Discussion turned to the lapsing of funds. There was a correction to a statement made that the money was locked into the site. In regards to the land acquisition money, there would need to be a reappropriation.

Mr. Yuen asked if he thought that a high school could be built on Site #2 and function acceptably.

Mr. Mayer responded that he thought a beautiful high school could be built there and felt that it's an excellent site. But he would make three conditions, 1) No pesticides or herbicides to be used at that site, 2) that the waterline that goes to that site which the State will be building, will not be allowed to be used

by any other subdivision or commercial development and 3) the shopping center which would be just across the street, not be constructed.

Mr. Bill Meyers said that he was the present president of Kula Community Association as of January. There was a vote taken by the association in January 1992 and the majority were against Site 2. He mentioned that he personally had no favorite site but was just concerned as the DOE and everyone here that there is a need for a high school in UpCountry Maui. He does have a concern with the traffic at Site 2 as there have been traffic fatalities at the intersection of the Kula Highway and Haleakala Highway. He felt there would be massive traffic problems at Site 2.

Mr. Nelson Boteilho, 60 year resident of Pukalani said within the last five weeks he had been solicited by opponents of the high school to join their opposition. He talked of people saying, don't build in my backyard. These were people that were similar to people who buy airport land and then complain of noise. There are lots of people in upcountry Maui that are in favor of progress and the school should be built for the safety of children and with their safety in mind.

Mr. Charles Maxwell said that he represented E Malama E Kekua Aina, and representing the interest of the native Hawaiians. He is not opposed to the high school at site No. 2, but is strongly concerned to the waterline that is going to be there. Once the waterline is brought in and it's dedicated, it becomes the State's and County's kuleana as to who can tap in. He stressed if Site 2 was selected that restriction be placed on the use of the waterline, that it be used only by the school and the Hawaiian Homes Lands in Kula.

Mr. Allan Barr concurred with Mr. Domingo that spoke previously on the selection or use of the old Maui High School. Two specific points, he lived for 3-1/2 years in the teacher's cottage in Hamakua-poko on the old Maui High School campus. It is an extraordinary place for students to learn, to grow and develop. Improvements could be made on the roads leading to the area and the school could probably be reopened sooner. His second point is that he was privileged while serving on the Maui County Council several years ago to attend the National Agricultural Lands Conference in Chicago. It was stressed at the meeting that urban development would encroach on agricultural land and the erosion and chemical exhaustion and other factors will make United States of America a net importer of food by 2020 or 2025. He agrees with Mr. Domingo that no productive agricultural land should be taken out of production at any of the sites. He felt a policy should be established to use agricultural land for only that purpose.

Mr. James Sato, retired, 40 year resident of Pukalani, president of Pukalani Community Association which is a member of the Maui County Council of Community Associations (MCCCA) commented that any delay will escalate costs and the funds will be in jeopardy. His community association is strongly in favor of Site 2 and urge approval that school may be built as soon as possible.

Mr. Mark Andrews, resident of UpCountry Maui for 42 years said his concern was the process by which the site was selected. He asked to postpone any action to allow time for DOE to work with community to insure site acquired is in best interest of children and community.



Ms. Ann Merritt, resident of UpCountry Maui also expressed concerns that traffic would be very bad for Sites 3 and 4 in case of emergency in the early morning hours and after school and also lapsing funds. Her choice would be Site 2 or even old Maui High School.

Mr. Phillip Swatek, President of Olinda Community Association expressed concerns on quality of education on Maui; dangerous traffic situation; process of site selection and opposes Site 2.

Responding to the Board's questioning, he would endorse Site 4 as the residents he polled, that was the majority's choice.

Mr. David Fullaway, professional forester, resident of Makawao UpCountry, said his wife is a teacher and their concern is to have a site that is most conducive to education. From the standpoint of environment they can deal with the traffic, subdivisions and with sprays. Regarding their choice, from a standpoint of environment, Site 2 is head and shoulders above any of the other sites, it's less windy, less rainy and better soil.

Ms. Dori Tiedeman, resident of UpCountry Maui said that she probably agrees with all the issues that have been put before the Board today. She has been trying to communicate with the DOE for approximately 6 months. Till today she feels that there has been miscommunication between the DOE and community. She wants the Board to defer action until everyone can agree on the site.

Mr. Charley Silva, resident of Maui with two young children addressed the Board saying that he was just a regular working person. He pleaded that the school needed to be built as soon as possible for the children in the area for all races. Whatever site is chosen, someone will be unhappy and traffic will be a concern everywhere.

Mr. Don Moore, small businessman in UpCountry Maui agrees that a school is needed. Having heard all the comments on traffic, aesthetics, frustrations of people that cannot be heard, mentioned land and natural resources and felt that the community should be heard.

Mr. Meyer Ueoka, Maui School Board Member, used the blackboard to illustrate the different sites and areas. He spoke of the by-pass, related traffic patterns that affected the different sites. He gave reasons why Site 2 was selected over the other sites. For the record, he also mentioned that Mr. Rolfing never showed up at the meetings. As a member of the Board of Education he will take a strong position for the children, they need a school and they need one as soon as possible. He also did not want to see the funds lapse.

Mr. Chris Halford said that he wished the arguments that Meyer presented had gone through the established site selection process. His compelling argument probably would have won and perhaps no reason to stop the normal public process, site selection process.

Mr. Steve Sutrov, Kula, requested that this be delayed and brought back to public discussion, also have the EIS researched and have professionals look into the traffic situation.

**EXECUTIVE  
SESSION**

Mr. Arisumi moved for the Board to go into an executive session to consult legal counsel. Seconded by Mr. Apaka, motion carried.

**11:55a.m. to 12:05 p.m.**

Before calling the regular meeting back to order, Mr. Paty announced that he had an opportunity to review the matter with counsel. The Board's role on this issue by counsel and advice is that we are here just to move the progress forward. The site selection is a matter that should be handled by the parties involved. As it happened, it did not come together as is evident by the testimony today. What we have here today is the kind of forum that should have been taking place months ago. However, it may have been beneficial because the view points and the concerns and the date that it was presented gave everyone a better picture of it. As one Board member commented no matter which site is selected there's going to be some questions and problems and opposition to it. We feel that we do want to afford additional time in order for the parties involved (DOE, DAGS, and community groups) to take a look at their respective positions. There's no question throughout this evidence presented today, everyone favors a school, the only question is where. Based on that we feel the Board should undertake a time of the meeting after next, roughly a month from now. Unfortunately it won't be on Maui.

**DEFER** Mr. Arisumi moved that this item be deferred to the meeting after next which will be held in Kona. Seconded by Mr. Apaka, motion carried unanimously.

**CDUA FOR COMMERCIAL RECREATIONAL USE AND THE INSTALLATION  
OF ONE VESSEL MOORING LOCATED OFFSHORE AT WAILEA BEACH,  
MAUI, TAX MAP KEY 2-1-08:109; APPLICANT: TSA DEVELOPMENT CO.,  
LTD.; AGENT: WILSON OKAMOTO & ASSOCIATES**

**ITEM H-4**

This item was deferred previously and to begin Mr. Evans requested to modify Condition No. 22 on page 20. Staff would like to add the underscored so that the second line, would read, "parking for their customers, operators or employees pursuant to this land use." Also on page 21, they would like to add another condition, Condition No. 36, "That the applicant notify the department in writing, when construction activity has initiated and when it has completed."

Mr. Evans then gave a background of the request. He pointed out that on pages 8-14 of the submittal are specific concerns of the public that testified at the public hearing.

Staff is recommending approval but there is a caveat. They are not recommending approval carte blanche. They do feel that this land use is a commercial recreational land use and could be approved by the Board, however, in terms of the recommendation he pointed out that on pages 19-21, they would recommend 36 rather stringent conditions. These conditions emanated from the concerns that were received at the public hearing and comments received from different State and other agencies.

Mr. Evans said that staff had received several letters requesting the Board deny this request and reasons were stated.

Discussion followed on the use of the bay commercially by boats, designated areas for boats and swimmers. Other things discussed were concern on sewage discharge, signs of Conservation District, beach for recreational use, hotels informing the public of the ingress and egress areas, DOT's role through the Ocean Recreation Management Plan, water safety and also concerns of fishermen.

Mr. Tim Metenbrink, general manager for development operation of TSA said that they had read the stipulations in the submittal and could if they have to, live with it. There is a minor exception as to number of shuttle vessels and time to load and unload. They would like to request that they not be restricted to one shuttle vessel, they feel their program would need two shuttle vessels. He then answered questions of the Board.

Mr. Charles Maxwell said that he was here in the capacity as the Chairman of the Native Hawaiians of the State advisory commission to the U. S. Civil Rights Commission and chairman of the Hawaiian affairs. He felt that the whole concept is a violation and against the civil rights of the native Hawaiians. He explained that parking lots for access to the ocean have been used constantly by tourists. Fishermen have nowhere to park. Walking towards the area in question, you are cautioned by the security guard that know or don't know that you can't come into this area. He feels by approving this application the Board would be disallowing native Hawaiians from going into the area. He feels that mooring for this nature should be at the harbors.

Maui Councilman Wayne Nishiki said he was testifying as an individual. He also raised the concern about parking in the beach area which is very minimal and spoke of the problems that the county police have had in trying to keep the commercial operators out of the area but to no success. He said that allowing a mooring in this area would essentially bring in these kinds of problems.

He said that they are already using the Maalaea area so they don't need to use this area and feel the harbor is where they should do their business. He continued to relate to the questions and answers during the public hearing which were included in the submittal and made comments to them.

Ms. Tanya Every, Administrator for the Wailea Community Association (WCA) presented her written testimony of their concerns. The WCA requests that the board delay any decision on TSA's request and recommend that TSA meet with the community and address some of their concerns stated here today. (A copy of her testimony has been placed in the departmental board folder.)

Mr. Rudy Lu'uwai, resident of Makena addressed the Board saying that he was against allowing a vessel mooring off Wailea Beach. He stressed that the ocean belonged to the people. He then read his testimony and concerns which were similar to those voiced earlier. (A copy of his written testimony has been placed in the departmental board folder.)

Mr. Peter Jones, president of Maui Classic Charters, said he has two vessels presently permitted in Maalaea Harbor and he is also the legislative co-chairman of the owners association. He commented that he felt exclusive use would be very unfair and objected to. He also commented on the use of zodiacs to load and unload. His final comment was if there is only one mooring in submerged

land in front of hotels is worrisome. If only one permit and no more is allowed, that would mean only one permit per hotel, then industry would in effect be closed off and they think that's an unfair business practice.

Mr. Paul Hanna said that he spoke at the public hearing last November. He said that after listening to previous testimony today, it made him realize the ocean is special, the beach is special and it's not for just for one person. That restricted use is unfair to the people.

Ms. Ruth Godson, board member of Kihei Community Association, read a letter from her board requesting a public hearing be conducted in South Maui area. (A copy of letter has been placed in the departmental board folder.) She said that TSA through other actions and other times have almost ignored their community. She feels that the boat mooring is another attempt to ignore the needs of her community for the sake of the greed of TSA and their development corporation. She asked that the Board deny this request and if not that they defer this request and have a public hearing to give the communities of Kihei, Malaaea, Makena and Wailea an opportunity to voice their opinions.

Mr. Yuen asked Mr. Evans to explain to the public why it was necessary that the Board take action on this item today. Mr. Evans explained the 180-day process for CDUA's.

**RECESS** 10 minutes

Mr. Marlowe Banker of the board of directors of the Maui Trailer Boat Club said that they ask the Board to vote against or deny this application. He said that safety is always first on his mind having served as a safety engineer for Pacific Telephone in California. He said he was aware of a State law that says no motorized craft on the ocean or in a bay can come within 200 feet of a swimmer in the water.

Mr. Evans said that relative to the question, the only thing that staff can offer the Board is that at the beginning of this process, one of the things they did do was send the application over to the Department of Transportation. (DOT) The DOT has a harbors branch and a boating branch. They were asked to make specific comments relative to this particular application. If this application were going to involve something against the law which they would enforce, that they would have been expected to be told about that.

Mr. Arisumi's question referred to the bottom of page 18 of the board submittal, Project need: the applicant testified at the public hearing that their proposal for a mooring and commercial recreational use "is not absolutely necessary for (their) operation... He asked staff if that was actually said.

Mr. Evans said that staff's representation on page 18 would be from a transcript that would have been pretty much verbatim within the quotation marks from the public hearing.

**ACTION** Mr. Arisumi moved to deny the application; seconded by Mr. Yim, motion carried.

**CONSERVATION DISTRICT USE APPLICATION (CDUA) FOR SCIENTIFIC INSTRUMENT RADIO RELAY STATION, MAUNA LOA, HAWAII, TAX MAP KEY 9-9-01:04; APPLICANT: CENTER FOR THE STUDY OF ACTIVE VOLCANOES, UNIVERSITY OF HAWAII AT HILO**

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**ITEM H-2**

Mr. Evans made his presentation of this item with assistance of photographs. Staff does recommend approval of this permitted use. Staff is also recommending the standard fine of \$500 for a violation which involved the landing of a helicopter without permission within the Conservation District.

Ms. Darcy Bevens said that she would take full responsibility for the landing of the helicopter. She explained that in making her environmental report, she needed to visit the site. She went to the owners of the property to get their permission. The Bishop Estate people thought that they had already gotten permission from the Board. Until several weeks ago she didn't realize that anything wrong had been done. She begged the Board's forgiveness and asked if the \$500 fine could be reduced or suspended. In the future she said that they would be sure to ask the Board's permission before proceeding. She said that the University will not pay for the fine and she would have to pay it out of her pocket.

Mr. Yuen asked how the site was picked and were there other relay stations on Mauna Loa.

Ms. Bevens explained how her choice was made. Regarding other relay stations she said that there were none nearby. There are many antennas and radio stations, but Kulani is the main relay station.

**ACTION** Mr. Yuen moved for approval of the application and the fine to be reduced to \$15.00. Seconded by Ms. Himeno, motion carried.

**ITEM J-3**

**RENEWAL OF REVOCABLE PERMITS 4713 AND 4752, RESUBMITTALS, AIRPORTS DIVISION, HNM**

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Mr. Garcia informed the Board that Item J-3, Renewal of RP 4713 for Hawaii Helicopters and Renewal of RP 4752 for Scott Redlich was deferred at the last Board meeting at the request of counsel for The Friends of Hana Coast.

Ms. Evelyn Dana said that she was speaking on behalf of the environmental group, The Friends of Hana Coast. She wanted to clarify the view of public relations that the tour helicopter industry tries to portray, to alleviate the noise and natural environment of the community, is not in the interest of the Hana district. She said that she had worked on this issue since 1984. 1) She pointed out that the brochure that she passed out to the Board members which was advertising was illegal and 2) conflict of voluntary statement. There are two litigations currently on file, one on behalf of The Friends of Hana Coast regarding the noise and the other by Kaupo Ranch. She said that the use of tour helicopters is not helping the environment.

Ms. Dana said that renewal of the booth would be renewing or worsening the adverse impact in Hana. This booth has created a nuisance to community service. She said that she would explain how it increased tour activity in the Hana District. She then read a written statement she had prepared.

Helicopters are indispensable for search and rescue and emergency evacuation situations, however the use has created a host of environmental problems in the area that were previously insulated from inclusions of technology. As recent as 1990 the State of Hawaii Department of Transportation attempted to institute a responsible permit system that would solve the problem. Today the Hawaii Helicopter Organization has opposed all attempts to regulate their activities. Any increase right now they feel is jeopardizing what they feel is one of the last Hawaiian places that they see would sustain the traditional Hawaiian culture. She asked that the Board not allow renewing this booth until a master plan for the Hana Airport is in place.

Ms. Dana also said that this company is operating currently in Waianapanapa State Park which is illegal.

Mr. Isaac Hall, attorney for the Friends of Hana Coast said that he had already submitted two letters to the Chairman and so he wouldn't go over what was in the letters. He said that the booth is a 19' sales booth and it has increased the number of helicopter flights in Hana. It has increased the amount of helicopter noise that's imposed on the residents of Hana and it has increased the number of passengers using the airport and indirectly has increased the commercial use of Waianapanapa State Park which lies in the Conservation District.

Mr. Issac said that since the BLNR gives final approval on revocable permits issued by DOT, he said that the department should be sure that what they want to do has been done legally. 1) It has to be consistent with a helicopter master plan, (currently there is no helicopter master plan according to the statutes); 2) Feels there should be an environmental assessment prepared upon approval; 3) This is connected to the use of Waianapanapa State Park, what they sell from the sales booth is a tour in Waianapanapa State Park which is in the Conservation District.

Mr. Isaac said that they request the Board deny this application as they do not have a CDUA permit to operate. They do not have a CDUA or State Parks permit.

Mr. Mike Minn from Hana said that he was a party to the lawsuit. He fishes, hunts and uses Waianapanapa State Park for recreation. He understands the ocean is for everybody. He complained about helicopters flying all over taking people into remote parts of the valley. He feels they bring tourists in and they picnic all over and even in the waters of the falls, then many times they leave their trash behind. He also spoke in length about the food that he and his family gathered for their tables were contaminated by all these people coming into the area. Mr. Minn said the other booth was for a glider operation. These people came in and set it up and started to sell tours. His group would like to see this item deferred until a master plan comes in.

Discussion followed on questions to staff regarding similar instances on Kauai and Oahu involving a State park.

**Executive Session** Mr. Arisumi made a motion that the Board go into an executive session to consult with legal counsel; seconded by Ms. Himeno, motion carried.

**2:35 p.m. to 2:40 p.m.**

The regular meeting was called back to order by the Chairperson.

**MOTION** Mr. Arisumi moved that a month to month permit be issued because of the litigation factor. Motion was seconded by Mr. Yim.

**DISCUSSION** The Board directed Mr. Garcia that he should return to the Board next month and every month thereafter. This should afford time for all involved to work out any problems.

**ACTION** Chairperson called for the question and motion carried.

**ITEM D-1** AWARD OF CONSTRUCTION CONTRACT - JOB NO. 48-HW-D PUUKAPU DEEP WELL PUMP DEVELOPMENT (WELL NO. 6337-01), HAWAII

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

**ITEM D-2** AUTHORIZATION TO ENGAGE THE SERVICES OF RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII FOR GEOTHERMAL RESOURCE MANAGEMENT AND REGULATORY ACTIVITIES, HAWAII

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

**ITEM F-1** PETITION FOR A CONTESTED CASE HEARING TO APPEAL THE SHORELINE CERTIFICATION FOR TAX MAP KEY 7-6-17:28 AND 40, NO. KONA, HAWAII

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

**ITEM F-2** DIRECT SALE OF PERPETUAL, NON-EXCLUSIVE ACCESS AND UTILITY EASEMENT, SITUATE AT HUALUA, NO. KOHALA, HAWAII, TAX MAP KEY 5-5-03:13

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

**ITEM F-3** Deferred. See Page 10.

**ITEM F-4** DIRECT SALE OF LOTS 34 AND 26A, HAUULA HOMESTEADS, HAUULA, KOOLAULOA, OAHU, COVERED UNDER HOMESTEAD LEASE NO. 51, TAX MAP KEY 5-4-07:1 AND 17

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

**ITEM F-5** HONPA HONGWANJI MISSION'S REQUEST TO RESCIND PRIOR BOARD ACTION OF JULY 26, 1991 (AGENDA ITEM F-21) AFFECTING STATE LAND AT KAPAA, KAUAI, TAX MAP KEY 4-5-06:8

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

**ITEM F-6** STAFF REQUEST FOR AUTHORIZATION OF INTENT TO DISPOSE OF DIRECT LEASE FOR CHURCH AND ALLIED PURPOSES AFFECTING STATE LAND AT HANAPEPE, KAUAI, TAX MAP KEY 1-9-12:13

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

**ITEM F-7** STAFF REQUEST FOR AUTHORIZATION OF INTENT TO SELL GENERAL AGRICULTURAL LEASE AT PUBLIC AUCTION COVERING STATE LAND SITUATE AT WAILUA, KAUAI, TAX MAP KEY 4-4-02:31

Mr. Young requested to amend the submittal. On page one under the heading PURPOSE, the word "Pasture" to be changed to "General Agriculture". On page 2, under RECOMMENDATION, the words "business lease" should be "General Agriculture lease".

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

**ITEM F-8** STAFF REQUEST FOR AUTHORIZATION OF INTENT TO SELL BUSINESS LEASE AT PUBLIC AUCTION COVERING STATE LAND SITUATE AT HANAPEPE, KAUAI, TAX MAP KEY 1-9-05:49

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

**ITEM F-9** STAFF REQUEST FOR AUTHORIZATION OF INTENT TO SELL STATE LAND IN FEE SIMPLE FOR SINGLE-FAMILY RESIDENTIAL PURPOSES, HANAPEPE, KAUAI, TAX MAP KEY 1-9-10:33

Mr. Young requested to make a correction under REMARKS on page 2 of the submittal in the 3rd paragraph, the "new lease proposal." should be "fee simple proposal."

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

**ITEM F-10** PUBLIC AUCTION -- SALE OF INTENSIVE AGRICULTURAL/RESIDENTIAL LEASE, HANAPEPE, KAUAI, TAX MAP KEY 1-9-03:6

Should the Board approve this item, Mr. Young requested an amendment that the sale of this lease be for single-family residential and that it be reflected throughout the submittal:

Subject heading should read: Sale of Intensive Agricultural/Single-Family Residential Lease, Hanapepe, Kauai, Tax Map Key 1-9-03:6

PURPOSE: Intensive Agricultural/Single-Family Residential

RECOMMENDATION: Paragraph C, after the word "agricultural" add "/single-family residential purposes."

He then informed the Board of the reasoning for this to be intensive agricultural/single-family residential.

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

**ITEM F-11** REQUEST FOR PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ACCESS PURPOSES, OVER AND ACROSS PORTION OF PEEKAUAI DITCH, WAIMEA, KAUAI, TAX MAP KEY 1-6-02:POR. DITCH ABUTTING PARCEL 45

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



**ADDED**  
**ITEM F-12** THE CORPS OF ENGINEERS REQUESTS A RIGHT-OF-ENTRY TO A PORTION OF STATE LAND SITUATED AT MOOLOA, MAKAWAO, MAUI; MAP KEY 2ND/1-2-06:26 AND 80 FOR SURVEY AND EXPLORATION FOR MAKENA BEACH FEASIBILITY STUDY

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

**ITEM H-1** TIME EXTENSION REQUEST FOR CONSERVATION DISTRICT USE PERMIT HA-2422, SINGLE FAMILY RESIDENCE, PUNA, HAWAII, TAX MAP KEY 1-3-02:98; APPLICANT: PETER AND MIREILLE STAUB

**DEFER** Mr. Yuen moved to defer Item H-1 to the next meeting of the Board to allow the applicant to explain their request. Seconded by Mr. Yim, motion carried.

**ITEM H-2** See Page 13 for Action.

**ITEM H-3** CDUA AFTER-THE-FACT FOR A SINGLE FAMILY RESIDENCE AT WAIALUA, OAHU, TAX MAP KEY 6-8-8:5; APPLICANT: HERMAN SOARES

Mr. Evans presented Item H-3 which had been deferred at the last meeting because the question of kuleana land was raised. Mr. Soares has come in with a number of documentations. This is part of a Royal Patent and one of the things staff found out in the research on this is that people that have Royal Patent land were not required under the kuleana act to have those lands transferred into kuleana. The understanding is if you have a Royal Patent, you don't have a reason to go before the Land Use Commission because you already have the land. Under the narrowest of circumstances, staff is recommending that Mr. Soares be allowed his house and this will be on the basis that the applicant shall not be penalized for the change in the boundaries of the original Royal Patent. Staff is recommending approval, however that applicant be advised of the hazards of residing in the flood zones and waiver indemnity and the approval is limited to this applicant and his heirs are subject to the standard conditions, plus those just related to the Board.

**ACTION** Ms. Himeno moved to approve the application and reduce the fine of the violation to \$100.00. Seconded by Mr. Yim, motion carried.

**ITEM H-4** See Page 12 for Action.

**ITEM J-1** APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4821 AND 4822, AIRPORTS DIVISION, HDH

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

**ITEM J-2** APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4849 AND 4850, AIRPORTS DIVISION, MKK, OGG

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

**ITEM J-3** See Page 15 for Action.

**ITEM J-4** RENEWAL OF REVOCABLE PERMITS, 2725, ETC., AIRPORTS DIVISION, ITO, LIH, HNL, KOA, OGG

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

**ITEM J-5** SALE OF LEASE BY PUBLIC AUCTION FOR A PARCEL OF LAND AND SUBSURFACE PIPELINE EASEMENT, HONOLULU HARBOR, PIER 31, OAHU

**ACTION** Unanimously approved as submitted. (Himeno/Yim)

**ITEM J-6** SALE OF LEASE BY PUBLIC AUCTION FOR A PARCEL OF LAND, KAWAIHAE HARBOR, HAWAII

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

**ITEM J-7** CONSTRUCTION RIGHT-OF-ENTRY AND LEASE OF EASEMENT, KAWAIHAE HARBOR, HAWAII (GASCO, INC.)

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

**ITEM J-8** SECOND AMENDMENT TO HARBOR LEASE NO. H-88-35, NAWILIWILI HARBOR, KAUAI (MATSON TERMINALS, INC.)

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

**ACTION** Approved as submitted. (Apaka/Arisumi)

**ITEM J-9** AMENDMENT TO HARBOR LEASE NO. H-92-3, PIERS 19 AND 20, HONOLULU HARBOR, OAHU (SAUSE BROS., INC.)

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

**ITEM J-10** ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 1, HONOLULU HARBOR, OAHU (HAWAII STEVEDORES, INC.)

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

**ITEM J-11** ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 8 SHED, HONOLULU HARBOR, OAHU (AMERICAN CHALLENGE SAILING, INC.)

Mr. Garcia requested to make an amendment to Item J-11. Under RENTAL, Utilities should be \$.15 per square feet instead of \$.10 and thus the Rental per month should be \$462.00.

**ACTION** Unanimously approved as amended. (Himeno/Arisumi)

**ITEM J-12** ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, WAIANAE SMALL BOAT HARBOR, OAHU (LEEWARD PETROLEUM, INC.)

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

**ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KAHULUI**

**ITEM J-13 HARBOR, MAUI (SHERRY B. BARNETTE DBA CEDAR HOMES OF MAUI)**

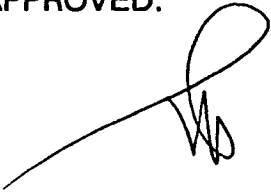
**ACTION** Unanimously approved as submitted. (Arisumi/Apaka)

**ADJOURNMENT** The meeting adjourned at 3:00 p.m.

Respectfully submitted,

  
Dorothy Chun  
Secretary

APPROVED:



WILLIAM W. PATY, Chairperson

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