

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

DATE: June 26, 1992
TIME: 8:30 a.m.
PLACE: State Office Building
Conference Rooms A,B,C
3060 Eiwa Street
Lihue, Kauai

**ROLL
CALL**

Chairperson William W. Paty called the meeting of the Board of Land and Natural Resources to order at 8:35 a.m. The following were in attendance:

MEMBERS: Mr. John Arisumi
Mr. Herbert Apaka
Ms. Sharon Himeno
Mr. T. C. Yim
Mr. William W. Paty

**ABSENT &
EXCUSED:** Mr. Christopher Yuen

STAFF: Mr. Linford Chang
Mr. Ralston Nagata
Mr. Mason Young
Mr. John Corbin
Mr. Roger Evans
Mr. George Niitani
Ms. Geraldine M. Besse

OTHERS: Mr. Kelvin Kai (Item No. C-2)
Mr. Tom Hegarty, Ms. Susan Matsuura,
Mr. Clancy Greff, Martin Wolff,
Esq., Ms. Cira de Castillo, Mr. Robert Johnson,
Mr. Fred Jager, Mr. Charles Cobb-Adams, Mrs.
Diane Faye, Mr. Gregory Goodwin, Mrs.
Mary Cooke, Ms. Catherine M. Bartness, Ms.
Linda Chandler, Harold Bronstein, Esq., Mr. Jeff
Chandler, Mrs. Helena Santos, Mr. Ed Meyers,
and Ms. Sharon Pomroy (Item No. E-1)
Mrs. Sandra Grace (Item No. E-5)
Mr. Jarvis Shiroma and Mr. Jake Mizuno (Item No.
F-1-c)
Mr. Al Suga and Mr. Ken Melrose (Item No. F-
2)
Ms. Mary Lou Barela and Mr. Peter
Avillanoza (Item No. F-10)
Mr. Peter Garcia and Mr. Larry Cobb,
Department of Transportation
Mr. Ron Tang (Item No. J-1)
Dr. Raymond Chuan

MINUTES: The minutes of the meetings of April 10, 1992, and May 22, 1992, were unanimously approved as submitted (Himeno/Apaka).

ADDED ITEMS: Upon motion by Mr. Arisumi and a second by Mr. Apaka, members unanimously approved the addition of the following items on the agenda:

Item C-3 -- Request for Approval of Contract with Mr. Chris Eckart for Avicultural Assistant Consultant Services at the Olinda Endangered Species Facility, Maui

Item Z-1 -- Report on Results of Public Auction of Government Leases, Island of Kauai, June 19, 1992

Items were heard in the following order to accommodate those applicants and interested persons present at the meeting.

ITEM F-10: RESUBMITTAL--AUTHORIZATION TO ISSUE DIRECT LEASE TO HALE OPIO, KAUAI, INC., HANAPEPE, KAUAI, TAX MAY KEY 1-8-08:17

Mr. Young recalled that this item dates back to July of 1991, when consideration of the Hanapepe site was brought before the Board. At that meeting, he said, the Board denied the request for Hanapepe, and the Board provided Mayor Yukimura at her request the opportunity to be provided until March 1992 to find an alternate site. To date, no alternate site has been suggested and while the Hanapepe site is not the perfect location, the staff is recommending said site.

Mr. Young stated there were several issues outstanding which need to be addressed.

The first issue involves Hale Opio's complaint to the U.S. Department of Housing and Urban Development charging the State with housing discrimination because it refused to act on their application to provide housing for their clients, emotionally, developmentally disabled children due to negative community reaction to their plans for residential care and facilities, particularly mainstreaming the different sites within the County of Kauai.

The second issue concerns a letter from the GSA with respect to the memorandum of understanding encouraging the State's cooperation with Hale Opio to provide for the relocation from the Makuahena site to whatever sites are appropriate for relocation. There was also a letter from Mr. Earl Jones, Commissioner of the GSA, indicating that the 89 acres at Maili under the MOU is linked with the department's ability to provide for and relocate Hale Opio to a satisfactory site.

The third issue outstanding is the fact that Hale Opio continues to contend that they have not been satisfied as a result of the complaint filed with HUD and continue to look at Omao and Wailua as alternate sites to satisfy the memorandum of understanding. Mr. Young stated that the Omao and Wailua sites were not recommended by the staff due to certain opposition voiced at an informational meeting, as well as petitions filed before the Board and the department. Mr. Young stated that pressure on the staff to offer one of these sites is now much greater because of the housing discrimination complaint filed against the department.

The Wailua site is preferred by Hale Opio and is currently vacant; Omao is presently under active general lease; therefore, staff is reluctant to offer Omao as a recommended site.

Mr. Young explained the options available to the Board:

- (1) Approve the staff recommendation of the Hanapepe site, although the department, community, and Hale Opio find that this is not the most desirable site;
- (2) No action by the Board but agree to provide site or sites that could be worked out;
- (3) Approve the Wailua site. The purpose being whether that would resolve the HUD complaint; and
- (4) No action at all. Mr. Young advised that if no action were taken, the State would forfeit the 89 acres at Maili.

The other consideration he said would be Kapahi, which the Board had previously approved but because of subdivision problems, the submittal was amended to provide one lot of 1.69 acres. Therefore, he said, Hale Opio has 1.69 acres at Kapahi for residential purposes as well as the site at Kapaa for the administrative site.

Mr. Young stated that Mr. Peter Avillanoza, HUD investigator, was present and had indicated that due to the nature of the complaint wished to address the Board in executive session on the findings of fact and the position of HUD.

Mr. Young explained that the GSA had approached the department concerning the Makuahena site sale and in return \$1.5 million would be provided to Hale Opio by Congress for relocation and construction of facilities on State land. The State entered into the memorandum of agreement because of the 89 acres at Maili, which would be in return for assisting the relocation of Hale Opio. Mr. Young further stated that sites such as Nanaikapono, Keaukaha, Molokai, and Nanakuli are Hawaiian Home Lands in fee and the DLNR intended to exchange the 89 acres with DHHL. The reason for that being the Executive Orders covering those school sites were deemed null, void and illegal and in order to compensate Hawaiian Home Lands for the taking of these sites for school purposes, the 89 acres were envisioned at the time as an exchange for those lands.

Mr. Young explained that the MOU was for relocation of a site. After the MOU was signed there was further discussion and a subsequent MOU entered into between the department and Hale Opio in June 1990--that the department would look for site or sites for mainstreaming, which would put the residents in the community on both the east and west sides of the island. This was the reason, Mr. Young stated, that Kapaa and Kapahi were selected and Hanapepe, Omao and Wailua were then considered because that would split the island and allow them to be within the community. The objections to the Hanapepe site--which is down at the saltpond--is the fact that it is not within the mainstream of the community. The objection to Hanapepe is raised by Hale Opio and the Hanapepe community.

Mr. Young said that the intent of the MOU at that time was to provide not less than five acres inasmuch as they had five acres at Makuahena. He said the misunderstanding concerns whether it should be "site" or "sites" and the MOU between the department and Hale Opio.

Mr. Young pointed out that the complaint needs to be addressed and was the reason it was brought before the Board.

Ms. Barella from Hale Opio stated that originally they had asked for only one site, but national experts have stated that a multi-site complex would be better. She said they spoke with the Chairperson and had agreed to the multi-site complex although the agreements had already been signed. The agreement was not amended; it was a verbal agreement.

She said DLNR provided Hale Opio a list of possible sites, and the community association learned of the list and the possible sites. Ms. Barella said she felt they did not have correct information. DLNR agreed that they had not had the opportunity to provide the correct information to the community and formed a citizens advisory task force. She said they talked to the associations and asked for representation on the task force. The task force met over a period of six to seven months. They looked at the sites and came up with four sites: Kapahi site for residence; Omao for residence; a Wailua site for residence; and a Kapaa site for administrative offices. The Board of Directors of Hale Opio agreed to the four sites. The DLNR staff suggested to them that they add the Hanapepe site. Hale Opio feels that the two sites that the task force recommended--Omao and Wailua--should be reconsidered. Because of the pressure from GSA to move from the site, they originally thought it would take 1-1-1/2 years to move. The site has been purchased, she said, and there is pressure for Hale Opio to leave. The new owners and GSA have "bent over backwards to accommodate us. We're still there."

She stated that Hanapepe came before the DLNR last year and had been deferred. In January of this year, she said the Mayor of Kauai wrote a letter to DLNR stating that Hale Opio had met with her half a dozen times and her suggestion to Hale Opio and to DLNR was that they purchase a site. That letter went to DLNR and Hale Opio has not heard from DLNR since. She said they purchased the Lawai site, and GSA agreed to that.

Ms. Barella said they filed a discriminatory complaint in February with HUD against the State and the County because the County was indicating that they had to have a special use permit, etc., for zoning and the type of residence to be put there. She said they have since withdrawn the County from the complaint as the Planning Department informed Hale Opio they need not go through that process. She said as a courtesy she sent a copy of the complaint to DLNR. She stated approximately 30 days ago she received a letter from DLNR that the State's commitment had been met with the Hale Opio purchase of the second site. Hale Opio disagrees and GSA agrees with Hale Opio on that point.

Ms. Barella stated that they are seeking reimbursement from the State for the Lawai site and asks that they be given the Omao site.

Mr. Apaka moved that the Board convene in executive session because of new evidence presented. The motion was seconded by Mr. Arisumi. The Board was in session from 9:02 a.m. to 9:48 a.m.

The Chairperson stated that the Board was ready to assume the options available. Mr. Apaka stated that due to the necessary time needed to clear some of the legal matters associated with this case, he moved that this item be deferred to the next meeting on Oahu.

ACTION Mr. Paty clarified that his understanding is that in the interim discussions would be held with Hale Opio regarding a resolution. Mr. Arisumi seconded the motion, which was unanimously approved.

ITEM C-2: PERMISSION TO ENTER INTO A MASTER COOPERATIVE AGREEMENT WITH BISHOP ESTATE

Mr. Paty explained that the State and Bishop Estate would be attempting to establish an agreement to undertake the management and protection of forestry and wildlife. Mr. Kelvin Kai, Land Manager for Bishop Estate, explained that the specific agreements would be attached as part of the master agreement.

ACTION Unanimously approved as submitted (Himeno/Apaka).

ITEM E-1: REQUEST FOR A ONE-YEAR EXTENSION FOR THREE SPECIAL USE PERMITS TO MAKE COMMERCIAL TOUR BOAT LANDINGS AT NA PALI COAST STATE PARK AND/OR HAENA POINT, KAUAI

Mr. Nagata stated that he received a letter from the North Shore Charter Boat Association stating that they took no stand on the extensions; however, the association wanted to indicate a concern to the Board regarding the boating along the Na Pali Coast, in particular near the Two Door Cave area. There have been occasional incidents of commercial tour boats as well as other boats overturning in the area. The association's suggestion was that an emergency rule be adopted by the Department with the understanding that the department very shortly would be taking over the boating operation from DOT. This emergency rule would be to exclude any commercial or recreational boat from navigating within the cave area.

Mr. Paty advised that the Boating Division would be developing recommendations to address that issue in the very near term. He said the Board would more than likely look to "some kind of control measure."

Mr. Nagata stated that his understanding was that the County of Kauai has been preparing rules or guidelines regarding the Hanalei River Estuary and, essentially, the latest draft proposes as of January 1st or January 31st of 1993 that non-motorized commercial boats would not be allowed to operate from the estuary, and up to three commercial tour operators using non-motorized vessels would be allowed. The proposed rule allows each operator to accommodate up to 17 passengers.

Mr. Nagata stated that should the Board approve the recommendation, the matter would be moot from the standpoint of the operators being unable to operate from the Hanalei River Estuary--which is essentially the river--and the way that it's spelled out--200 feet on either side of the river bank. The estuary, under the rule, ends at the SMA boundary line, which means that the area makai of that line at the rivermouth would not be bound by that rule; and everything outside of that area may be bound by the DOT's Ocean Recreation Management Area rules, which would be absorbed by DLNR on July 1st.

Mr. Nagata and Mr. Niitani summarized the services provided by the tour boat companies to the State as well as the number of passengers allowed under the permits.

Ms. Susan Matsuura of Lady Ann Cruises stated that they did not operate last year due to the controversy. They have purchased a new boat and are coming out of Kikiola Small Boat Harbor. She said they started this operation about a month ago and as part of their civic responsibility have been discussing assistance to DLNR and others in restoring the native plants and to look at the archaeological sites. Some of the halau have requested to clean up the area. They are also working on a brochure for visitors to ensure the accuracy of the tour, as well as the ecological and historical value of the coastline.

Mr. Clancy Greff stated that he has been appearing before the Board for permits for 16 years. He stated that when he started out with two boats, a CDUA permit was required. In 1986 commercial boating had grown to 30 operators. Since that time, he added one boat a year for about 8 years and was told by DLNR that he did not need permits for those boats which did not land on the beach. Last year, he said, the Board asked him to run only two boats. Mr. Greff said he was reluctant to cut down to two boats as he believed the County had no intention of allowing them to operate out of Hanalei. Mr. Greff noted that the ORMA rule specifically states that at Haena he has permission to run up to ten boats with a valid DLNR permit. He said that during the ad hoc meetings, all had agreed on a place at the rivermouth, which is outside the SMA area, which is now a designated ingress/egress zone for boating.

Mr. Greff asked that until the Hanalei matter is straightened out he be allowed to operate at least four boats from Tunnels. He said otherwise he would lose 60% of his business. He said, if allowed to do that, he was willing to do an environmental assessment or study for the extra two boats. Based on past statements by the Board that they would consider "up to five boats," he was now asking for the additional boats.

Mr. Martin Wolff stated that Mr. Greff was in a unique situation in that the ORMA rules have a specific provision for ten boats at Makua so long as DLNR issues the requisite permits. He said that Mr. Greff's concern at this time is that one law says "up to ten" but DLNR has allowed eight and now it's only two, and he has no home for the other boats.

He said it was indicated that the County was considering rules that would totally eliminate commercial boating in the Hanalei Estuary as of a certain date except for non-motorized vessels. It is applicant's position that those commercial tour boat operators who are operating from the Sheehan Boatyard have vested rights under an existing SMA permit; that they are in compliance with all applicable laws, although the County takes a different position. Mr. Wolff informed the Board that the County had no right to ban boating on a navigable waterway and are prepared to go to court. Since DLNR is taking over the DOT function, he said, there is potential for a "whole new ballgame." He said a problem has been too many agencies with overlapping jurisdictions and is hopeful that the industry will become a responsible and responsive part of the community and the tourist industry.

Mr. Wolff stated that the County will hold a public information meeting on June 30 because of major changes to the rules, followed by a public hearing approximately 30 days later. Mr. Wolff noted that Judge Masuoka ruled that the tour boat operators have an interest in the rules which is different from the interest of the general public. As a result of the TRO the hearing was changed to an informational meeting. He says any enforcement action by the County if signed by the Mayor will be met by appropriate response. He said the temporary injunction that they want to convert to a permanent injunction is now set to resume on October 6 before Judge Masuoka and would be three years that it has been in litigation.

Mr. Wolff said the applicant maintains that he does have an SMA permit now and is part of their defense. When the County brought a contempt action against the boaters for violating the preliminary injunction, the judge ruled that technically they were in violation of the preliminary injunction but because of extenuating circumstances, which included the County's failure to disclose even the existence of the Sheehan SMA permit when they went in to obtain the preliminary injunction no fines would be levied for violating that preliminary injunction. The Sheehan SMA permit specifically provides for each one of the boating companies to operate from the Sheehan Boatyard. The County takes the position that to do that they need a current DOT permit. DOT says they cannot give the permit until the County says they have an SMA permit. In Mr. Greff's situation, at least with his two boats at Tunnels, he had a DLNR permit from the beginning and the County cannot dispute that he qualifies under the Sheehan SMA.

Mr. Wolff noted that as of July 1st it's all under DLNR jurisdiction except for the SMA jurisdiction. Unless DLNR exercises its authority, the County SMA jurisdiction may still apply. DLNR could take it out of the County as there are provisions that would allow DLNR to "totally cut off County SMA jurisdiction."

Mr. Greff informed the Board that they had offered to cut the operation by 50% as well as not run any engines in the river.

The following addressed the Board:

Ms. Cira de Castillo of the League of Women Voters voiced the League's opposition to the renewal of any permits to operate motorized commercial boat tours at the Na Pali Coast without an EIS.

Mr. Robert Johnson spoke in support of the extensions.

Mr. Fred Jager, president of 1000 Friends, went on record in opposition to the extension of Mr. Greff's permits.

Mr. Charles Cobb-Adams spoke in support of the extensions.

Ms. Diane Faye stated that she has testified many times before the Board on the same issue and that her reasons in opposition remain the same.

Mr. Gregory Goodwin spoke in opposition to the use of Makua for commercial boat operations.

Ms. Mary M. Cooke said she spoke on behalf of herself and other property owners who were unable to be present at the meeting and opposed the extension of Mr. Greff's permit as well as other commercial activity in the area.

Ms. Catherine Moragne Bartmess, Haena property owner, spoke in opposition to the extensions.

Mr. David Bettencourt, representing Mr. Larry King, appeared before Board, saying his client has ceased operations pending the resolution of the legal issues and stated that until there is rational plan it was premature to issue permits at the present time. He said there should be rational restrictions on operations in conservation districts.

Ms. Linda Chandler spoke against the extensions. She also presented photos she had taken of alleged violations at Makua.

Mr. Harold Bronstein, speaking on behalf of Waiola, resubmitted testimony presented at a July 19, 1991, meeting, opposing any use of Makua/Haena and the nearshore waters for commercial activities. He stated that in October 1990 Waiola requested that all sea caves be closed for public safety and pollution.

Mr. Jeff Chandler opposed the permits.

Mrs. Helena Santos expressed her opposition to the extensions and urged that the controversy be settled as soon as possible.

Mr. Ted Myers from North Shore Charter Boat Association and also employed by Clancey Greff spoke in favor of the continued operations.

Ms. Sharon Pomroy indicated that the biggest problem was that the State rules and regulations were not being enforced.

Executive session was convened at 12:17 p.m. upon motion by Mr. Arisumi and a second from Ms. Himeno; said motion was unanimously carried. Mr. Paty called the meeting back to order at 12:27 p.m.

ACTION Mr. Apaka noted that from the testimony and photographs, there appeared to be much more activity occurring at Makua that the DLNR would need to address. He moved that the Board accept the staff recommendation for extensions; the motion was seconded by Mr. Yim and unanimously approved.

Mr. Paty indicated that there is a level of commercial activity at Tunnels which is unacceptable; that it was incumbent upon the Board to address the issue with respect to enforcement; and the assumption of the opportunity to take over DOT's responsibilities will afford the DLNR the opportunity to address the issue on a larger, holistic basis. He stated that the transition and merger has been the primary concern up until now and the Board would now be able to address other issues. Mr. Paty said that the County is still in the "throes . . . of trying to resolve where they are, where they're going with the SMA picture, their Hanalei position," and was an aspect that had to be worked into the DLNR plan. He said it was important to afford the public the opportunity to use and utilize the State parks along the Na Pali Coast and the Board was cognizant of the other issues.

ITEM E-5: REQUEST TO USE IOLANI PALACE GROUNDS FOR OBSERVING THE 98TH ANNIVERSARY OF THE DECLARATION OF THE REPUBLIC OF HAWAII BY SANFORD DOLE

Mr. Nagata stated that he had received a communication from the Executive Board of the Friends of Iolani Palace, which reviewed the request and it was unanimously agreed that their recommendation was to not approve the request. The reasons given were:

(1) Inadequate time for the proper review of the conditions for the use of the Palace grounds; it should have been presented at least 30 days prior to the event;

(2) There is no mention of the number of people expected to be at the event and with the radio broadcasting that is anticipated they feel that the message will go out for everyone to come down to participate and it could amount to a very large crowd;

(3) No security has been assured by the group;

(4) The hours are much too long considering what they call the "volatile" nature of this activity, and they point out that this year is not quite the centennial year for events regarding sovereignty. The security which the State would need to cover this event would be enormous, in their mind, and quite expensive;

(5) They feel that the placing of sanitois on the Palace grounds is "repugnant";

(6) In order to provide electricity at the coronation pavilion, the basement of the pavilion would need to be opened up for electrical access and that the basement would then be exposed to the public; and

(7) Considering incident of June 11 and what they claim to be the complete inability to keep the crowd controlled, they urge that the applicant be denied use of the grounds.

Mr. Nagata stated that the Friends have also expressed a concern that permitting this use will be a precedent. A final concern is liability and under their management agreement with the State they don't feel they would be able to protect the Palace adequately.

Ms. Sharon Pomroy stated that she understood the concerns of the State, which does not seem to care about the people and was only concerned about saving the artifacts. She said with the coming of the 100th anniversary of the overthrow many organizations will want access to the grounds. If permits are denied to any one group, the incident that occurred on June 11th will occur again and did not want to see that happen. All the groups, she said, need to sit down with the State to work out an agreement so the permit procedures can be settled. She asked that the application be approved.

Mr. Paty said the recommendation of staff is to approve but in the context of the permit process he indicated the need to sit down with the Hawaiian community on the protocol and procedures because as indicated by Ms. Pomroy there will be continuing requests for observances in connection with the change in government but felt there needed to be an understanding on how it should be properly handled. Mr. Paty indicated that he has asked the Rev. Bill Kaina to issue an invitation to the larger Hawaiian community to come together in aha at Kawaiahao to address this issue. The bottom line, he said, is that the Hawaiian community should be the one to enforce and police their own activities.

Mr. Paty stated that he spoke with Mr. Kanahale and told him that they should sit down together because it wasn't a secret that his group was going to be on the grounds on July 4th also. He said it was in the interest of everyone to sit down ahead of time. Mr. Kanahale indicated that he didn't want to talk until July 4th. Mr. Paty said he would attempt to contact Mr. Kanahale again looked to the aha for overall guidance and wanted to avoid any occurrence similar to June 11th.

Ms. Pomroy said she could not speak for Mr. Kanahale but her personal feeling is that she is willing to sit down and talk about these incidents. She said a lot of the leaders do not want to do this and feel they shouldn't have to.

Ms. Pomroy said she heard that Mr. Kanahale and Mr. Burgess have agreed to work together on the 4th but did not know that for a fact.

Ms. Pomroy said that in the grass roots of the sovereignty movement the ideal is that Iolani Palace be turned over to the nation as their capitol building and the sovereignty groups be housed there as headquarters of the nation. She said others have different views and have indicated that they will go in and have meetings in the Throne Room but too many people would be hurt, she said. There must be a plan to work out the observances of rituals.

Ms. Pomroy indicated that Hui Naauao has the most diverse membership of the groups, going from right to left. She said they have just formed a committee to decide whether stands would be taken on specific issues because according to the federal grant Hui Naauao cannot do that--they're only allowed to educate. To resolve the present situation, however, she said there was no one group to consult. She said it is a major problem--uniting all the groups.

Ms. Himeno asked for clarification on condition no. 11. Mr. Nagata said is that they would not go up the steps of the Palace and the pavilion. Mr. Paty indicated that if individuals used the steps the State would have to utilize set security to minimize it but basically unless the Hawaiian community enforces it, there is no security 24 hours a day to guarantee it.

Mr. Paty stated that in discussions with Mr. Burgess he was informed that he could not use the steps and it was suggested to him that he bring his own podium. Mr. Paty said that on Wednesday they will be going over the protocol with the larger Hawaiian community but Mr. Burgess' request came in ahead of that time so the Board needs to deal with his request prior to the aha. He said Mr. Burgess has had a permit before and is aware of the rules. The situation, he said, with respect to Mr. Kanahale's group is that he is not seeking a permit but is informed Mr. Kanahale's group plans to be there and that the problem would be in reaching an understanding with Mr. Kanahale.

Ms. Himeno moved for executive session to consult legal counsel. The motion was seconded by Mr. Apaka and unanimously approved. The executive session was held from 1:00 p.m. to 1:10 p.m.

Ms. Sandra Field Grace said she was at the Palace on June 11th and her husband was one of the individuals arrested. She said she wanted the Board to see the invitation that was handed out to people prior to June 11th and as indicated it was to be a spiritual ceremony, a gathering of ohana to heal the hurts of the past and there was never any intention of what happened. She indicated that there will be a civil rights suit against the State on the first amendment. She said it was ridiculous to have the police force the way they were that day, and guards were turning people away who did not look like kanaka maoli, which was very offensive. So this time there were going to be Hawaiians at every gate to invite people in.

ACTION Mr. Yim moved for approval and was seconded by Mr. Apaka. Mr. Yim then asked to amend his motion to include the use of the band stand. The motion was unanimously approved as amended.

ITEM F-2: REQUEST TO APPROVE REAL ESTATE TRANSACTION AGREEMENT BETWEEN STATE OF HAWAII AND WAIKOLOA DEVELOPMENT CO. FOR DESIGN, DEVELOPMENT, CONSTRUCTION AND CONVEYANCE OF THE PROPOSED WAIKOLOA ELEMENTARY SCHOOL, WAIKOLOA, SOUTH KOHALA, HAWAII

ACTION Mr. Young stated that this request was the first of its kind. Unanimously approved as submitted (Himeno/Apaka).

ITEM B-1: REQUEST FOR APPROVAL TO ENTER INTO AN AGREEMENT FOR CONSULTANT SERVICES WITH THE OCEANIC INSTITUTE TO CONTINUE AND EXPAND THE SCOPE OF FISHERY STOCK ENHANCEMENT STUDIES DURING FISCAL YEAR 1992-93

ACTION Unanimously approved as submitted (Yim/Apaka).

ITEM C-1: APPROVAL OF ISSUANCE OF LICENSE FOR ULUPALAKUA HUNTING CLUB FOR A COMMERCIAL SHOOTING PRESERVE

ACTION Unanimously approved as submitted (Himeno/Arisumi).

ITEM C-2: See page 4.

ITEM C-3: REQUEST FOR APPROVAL OF CONTRACT WITH MR. CHRIS ECKART FOR AVICULTURAL ASSISTANT CONSULTANT SERVICES AT THE OLINDA ENDANGERED SPECIES FACILITY, MAUI

ACTION Unanimously approved as submitted (Yim/Himeno).

ITEM D-1: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACTS VARIOUS FORESTRY AND WILDLIFE PROJECTS STATEWIDE

ACTION Unanimously approved as submitted (Yim/Arisumi).

ITEM D-2: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACTS VARIOUS STATE PARKS PROJECTS STATEWIDE

ACTION Unanimously approved as submitted (Arisumi/Himeno).

ITEM D-3: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACTS VARIOUS DOWALD PROJECTS STATEWIDE

ACTION Unanimously approved as submitted (Arisumi/Himeno).

ITEM D-4: APPROVAL FOR AWARD OF CONSTRUCTION CONTRACT - JOB NO. 31-OL-C1, WAIKIKI SEAWALL WALKWAY REHABILITATION, PHASE V, OAHU

ACTION Unanimously approved as submitted (Arisumi/Himeno).

ITEM D-5: CERTIFICATION OF ELECTION AND APPOINTMENT OF SOIL AND WATER CONSERVATION DISTRICT DIRECTORS

ACTION Unanimously approved as submitted (Himeno/Yim).

ITEM E-1: See page 7.

ITEM E-2: APPROVAL OF PROPOSED FUNDING OF PROJECT UNDER THE LAND AND WATER CONSERVATION FUND PROGRAM

ACTION Unanimously approved as submitted (Himeno/Yim).

ITEM E-3: APPROVAL OF GRANT-IN-AID FOR THE FRIENDS OF HEEIA STATE PARK, INC., OAHU

ACTION Unanimously approved as submitted (Yim.Himeno).

ITEM E-4: REQUEST TO USE THE WAILOA CENTER TO HOST A RECEPTION BY THE BIG ISLAND'S ALOHA FESTIVALS

ACTION Unanimously approved as submitted (Himeno/Yim).

ITEM E-5: See page 9.

ITEM F-1: DOCUMENTS FOR BOARD CONSIDERATION:

ITEM F-1-a: ISSUANCE OF LAND PATENT IN CONFIRMATION OF LAND COMMISSION AWARD NO. 9926, APANA 2, TO LUHI, BY APPLICATION OF HAMAKUA SUGAR COMPANY, INC., WAIKOEKOE, HAMAKUA, HAWAII, TAX MAP KEY 4-8-06:1

ITEM F-1-b: ISSUANCE OF LAND PATENT IN CONFIRMATION OF LAND COMMISSION AWARD NO. 9227 TO LIUA AKA LUIA, BY APPLICATION OF HAMAKUA SUGAR COMPANY, INC., KEAA, HAMAKUA, HAWAII, TAX MAP 4-8-01:4

ITEM F-1-c: ISSUANCE OF REVOCABLE PERMIT TO OLOMANA GOLF COURSE, INC., GOVERNMENT LAND AT WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-13:12

Mr. Young stated that Mr. Jarvis Shiroma, assistant to the president of the golf course, and Mr. Jake Mizuno, director and vice president, were both present to answer any questions. Mr. Paty asked about arrangements with the people who had leases. Mr. Shiroma said he spoke with them and cash settlements were made. Mr. Paty said there were some concerns by the course people that made it tough for the lessees to handle the pasturing and asked whether there was any way they could be accommodated. Mr. Shiroma stated that the 4.7 acres is landlocked and could not figure out a way to accommodate them. He said there were 4 or 5 cattle and they would have to go through the golf course, and the golf course allowed them to because of a "good neighbor" policy. Since they needed the property for parking, they asked Mrs. Farm to relinquish the lease but could not think of a way to settle with the cattle people.

Mr. Paty said he was supportive of the golf course's efforts to provide more facilities but at the same time he was suggesting that they go through the effort of seeing whether something could be done with Mr. Medeiros. Mr. Shiroma stated that when discussions were first held with Mrs. Farm they were not informed that the cows belonged to Mr. Medeiros. When Mrs. Farm relinquished her permit, Mr. Medeiros inquired as to why he was not told about the action. Mr. Shiroma indicated that they were willing to go back to try to figure something out.

ACTION In that case, Mr. Apaka asked that the item be deferred to the next meeting on Oahu. Seconded by Mr. Yim and unanimously approved.

ITEM F-1-d: SUBLEASE BETWEEN KALIHI-PALAMA MODEL CITY ASSN., SUBLESSOR, AND DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES ON BEHALF OF THE DEPARTMENT OF HUMAN SERVICES, SUB-SUBLESSEE, KALIHI-PALAMA MULTI-SERVICE CENTER, COVERING GENERAL LEASE NO. S-4403 AT KUWILI, HONOLULU, OAHU, TAX MAP KEY 1-5-07:64 AND POR. 14

ITEM F-1-e: ISSUANCE OF REVOCABLE PERMIT TO ROBERT G. AND RAY-JEN SAWINSKI, PORTION OF GOVERNMENT SUBMERGED LANDS AT KANEOHE BAY, KANEOHE, KOOLAUPOKO, OAHU, TAX MAP 4-6-22: SEAWARD OF 26

Mr. Young asked to amend the commencement date retroactively to March 1, 1992.

ACTION Unanimously approved F-1-a, -b, -d, and Item F-1-e, as amended (Arisumi/Himeno).

ITEM F-2: See page 10.

Mr. Young asked to present the following items together as all are similar in content:

ITEM F-3: STAFF REQUEST FOR AUTHORIZATION OF INTENT TO SELL A GENERAL AGRICULTURE LEASE AT PUBLIC AUCTION COVERING STATE LAND AT OMAOPIO HOMESTEAD, OMAOPIO, KULA, MAUI, TAX MAP KEY 2-3-03:6

ITEM F-4: STAFF REQUEST FOR AUTHORIZATION OF INTENT TO SELL A GENERAL AGRICULTURE LEASE AT PUBLIC AUCTION COVERING STATE LAND AT HAMAKUALOA, MAKAWAO, MAUI, TAX MAP KEY 2-9-06:21, 22 & 23

ITEM F-5: STAFF REQUEST FOR AUTHORIZATION OF INTENT TO SELL A GENERAL AGRICULTURE LEASE AT PUBLIC AUCTION COVERING STATE LAND AT HONOKALA AND MOKUPAPA, HAMAKUALOA, MAKAWAO, MAUI, TAX MAP KEY 2-9-05:20 & 32

ITEM F-6: STAFF REQUEST FOR AUTHORIZATION OF INTENT TO SELL A PASTURE LEASE AT PUBLIC AUCTION COVERING STATE AND AT WAIOHULI-KEOKEA, KULA, MAUI, MAKAWAO, MAUI, TAX MAP KEY 2-2-04:1, 2, 29 & 66

ITEM F-7: STAFF REQUEST FOR AUTHORIZATION OF INTENT TO SELL A PASTURE LEASE AT PUBLIC AUCTION COVERING STATE LAND AT KEANAE, WAILUA, KOOLAU, MAUI, TAX MAP KEY 1-1-08:5

ITEM F-8: STAFF REQUEST FOR AUTHORIZATION OF INTENT TO SELL A PASTURE LEASE AT PUBLIC AUCTION COVERING STATE LAND AT KALUAPULANI GULCH, KULA, MAKAWAO, MAUI, TAX MAP KEY 2-3-07:15

ACTION Unanimously approved as submitted items F-3 through F-8 (Arisumi/Yim).

- ITEM F-9: SET ASIDE OF STATE LAND FOR THE WAIMANALO FOREST RESERVE AND ADDITION TO THE WAIMANALO FOREST RESERVE, AND REDESIGNATION OF THE FORMER WAIMANALO FOREST RESERVE AT WAIMANALO, KOOLAUPOKO, OAHU**
- ACTION** Unanimously approved as submitted (Yim/Himeno).
- ITEM F-10: See page 4.**
- ITEM F-11: SET ASIDE OF STATE LAND FOR IOLANI PALACE GROUNDS AT HONOLULU, OAHU**
- ACTION** Deferred at the request for the Prosecuting Attorneys Office.
- ITEM Z-1: REPORT ON RESULTS OF PUBLIC AUCTION OF GOVERNMENT LEASES, ISLAND OF KAUAI, JUNE 19, 1992**
- ACTION** The report presented by Mr. Young was accepted by the Board.
- ITEM H-1: REQUEST FOR APPROVAL TO ENTER INTO FOUR RESEARCH CONTRACTS WITH THE UNIVERSITY OF HAWAII**
- ACTION** Unanimously approved as submitted (Yim/Himeno).
- ITEM H-2: REQUEST FOR APPROVAL TO ENTER INTO FOUR RESEARCH CONTRACTS FOR SMALL-SCALE AQUACULTURE DEVELOPMENT**
- ACTION** Unanimously approved as submitted (Yim/Himeno).
- ITEM H-3: REQUEST FOR APPROVAL TO ENTER INTO FOUR RESEARCH CONTRACTS WITH THE UNIVERSITY OF HAWAII**
- ACTION** Unanimously approved as submitted (Yim/Himeno).
- ITEM H-4: TEMPORARY VARIANCE FOR SOIL BORINGS AND TOPOGRAPHICAL SURVEY AT HAUULA, OAHU; TAX MAP KEY 5-4-4:POR. 4, APPLICANT: CITY AND COUNTY OF HONOLULU, BOARD OF WATER SUPPLY**
- ACTION** Unanimously approved as submitted (Apaka/Yim).
- ITEM J-1: DUTY FREE (IN BOND) CONCESSION, HONOLULU INTERNATIONAL AIRPORT, OAHU**
- ACTION** Mr. Garcia asked to amend the submittal, second page, first sentence to read "first year" instead of "first 11 months." Unanimously approved as amended (Himeno/Yim).
- ITEM J-2: RIGHT-OF-ENTRY, HONOLULU INTERNATIONAL AIRPORT, OAHU (ALOHA AIRLINES, INC.)**
- ACTION** Unanimously approved as submitted (Himeno/Apaka).
- ITEM J-3: APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4866, ETC., AIRPORTS DIVISION, KEAHOLE, HONOLULU INTERNATIONAL**
- ACTION** Unanimously approved as submitted (Himeno/Yim).

**ITEM J-4: ISSUANCE OF LEASE BY PUBLIC AUCTION, HARBORS DIVISION,
ALA WAI SMALL BOAT HARBOR, OAHU**

Mr. Garcia noted that this parcel will be turned over to DLNR on July 1, 1992. He said there is a submerged land area which will come under easements and is the area where the slips are located. He pointed out that Exhibit A lists all the items permitted on the land and general purposes. The second page indicates the use of the easement area as well as prohibited uses. The term is 40 years, and the appraisal is being done now. Mr. Garcia pointed out that the fixed annual rental is waived for the first year but there is a percentage rental at 5% of certain uses--the restaurant, vending machines, etc. In addition, there is a rental for the easement area, which is 25% of the normal mooring fees or 10% of the mooring fees that are collected in case the lessee's mooring fees are greater than the State's fee.

Mr. Garcia mentioned that the last three pages of the submittal consists of a house concurrent resolution which deals with this particular lease and pointed out that on the third page of the resolution, third resolution clause, second to last line "to bid on a long-term lease," means it will go out for public auction.

He also mentioned that the lessee is required to put in \$1,000,000 improvements for the docking and berthing facilities during the first five-year period.

Mr. Garcia also noted that this was a property under consideration for transfer to OHA, and OHA was aware of the property going to auction for 40 years.

Mr. Young suggested that it might be more appropriate to present the matter to the Board under the DLNR rather than DOT. There is no time problem, and DLNR might prefer different terms and conditions.

ACTION Ms. Himeno moved to defer the matter to the next Oahu meeting; seconded by Mr. Yim and unanimously approved.

ITEM J-5: AMENDMENT TO HARBOR LEASE NO. H-90-4, PIER 35, HONOLULU HARBOR, OAHU (HAWAII STEVEDORES, INC.)

ACTION Unanimously approved as submitted (Himeno/Yim).

ITEM J-6: CONSTRUCTION RIGHT-OF-ENTRY AGREEMENT, SAND ISLAND CONTAINER FACILITY, OAHU (MATSON TERMINALS, INC.)

ACTION Unanimously approved (Yim/Apaka), with Ms. Himeno being recused.

ITEM J-7: RIGHT-OF-ENTRY AGREEMENT TO CONDUCT TEST BORINGS, PORT ALLEN, KAUAI (CHEVRON U.S.A. INC.)

ACTION Unanimously approved as submitted (Apaka/Yim).

ITEM J-8: ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 23, HONOLULU HARBOR, OAHU (KERR PACIFIC) CORPORATION DBA HFM)

ACTION Unanimously approved as submitted (Himeno/Yim).

ITEM J-9: CONTINUANCE OF REVOCABLE PERMITS H-90-1653, ETC., HARBORS DIVISION

ACTION Unanimously approved as submitted (Himeno/Yim).

ITEM J-10: ISSUANCE OF REVOCABLE PERMIT NO. HY-92-063, HIGHWAYS DIVISION, INTERSTATE HIGHWAY, PEARL CITY, OAHU (HARRY AKANA)

ACTION Unanimously approved as submitted (Himeno/Yim).

OTHER BUSINESS: Dr. Raymond Chuan addressed the Board on the memorandum of agreement or grant of easement, which would be the final process in completing the preparation for the launching of the Star War Missiles on the island of Kauai. Although the matter was not on the agenda, he stated that he wanted to call certain issues to the Board's attention. He said the day before the Strategic Defense Initiative Organization announced its record of finding on the EIS. In spite of the fact that hundreds of communications have been submitted to the SDIO pointing out inadequacies in the EIS and the fact it has not negotiated a MOU or grant of easement to take over control of the land use in the vicinity of the Pacific Missile Range and which would include State land and Polihale Park.

He pointed out that there are other issues besides the inadequacy of the EIS. Comments submitted to the Army from State departments had not been addressed by the EIS. He said they want to also include the issue of safety and environmental impact, cultural impact, issues involving Hawaiian Home Lands and also the question of the original executive order under which that parcel was leased to the U.S. government. His group is currently researching that and will elaborate on violations of the terms of the executive order.

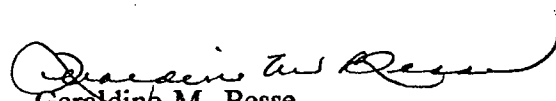
In a recent survey of residents by the University of Hawaii, he said, two-thirds opposed Star Wars and in the EIS itself the ratio of opposition was 6 or 7 to 1. Never since Nukolii has there been such intensive, wide-spread interest on the part of the residents of the island. It will affect the use of public land, as well as the tourist industry. Dr. Chuan asked the Board consider holding the meeting on Kauai when the issue is presented to the Board.

Mr. Paty indicated there was no commitment on the part of the Board for further hearings. Dr. Chuan said new information would probably be forthcoming on their research on the executive order and would like the opportunity to present it to the Board.

Mr. Harold Bronstein presented the Board with a written request for contested case hearing on E-1 on behalf of Waiola.

ADJOURNMENT There being no further business, the Chairperson adjourned the meeting at 2:15 p.m.

Respectfully submitted,


Geraldine M. Besse
Secretary

APPROVED:



WILLIAM W. PATY, Chairperson