

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

DATE: FRIDAY, AUGUST 28, 1992
TIME: 9:00 A.M.
PLACE: BOARD ROOM
KALANIMOKU BUILDING, ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII

**ROLL
CALL**

Chairman William Paty called the meeting of the Board of Land and Natural Resources to order at 9:05 a.m. The following were in attendance:

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

STAFF: Mr. Roger Evans
Mr. Dean Uchida
Mr. Michael Buck
Mr. Edward Lau
Mr. Wendell Kam
Mr. David Parsons
Mr. Dorothy Chun

OTHERS: Mr. Randall Y.K. Young, Deputy Attorney General
Mr. Peter Garcia, Department of Transportation
Mr. Walter Arakaki, Mr. Edgar Hamasu (Item F-6)
Mr. Sidney Fuke, Mr. John Paul DeJoria, Mr. Harry
McDonald and Mr. Roy Takemoto (Item H-3)
Mr. Lawrence Ing (Item F-4)
Mr. Jim Turse (Item F-1-d)
Mr. Richard Hirata, Mr. Neal Wu, Ms. Lynn Lee, Mr.
Darrell Yagodich (Item F-5)
Mr. George Atta (Item H-4)
Mr. Knud Lindgard (Item C-1)
Mr. Mike Bradley (Item H-1)
Mr. Clancy Greff (Item E-2)
Ms. Roslyn Van Zyle (Item E-1)

MINUTES The minutes of the meeting of July 10, 1992 were unanimously approved as submitted. (Arisumi/Yuen)

MINUTES Mr. Yuen pointed out the following corrections to the minutes of the meeting of July 24, 1992: 1) On page 10, 4th paragraph mentions Kohala Greenware which should be "Kohala Greenways." 2) On page 22, 1st paragraph mentions Kamalei Schoon which should be "Kanalei Shun." 3) On page 26, Item F-4 Regarding a Land Exchange said, "Unanimously approved as submitted.", the action taken was "approval in principal." With these corrections, Mr. Yuen moved for approval of the minutes of the minutes of July 24, 1992; seconded by Mr. Arisumi, motion carried.

MINUTES The minutes of the meeting of August 12, 1992 were unanimously approved as submitted. (Yuen/Arisumi)

ADDED ITEM Upon the motion of Mr. Arisumi and a second by Mr. Apaka, the Board voted unanimously to add the following item to the agenda:

Item I-2 Appointment of License Agent: Bass on Kauai, Island of Kauai

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

RESUBMITTAL--CLARIFICATION ON RENT CREDIT UNDER MASTER LEASE SAND ISLAND INDUSTRIAL PARK, SAND ISLAND, HONOLULU, OAHU, TAX MAP KEY 1-5-41

ITEM F-6

Mr. Dean Uchida said that Item F-6 was a request from the Sand Island Business Association (SIBA) for rent credit on the master lease at Sand Island Industrial Park. Effective July 1, 1992, the State entered into a master lease arrangement with the SIBA for the development of the Sand Island Industrial Park. Prior to that while all the permittees were under a month to month permit, the Board allowed for a one-cent (\$.01) per square foot rent reduction to allow SIBA as the managing agent for the industrial park, to do some clean up, provide guard services and things that normally the State would have done, as a standard procedure in taking care of the common areas in the industrial park.

"SIBA is asking that the \$.01 reduction be carried on past the July 1st date when the lease was issued. SIBA is asking for a credit on the first semi-annual payment. The annual payment is \$1.2 million dollars, the semi-annual is about \$623,000.00. They are asking for credit of \$153,383.88 based on providing services and doing clean-up of the area. The staff's position is that we had no problem with the rent reduction while the area was under permit, however, once the lease was issued effective July 1st, given the rent structure, given the fact that SIBA understood what they were getting into at the time the lease was issued, we don't think that credit is warranted at this time. So we are recommending that the Board not grant SIBA the request for the \$153,383.88 credit."

During the discussions, staff informed the Board that continuation of the \$.01 rent reduction under the revocable permit into the lease itself was never addressed in the negotiations with the SIBA. Discussion continued on the SIBA's reasons for the request.

Mr. Uchida informed the Board that in the last month or so they had assisted SIBA in getting rid of all the derelict vehicles. They worked with the City and County abandoned vehicles people in posting the derelicts which amounted to about 62. The City came down and pulled them all in a one shot deal at no charge to the State or SIBA.

Ms. Himeno asked for an explanation of the \$153,000 and the length of the \$.01 reduction.

Mr. Uchida explained, "What they're saying, they have incurred costs in excess

of revenue coming in about \$38,838.00 and they have a future anticipated cost for another \$115,000.00 to demolish some of the State buildings and to excavate some underground tanks they have found. So that the \$38,000 and the \$115,000 together gets you the \$153,838.00 figure on page 2 of the submittal."

Mr. Walter Arakaki, President of the SIBA said that they have now met with the Land Board for the 11th time regarding the Sand Island Industrial Park matters. He then proceeded to give reasons why the commitment made to SIBA on March 22, 1991 regarding a \$.01 rent reduction should be continued. "The Land Board at that time made a commitment to allow SIBA to use the \$.01 rent reduction for 1) payment for security and guard services, 2) clean-up and removal of State owned buildings and 3) clean-up and removal of derelict vehicles, debris and other uses as determined by the Chairperson.

"Ever since April 1st, 1991, SIBA has been submitting to DLNR a monthly financial statement prepared by certified public accountant on the revenues and expenditures involving the one cent rent reduction. The monthly revenue for the \$.01 rent reduction ranged from \$20,000 to a little over \$24,000. The total revenue as of June 1992, was \$345,555.10. The total expenditure was \$364,005.13. The total revenue was therefore less than the total expenditure by \$18,450.03 as of June 1992.

"There are still four more State owned buildings to be demolished and removed but first the asbestos needs to be removed from these buildings. ... There are at least three underground tanks which have been estimated at over 40 years old. These tanks must be removed."

Security guards have been hired and will definitely be needed until the industrial park is completed and the streets are dedicated to the city.

Mr. Edgar Hamasu said that his presentation of the overall costs would help to clarify Ms. Himeno's concerns. They currently estimate the infrastructure construction cost alone will be close to \$20 million. Their earlier estimate was between \$12-13 million. The City required the development of a sewage pump station within the industrial park and the cost is estimated at \$2 million.

SIBA is also required to pay for construction of two drainage systems extending from Sand Island Access Road to Honolulu Harbor and is estimated to cost between \$4-5 million.

Besides the \$20 million, he listed additional costs such as engineering and inspection, environmental assessment, phases I and II, construction management, subdivision lot stakeout, State lease rent, management fee, subdivision surety bond, asbestos abatement of State-owned buildings, demolition and removal of State-owned buildings, removal and disposition of underground tanks, clean up and removal of derelict vehicles and debris, security guard services and others including appraisal fees, electrical and telephone facilities charges, etc.

The \$.01 lease rent based on the proposed total leasable area of Sand Island Industrial Park amounts to \$25,564.00 per month or \$306,768.00 per year. As

presented at the Land Board's July meeting, SIBA had already expended more than \$2.7 million for the proposed industrial park.

Mr. Hamasu said that they wished to make a few corrections to the staff report.

1. On page 2, top portion, the \$153,383.88 is not pertaining to cost incurred by SIBA as stated by the staff.

That figure - \$153,383.88 - is the 6-month rental reduction based on \$.01 per sq. ft. per month on the proposed leasable area (2,556,398 sq. ft.) under the new subdivision (2,556,398 sq. ft. times \$.01 per sq. ft. equals \$25,563.98 per month times 6 months equals \$153,383.88).

2. The \$3,377,688 is based on 11.6 cents per sq. ft. per month for one full year. Under the Development Agreement approved by the Land Board on October 22, 1990 and the Master Lease, approved on April 22, 1992, the lease rent was set for the first 5 years at 4 cents per sq. ft. per month. The reasons for the reduction need to be stated: a) SIBA will be paying for the infrastructure and other related expenses as enumerated; b) SIBA will be managing the 73-acre, 110-tenant industrial park; c) With intensive construction activities taking place during the first 5 years, the 110 businesses will be seriously disrupted; d) Sand Island tenants are severely restricted in the sale and subletting of their premises in comparison with private industrial parks; e) The rent after the 25th year will be based on fair market rental on improved land i.e. with infrastructure improvement, for which SIBA had initially paid and f) State's interest to expand Hawaii's economy, as set forth in the preamble to the State Industrial Park Law.

3. On page 2, the cost SIBA incurred is \$364,005.13 and not \$153,383.88.

Mr. Hamasu then went over the break down of the list of expenditures under the \$.01 reduction for security guard service, security phone, installation of security gates, warning signs, demolition of buildings, removal of hazardous waste, portable toilet rental, etc.

4. On page 3, 2nd paragraph, they strongly disagree with the statement that because the rent is favorable, the rent credit not be allowed. They feel the Master Lease must be reviewed in its entirety and not be restricted to the rent alone.

They ask that the rent reduction be continued until full payment is made of the anticipated cost.

Ms. Himeno asked if he were asking for a one year reduction of the \$.01 rent reduction to cover the expenses of clean up and related costs.

Mr. Hamasu said that they could continue with the process, do the work and utilize the \$.01 deduction and submit the monthly financial statement. There's two alternatives, what the Land Board has suggested is one way of handling this matter, give a rent reduction for one-full year and then continue to account for the expenditures. Mr. Hamasu said that he was a little confused at this point

but felt that possibly Ms. Himeno's approach could resolve the situation here, one year rent reduction might take care of the expenditures.

Mr. Arakaki added, "Providing that they don't find any unforeseen weird tanks or hazardous material that's gotta be removed. Assuming the information that we have today is correct, we anticipate to spend about \$300,000.00 or little over per year but the best scenario is once the infrastructure is completed, then everything stops there. Then the infrastructure can be dedicated to the City. In case we get any derelict, or any policing that's required, to be done by the City."

More discussion followed on the \$.01 rent reduction and staff informed the Board that after a check of the records it did not show a cut-off date. Concern was expressed that applicant would come back to say they've encountered new problems.

Mr. Apaka asked if the four cents (\$.04) was in effect today to which Mr. Uchida responded that effective July 1, 1992, it went from \$.116 to \$.04.

Mr. Apaka commented that taking it down to 3¢ amounts to about an 8¢ overall reduction. He felt they needed to look at figures as staff and the Board only got the report this morning. He felt there should be more time to make a study and feels it is very difficult to make a decision at this time.

Mr. Yuen said that he wanted to comment on something similar to Mr. Arisumi's comments that on any construction project there are always unforeseen events that happen at some point. He was concerned that at the Board level they are constantly being requested to modify negotiations that have taken place between the applicant and staff. He felt that staff works or deals with this type of negotiations and they have a better handle on whether the basic agreement is fair or not.

Mr. Arakaki responded to the comment on unforeseen things during construction relating to that part of the State owned buildings and underground tanks. He said that they were following the revocable permit language where each tenant of Sand Island, before moving is obligated to remove what you put in. Some of the buildings were State owned and he feels that they are doing the State's job of removing them.

Mr. Hamasu felt that they had kinda clarified the reason why the rent was reduced as they are doing the infrastructure development, paying for all the other costs, managing the 73 acres for the 110 tenants and feels that these are relevant reasons.

Ms. Himeno commented that in view of the fact that the numbers that SIBA just supplied this morning are enlightening and perhaps staff hasn't had a chance to take a look and confirm these numbers and give a response to them. She said that it would be helpful for staff to work with SIBA if they need documentation on the numbers.

DEFERRED Ms. Himeno moved that this matter be deferred to the next board meeting held in Honolulu. Motion was seconded by Mr. Arisumi and unanimously carried.

**CDUA FOR A SINGLE FAMILY RESIDENCE AND RELATED FACILITIES,
AND AMENDMENT TO EASEMENT ALIGNMENT FOR ACCESS ROAD,
PUUWAAWAA, NORTH KONA, HAWAII, TAX MAP KEY 7-1-02:12;
APPLICANT: JOHN PAUL DEJORIA; AGENT: SIDNEY FUKU &
ASSOCIATES**

ITEM H-3

Mr. Evans presented the request for a single family residence in the resource subzone on privately owned land in Kiholo Bay. He made reference to page 14 which described the fact that the Board previously approved a rather large single-family residence in the area. Because of public outcry that occurred as a result of that previous residence, staff took a rather sensitive look at this application.

Staff is recommending approval relative to the land use aspect. In this recommendation staff took into consideration visual views from the highway, from the ocean and the size of the house relative to the neighborhood.

Mr. Yuen voiced his concern that this item should have appeared on the agenda as being located at Kiholo Bay and not Puuwaawaa, North Kona.

Mr. Yuen said that his major concern is the conspicuousness of the house and how it's going to look in the area. The area in Kiholo is about 90% State land and has been slated to be a State park for a long time. The private dwellings there are dominant in the area. He pointed out that the Bakken residence is a lot more conspicuous than this one is planned to be but mentioned that he would have been opposed to the Bakken house had he been on the Board at that time. He asked if the design of this house is basically the same proposed design since the application was made.

Mr. Evans said that since the application came in there have been some discussion relative to the design of the house particularly the design of the roof. This lot had a permit previously and it expired.

Mr. Arisumi asked, "Besides the roof, do you have any other comment?"

Mr. Evans responded that recommendation which is for approval goes along with all of those 20 conditions listed. Staff is not suggesting any carte blanche approval on this application.

Mr. Arisumi asked for a comparison of the structure of the Bakken residence to the applicant's proposed structure.

Mr. Evans said that the Bakken structure is about 15,000 square feet under roof and this proposed structure is about 6,600 to 6,650 square feet.

Mr. Arisumi commented that he would not have a problem with the structure being one-half the size. His concern would be regarding the roof.

Mr. Sidney Fuku, agent for the applicant acknowledged the presence of the owner and applicant, Mr. John Paul DeJoria, Sandy and Harry McDonald.

Mr. Fuku said, "The parcel is not a shoreline parcel, it's close to the shoreline

but there is an intervening State land between the subject parcel and the ocean, ranging between 15 feet and 40 feet from the actual certified shoreline. Secondly, as staff's report indicated, there was an approved plan for a single family residence on the site and was cleared. There were some improvements made and when Mr. DeJoria bought the property he was under the understanding that he could construct something over there but later found that the permits had expired and hence the application before you.

"The plan that was originally approved for the subject site consisted of about 8,648 square feet. Now what Mr. DeJoria hopes to have constructed is a dwelling that has about 2,900 square feet of living area and extensive lanai area but totally under roof would be 6,600 square feet. As Roger had indicated, the adjoining properties owned by the Bakken Estate and their dwellings are about 15,000 to 16,000 square feet under roof. The location of the proposed dwelling will be situated in an area that has already been cleared and Mr. DeJoria does not want to remove anymore coconut trees in that area as necessary. In the supplemental report we did submit to you a visual analysis which kinda showed from the perspective from the Kiholo Lookout to the Queen Kaahumanu Highway point to the subject site and as you can see the area is relatively heavily covered with coconut trees. The proposed dwelling would be very visible from the lookout point. From the ocean looking mauka, there's also a stand of coconut trees that would also remain. The whole concept behind this dwelling is to have it nestled within the existing vegetation."

Mr. Fuke said that the type of architecture which was initially of concern to the staff was of Polynesian or Indonesian style. The originally approved plan was a contemporary type of building. This would be constructed of what would be more befitting of the environment with heavy use of wood and earthy kind of things. Because the structure had a heavy Indonesian flavor, the owner wanted to have the spires basically go above the roof line. The decision was because it would have been less typical of the area, the decision was to remove the spires that would go above the roof line. The overall height would be less than 35 feet which is the maximum height limit allowed for a single family residence by virtue of Hawaii County's zoning code. The area falls within the flood zone and hence the building must be elevated to some extent in compliance with the flood insurance rate requirements.

More discussion followed regarding the height of the roof relative to the spires protruding above the roof line and clarification of the proposed roof line.

Mr. Yuen was very concerned of the height of the structure although he said that he appreciated the efforts to make it as unobtrusive as possible although he still felt that it's very obtrusive to the area. He felt if the overall roof line were lower it would help a great deal or if there weren't the things projecting above the roof line. He was also concerned of the structure from the ocean and beach view.

Mr. Fuke pointed out that there was a berm from the ocean and it rises up and falls down. If you were walking at the sea level, the berm might rise up to 8 feet high in that area.

Mr. DeJoria addressed the Board saying that he is an environmentalist

worldwide. When he bought this property with the plans, it was a contemporary structure which was approved, calling for 35 foot stainless steel poles going up the middle, stainless steel cables surrounding it like a tent and then netted off with a glass structure beneath it. He said when he saw this, and he walked that land, he knew that it was not Hawaii. He flew throughout polynesia till he could find a building that in his opinion that was not only ecologically friendly and would fit into the entire environment. He said that this proposed building which he has created with all the master builders in polynesia helps to neutralize the massive structure that is next door. He also pointed out that the foliage is not as thick as shown in the pictures.

Mr. DeJoria said that the house has already been built in polynesia and it's been disassembled to be assembled here. Right now it's sitting on the dock waiting to be shipped.

Mr. Roy Takemoto said that this would be the least conspicuous of the existing ten residents that exist there today.

Mr. Yuen said that he thought there were only three houses which had Land Board approvals. He did not think there were ten homes there and felt there were only 8 to 9 private parcels.

Mr. Arisumi asked if they planned to do more landscaping.

Mr. Takemoto pointed to the photograph of a scale model. The vegetation shown on the scale model is what the surveyor identified but not what exists today.

Mr. Evans said that should the Board entertain this on a positive basis staff would be prepared to modify Condition No. 6 that not only would they be required to submit 4 sets of construction plans, but also landscaping plans that would shield it from ocean view as well as the highway.

Mr. Yuen said that he is concerned of how it will look from the beach and not so much how it will look to someone on a boat.

Mr. DeJoria commented that should they be required to shield his house from the ocean view, the Bakken residence would still stand out.

Chairperson Paty referred to Mr. Evans suggestion of modifying Condition 6. He commented that before any work starts, the construction plans and landscaping plans to be checked out.

Mr. Yuen asked if the applicant knew how many and what trees would need to be removed.

Mr. DeJoria said to the best of his knowledge there would be about three palms to be removed. They would not be destroyed but moved to another location.

Mr. Harry McDonald asked to comment on the view from the ocean. He said that the berm that comes up, comes up and on top of that is a heliotrope that's probably 10 foot high. With that berm it's probably about 15 foot high. Walking

on the beach where the house is, they have a 40 foot setback from the property line and it's also 80 foot from the beach where you see that house and you will barely see the house walking down the beach. There's a big berm that goes down to the ocean and it's very steep. He said that he could place a 20 foot bamboo pole in front of where the house would be and you couldn't barely see the top of the pole from the beach. The area is heavily vegetated and the roof line will flow with the trees.

MOTION Mr. Yuen's motion:

1. Approve the land use with the conditions mentioned.
2. Construction plans be brought to the Board for approval. That with the construction plans, applicant submit a detailed landscaping plan for the Board's review. The landscaping plan to take into account, the viewplane from the makai looking mauka and mauka looking makai.
 - a. Before approving the design, applicant to place 32 foot poles with red flags atop and take a picture from walking along the beach and present an analysis to staff.
 - b. There's question of taking water from the pond and the pumping from the pond. (He was not sure how it would be monitored.) He suggested they dig a hole next to the spring and it would fill up with water and pump from there.
3. The Department of Agriculture to be notified when the shipment of the dwelling arrives because of their concerns of insect pests.

For clarification: Mr. Evans said that Condition No. 6 would be modified to add landscaping plans to go to the Board for approval; added Condition No. 21, no use of the pond for water; and added Condition 22 relative to the Department of Agriculture.

4. Although understood in the standard conditions, to be restated in writing that there is to be no removal of any vegetation except on the house site and for the three palm trees that have been mentioned.

DISCUSSION Mr. Takemoto commented that the small pond is being over grown. If you want to preserve the pond as an anchialine pond, then the naupaka needs to be cleared out.

Mr. Yuen said that the trimming of the naupaka around the small pond would be permitted. (Trimming in the past has been permitted.) He also voiced concern that there may be people that do not know that cutting of vegetation and trees in the conservation district is not permitted.

Mr. Fuke asked that should the Board approve this application favorably with amendments, the question from Mr. DeJoria's standpoint, can he begin working on having the buildings, the boards and necessary paper work started to ship it over from polynesia to Hawaii as it will take time. The ultimate construction time would be January of 1993.

Mr. Yuen said that the intent of his motion is that the Board has to approve the construction and landscaping plans before construction starts, whether he ships it, is up to him.

ACTION Ms. Himeno seconded Mr. Yuen's motion for approval as amended. Motion carried unanimously.

**PUBLIC AUCTION SALE OF A LEASE AT PULEHUNUI QUARRY SITE
(REVISED), PULEHUNUI, WAILUKU (KULA), MAUI, TAX MAP KEY 3-8-08:1
(POR.) AND 31 (POR.)**

ITEM F-4

Mr. Uchida said that Item F-4 is a request from Hawaiian Cement for sale of a lease at public auction at Pulehunui Quarry Site in Maui. He proceeded to present the current and proposed use of the area.

Mr. Uchida requested to make an amendment to the submittal in the Recommendation. In viewing the maps, staff found that a portion of the area that is going to be used in this license overlaps into an existing lease with the State and Alexander and Baldwin. Staff would like to get the Board's authorization to withdraw the small triangular shaped portion from A & B's lease and include it in this lease for the batch plant. Written concurrence has been received from A & B saying that they have no objection to the withdrawal. Staff would like to add under Recommendation, "C. To authorize the withdrawal of the land from the General Lease to A & B."

Ms. Himeno asked to be excused from participating on this item due to a conflict.

Mr. Lawrence Ing acknowledged the presence of Mr. Jack Bufford, President, Mr. Robert Tanaka, Engineer for the project and Mr. Bill Hornerman, Vice President of Operations from Maui. He said that the report is extensive and complete. They agree with the recommendations and have one request for modification and add one comment. He said that Hawaiian Cement for Maui is a major employer as they have 75 employees. Assuming that they are the successful bidder, during the first two years they would be building construction of improvements of not less than \$2 million and as a result there would be money going out and down-time due to the operations of construction activities.

They would like to make a request that the lease rent be waived for the first year. The comment he would like to add is that they have been approached by several Maui companies who wish to sub-lease smaller areas for short terms. He said that if they were the successful bidder, they would be coming back to the Board for approval of any subleases.

The Chairperson questioned the request that the Board waive the lease for the first year during the build up time. He then asked Mr. Uchida if the State could give consideration to this type of request regarding rent.

Mr. Uchida explained that in this case the applicant seems justified as they are intending to expand in excess of \$2 million for a new plant so it's not unreasonable for the State to give a waiver for the first year. Staff would not have an objection to the applicant's request.

ACTION Mr. Arisumi made the motion for approval as amended. Seconded by Mr. Apaka, motion carried unanimously.

Item F-1-d Issuance of Revocable Permit to City and County of Honolulu For Building No. 1028, Kapalama Military Reservation, Kapalama, Kalihi-Kali, Honolulu, Oahu, Tax Map Key 1-5-32:Por. 5

Mr. Uchida informed the Board that this was a request by the City and County of Honolulu for a revocable permit covering one of the buildings in the Kapalama area. Earlier this month the department granted a right-of-entry to the City and County to go ahead and start renovations to the buildings for their Operation Hands Up Program which is basically intended to house, train and feed single homeless people. The City, in cooperation with the State, on a one-year program wants to use the building for these homeless training type activities.

Mr. Jim Turse, City Housing Director began by thanking the Board as he felt it was quite remarkable through joint efforts they have been able to do something like this. He also acknowledged OSP, DBEDT, DOT-Harbors and many others. The purpose as stated is a work-shelter program. Each individual coming into the program signs a contract.

Mr. Turse informed the Board that this project is no longer a cooperative project with the State. Mr. Mits Shito of HHA informed them that they did not have the funds to participate in the program. They hoped the State would join them in the future. They would like to have the option should they be able to continue the program and should the State's program be delayed, to use this facility in the future.

Mr. Turse asked that Condition No. 8 be removed as they do not understand it.

Mr. Uchida said it was part of their standard conditions and it addresses any kind of unforeseen situation that may come up.

ACTION Ms. Himeno moved for approval of Item F-4 with the amendment to delete Condition No. 8; seconded by Mr. Arisumi, motion carried.

ADOPTION OF MEMORANDUM OF UNDERSTANDING RELATIVE TO CONVEYANCE OF STATE LAND AT KEALAKEHE, NO. KONA, HAWAII AND WAHIKULI, LAHAINA, MAUI FROM THE PUBLIC LAND TRUST TO HOUSING FINANCE AND DEVELOPMENT CORPORATION PURSUANT TO ACTS 317 AND 318, SESSION LAWS OF HAWAII 1992

ITEM F-5

Mr. Uchida began by passing out copies of the MOU to the members of the Board. He then explained that there were two MOU's and went over the procedures. He concluded by saying that staff was recommending that the Board adopt both MOU's subject to review by the Attorney General's Office and also to rescind the prior action authorizing the Department to enter into an MOU. The reason why the prior action was never finalized was because of the compensation question.

Mr. Richard Hirata, Housing Development Branch Manager of HFDC said that

they hoped to break ground in the Lahaina Project this month. One of the hold ups was the issue of ceded lands. Other concerns that came up related to sewers and water.

Discussion followed on the land zoning and it was determined that a small portion in Lahaina has been rezoned. Need for several appraisals were also discussed. There was a concern by a Board member of the presentation of this item as being, "To Be Distributed". Staff apologized. Mr. Uchida said that in discussions with HFDC, they felt the longer they wait they've already set the clock back and are about a month back in getting Board action.

Mr. Hirata commented that staff's write-up summarizes the statutes pretty straight forward.

Mr. Arisumi voiced concern on when construction would begin on the affordable housing.

Questions arose as to the date of the appraisal, would it be as of the time of the transfer from DLNR to HFDC, when will the value of the 20% or 30% be taken from and when will payments have to be made.

Mr. Hirata said that's one of the negotiations that's taking place. He thinks HFDC wants to use the time frame when the Governor signs the bill, which is June or July, or they might say when the Board takes action, like today.

Mr. Neal Wu of HFDC explained that the law is very specific. The appraiser must establish the evaluation no more than 90 days prior to conveyance date. If they had established January 15, 1993 as the conveyance date, the appraiser cannot value the property earlier than October 15, 1992 nor later than January 15, 1993. He can begin the process of his research prior to the 90 day period but the evaluation must be within the time specified.

Ms. Lynn Lee of the Office of Hawaiian Affairs (OHA) said that they generally have no objections to the MOU but only offer one clarification. This is a suggestion on page 3, paragraph 2, II. A. The paragraph ends with the prepositional phrase, "by either." She said that it's somewhat confusing as to whether the "by either" refers to the word conveyed preceding it or refers to the fact that these are records of compensation. The change that they offer would be, "OHA or DHHL would be compensated by one or more of the following methods with an amount to equal 20% of the fair market value as in project plans conveyed."

Chairperson Paty asked Ms. Lee to repeat the suggested change.

Ms. Lee read, "OHA shall be compensated by either one or more of the following methods with an amount equal to 20% of the fair market value of the housing project lands conveyed:"

Mr. Darrell Yagodich of the Department of Hawaiian Home Lands said that they support the passage with the recommended amendment suggested by OHA.

Mr. Hirata said that should this pass favorably, he would assume that they

would be negotiating with OHA and DHHL.

Mr. Yagodich said, "In the case of DHHL, we now owe them \$8 million, we bought the Keystone Property from HFDC and that's the first thing we'll be paying off with the proceeds from this and the balance if any we'll work out, how we want to take the balance."

ACTION Mr. Arisumi moved for approval of Item F-5 with the amendment on the Memorandum of Understanding suggested by OHA and DHHL which was approved by Counsel Young. Motion was seconded by Mr. Apaka and carried.

RECESS 11:30 a.m. -- 11:40 a.m.

**CDUA TO ENLARGE THE EXISTING EAST AND WEST MAIN DRAINAGE
OUTLETS AT KUILIMA RESORT, KOOLAULOA, OAHU, TAX MAP
KEY:SEAWARD OF 5-7-01:1 AND 20, APPLICANT: KUILIMA
DEVELOPMENT COMPANY; AGENT: MR. GEORGE I. ATTA, AICP,
GROUP 70 INTERNATIONAL**

ITEM H-4

Mr. Evans said that applicant is asking for a modification of standard condition No. 7 to change the one-year initiation date to begin construction to two-years. The rationale from their perspective for this request is that it is primarily due to

- 1) Economic situation that they currently face out there; and
- 2) Procedural difficulties in obtaining the various permits.

Staff does not see any compelling reason why such a deviation in this particular case would not be considered reasonable, thus staff is ready to modify their recommendation. The completion period would remain at three years.

Mr. George Atta of Group 70 International and agent for the owner of the Kuilima Land Development Company said that the only comments he would like to make thus far is that he would like a clarification of Condition No. 9. He had spoken to their civil engineer and they have no problem with the condition if it just refers to the sediment load which they are responsible for on their property. He gave an example, in the event, say Campbell Estate owns the land mauka of their property, should in the future develop the land or do something that would increase the runoff there, applicant's design would not be able to specifically meet this condition if they have to meet handle the future potential load on lands mauka that they don't own. The condition is o.k. and acceptable for present conditions and for whatever lands Kuilima Resort owns.

Mr. Evans said that those conditions refer specifically to that parcel of land which is under consideration as a part of this permit which is identified on page one.

ACTION Unanimously approved as amended. (Himeno/Arisumi)

ITEM C-1 PERMISSION TO ENTER INTO A SITE SPECIFIC AGREEMENT WITH DUCKS UNLIMITED INC. FOR THE DEVELOPMENT AND IMPROVEMENT OF THE HAMAKUA MARSH WETLAND, ISLAND OF OAHU

Mr. Michael Buck presented Item C-1 to the Board and explained how it came about. He explained that the Department got a \$100,000 grant from the Federal Government for the New Coastal Wetland Grant. Ducks Unlimited, Inc. received a conservation easement from Kaneohe Ranch of all this wetland area and has appraised as a land value \$450,000. Mr. Buck continued to explain in detail from staff's submittal. Staff recommends approval of this request.

Mr. Knud Lindgard of 448 Iliwahi Loop, Kailua, phone number 254-5333 said that he was not involved with the project of the Hamakua Marsh at all. He is a sportsman, hunter and fisherman. He objects and hopes the board will reject this application to do what they're trying to do. He claims that he has not been able to see the plans of this project. He feels this project will be taking wetlands, manicuring them, pulling out mangrove trees, making up canals and in general destroying the current habitat just to come up with something pretty to look at. Mr. Lindgard went into great length describing the area, expressing concern of spending of Federal and State funds and what he feels Ducks Unlimited will be doing to the area. In closing he asked that the Board take another look at what they are trying to do.

Chairperson Paty commented that stated in the submittal is, "An environmental assessment and management plan has been prepared by Ducks Unlimited Inc., which will also seek out and obtain all necessary approvals at the County, State and Federal levels before the project proceeds."

Mr. Yuen commented that the people on Mr. Buck's staff are completely dedicated to trying to help the wildlife in the area and he understands that what Mr. Buck is trying to say is when they have more specific plans there will be ways for you, Mr. Lindgard, to get involved and make comments.

Mr. Buck addressing the Chair said, "If the Board approves this submittal, if the plan is not approved, does not go through the hoops and it gets thrown back, none of this will happen. It is contingent on the plan for the actual wetlands development being approved and then having this whole thing moving." Mr. Buck said that they could keep Mr. Lindgard involved.

ACTION Unanimously approved as submitted. (Himeno/Yuen)

ITEM H-1 CONSERVATION DISTRICT USE APPLICATION (CDUA) FOR TELECOMMUNICATION TOWER AT KEAHOLE, NORTH KONA, HAWAII, TAX MAP KEY 7-3-49:36; APPLICANT: HAWAIIAN ELECTRIC LIGHT COMPANY

Mr. Evans made the presentation of the request by Hawaiian Electric Light Company in Keahole, North Kona, Hawaii for a telecommunication tower. Staff is recommending approval. Mr. Evans did point out the concerns by the Division of Land Management asking that should this be granted that it be subject to HELCO granting the State of Hawaii a right to use the telecommunication tower facility for future public telecommunication purposes

and that they be required to allow co-habitation on the tower unless signal transmission interference would occur.

Mr. Mike Bradley, Project Engineer for Hawaiian Electric Light Company said that their concern is basically where the communications equipment would be stored is in the existing control room and not so much the sharing of the tower. That room would contain all the controls for that station and untrained people could inadvertently black out the station. If they were to share the site those people would have to be escorted at all times and would be a burden on their company to do that since it is an unmanned station.

ACTION Mr. Yuen moved for approval as submitted. He felt that should an agency in the future need to use the facility, it could probably be worked out with staff and HELCO; seconded by Ms. Himeno, motion carried unanimously.

EXTENSION OF TIME REQUEST FOR CONSERVATION DISTRICT USE PERMIT HA-2055 FOR ACCESS EASEMENT AT KAUPULEHU, NORTH KONA, HAWAII, TAX MAP KEY 7-3-09:3 AND 16; APPLICANT: NANSAY HAWAII, INC.

ITEM H-2

ACTION Unanimously approved as submitted. (Yuen/Arisumi)

HOUSING FINANCE AND DEVELOPMENT CORPORATION'S REQUEST FOR RIGHT-OF-ENTRY TO CONSTRUCT PHASE II BACKBONE INFRASTRUCTURE AND RELATED APPURTENANCES FOR VILLAGES OF LA'IOPUA PLANNED COMMUNITY AT KEALAKEHE, NORTH KONA, HAWAII; TAX MAP KEY 3RD DIVISION/7-4-08:PORTIONS OF 17

ITEM F-12

Mr. Uchida explained that Item F-12 is in conjunction with Item F-5 that the Board earlier acted on this morning. This right-of-entry would allow HFDC to get in and start the Phase II development improvements at the Kealakehe site. Staff is recommending approval subject to the standard conditions.

Mr. Arisumi pointed out to Mr. Uchida that being this is the ending of August, suggested the commencement date be changed to September 1, 1992 to the ending of August 31, 1994. Staff had no problem with the change.

Mr. Yuen asked if an EIS had been prepared. Mr. Hirata responded that the EIS has been completed.

ACTION Unanimously approved as amended. (Yuen/Himeno)

REQUEST FOR A CONTESTED CASE HEARING AND A HEARINGS OFFICER ON THE SPECIAL USE PERMIT TO MAKE COMMERCIAL TOUR BOAT LANDINGS AT THE NA PALI COAST STATE PARK AND/OR HAENA POINT, KAUAI

ITEM E-2

Mr. Nagata presented Item E-2 going over all the details in the submittal. Staff is recommending that the Board approve the request for a contested case hearing and delegate the appointment of a hearing officer to the Chairperson.

Mr. Clancy Greff addressed the members of the Board saying that he did not understand what allows them to ask for a contested case when the CDUA had been granted 18 years ago. He could not understand what grounds they would have.

The Chairperson informed him that the Board works on the recommendations of the Attorney General's Office and queries like Mr. Bronstein's for a contested case are routinely sent to the Attorney General's Office to be determined if under their purview would they have standing to qualify for a contested case.

Mr. Greff again stated he couldn't see the reason they're asking for a contested case hearing and why was he being judged and not the other operators.

Deputy A.G. Young commented, "Mr. Greff, without proceeding too far into this area and thereby risking a potential conflict of interest, I might suggest to you that those are arguments which you may want to discuss with your attorney and which your attorney may be able to raise in your behalf at the contested case hearing. But it would not seem to be appropriate to discuss that at this Board meeting today."

ACTION Unanimously approved as submitted. (Apaka/Arisumi)

ITEM F-9 AMENDMENT TO PRIOR BOARD ACTIONS OF JULY 12, 1963 (AGENDA ITEM F-3) AND DECEMBER 13, 1963 (AGENDA ITEM F-10) AUTHORIZING FOUR (4) UNDERWATER SUBMARINE CABLE EASEMENTS AT MAKAHA, WAIANAE, OAHU, TAX MAP KEY 8-4-01:OFFSHORE OF 12

ACTION Unanimously approved as submitted. (Arisumi/Apaka)

ITEM C-1 See Page 14 for action.

ITEM D-1 PERMISSION TO HIRE CONSULTANT FOR JOB NO. 63-HF-C, HAWAII BRANCH, DIVISION OF FORESTRY AND WILDLIFE (DOFAW), HILO OFFICE COMPLEX, HAWAII

Mr. Ed Lau made the presentation of the D-Items.

ACTION Unanimously approved as submitted. (Yuen/Himeno)

ITEM D-2 PERMISSION TO ENTER INTO AN AGREEMENT FOR STATE WATER DEVELOPMENT AND WATER SYSTEM IMPROVEMENTS TO SUPPORT STATE PROJECTS IN NORTH KONA, HAWAII

After Mr. Lau's presentation, discussion followed after Board member Yuen asked how private dollars were worked into this. Mr. Lau said that currently there are no private dollars worked into this except that the County will be assessing the private developers. The source development that the State has in the project is for the State agencies only.

Mr. Lau said that if the agreement were approved on page 6, line 148 of the Memorandum of Understanding states that should a private entity want to participate they would have to come up front with funds.

The Liliuokalani Trust has informally indicated to the HFDC if the State wanted to utilize or build wells on their property, they would be amenable to that as long as when they needed it sometime later, that the State would then provide the water for their facilities.

Mr. Yuen had a question regarding an area of the Liliuokalani-State lands that is being burst by the State, are we going to get water from that in this agreement.

Mr. Lau responded in that sense he felt the answer was 'yes,' if HFDC has included that in the State Water Plans. All the State requires are reflected in the State Water Plans which are still being finalized.

ACTION Mr. Yuen moved for approval provided that the lands recently purchased from the Liliuokalani Trust are included in the project requirements. Seconded by Ms. Himeno, motion carried unanimously.

ITEM E-1 APPROVAL OF GRANT-IN-AID FOR THE HAWAII NATURE CENTER, INC., OAHU

Mr. Nagata informed the Board that there was a typo in the submittal on the third line in the 2nd paragraph. After Division of Forestry and Wildlife, the next word should be "is" and not in.

He also informed the Board that Ms. Roslyn Van Zyle of the Hawaii Nature Center was present.

Ms. Van Zyle had no comments to offer.

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM E-2 See Page 16 for action.

ITEM F-1 DOCUMENTS FOR BOARD CONSIDERATION:

Item F-1-a Access Agreement Between Dole Food Company, Inc. and Wailua Sugar Company, Inc., Grantor, Edward T. Silva, Lessee, and State of Hawaii, Department of Land and Natural Resources, Grantee, Covering Private Lands to Mt. Kaala, Oahu, Tax Map Key 6-8-07:1 and 2

Item F-1-b Assignment of General Lease No. S-5082 Between Ward Holmes, Assignor, and Hawaiian Trust Company, Limited, Assignee, Lot 53, Puu Ka Pele Park Lots, Waimea (Kona), Kauai, Tax Map Key 1-4-02:53

Item F-1-c Resubmittal--Issuance of Land License to L. Rego Dump Truck & Heavy Equipment, Kawaiele, Mana, Kauai, Tax Map Key 1-2-02:Por. 1

Item F-1-d Issuance of Revocable Permit to City and County of Honolulu for Building No. 1028, Kapalama Military Reservation, Kapalama, Kalihi-Kai, Honolulu, Oahu, Tax Map Key 1-5-32:por. 5

See Page 11 for action on Item F-1-d.

Item F-1-e Sublease Renewal Agreement Between GEM of Hawaii, Sublessor, and Advanced Micro-Image Systems Hawaii, Inc., Sublessee, General Lease No. S-4643, Kuwili, Honolulu, Oahu, Tax Map Key 1-5-20:6

Item F-1-f Assignment of General Lease No. S-4276, Lot 22, Hanapepe Business Lots, Hanapepe, Waimea (Kona), Kauai, Tax Map Key 1-8-08:40

Mr. Uchida requested that Item F-1-c be withdrawn from the agenda at this time. He then continued to present the documents for the Board's consideration.

ACTION Ms. Himeno moved for the approval of Items F-1a, F-1-b, F-1-e and F-1-f. Seconded by Mr. Apaka, motion carried unanimously.

WATER COMMISSION OF THE COUNTY OF HAWAII REQUESTS PERPETUAL, NON-EXCLUSIVE WATERLINE EASEMENT ACROSS STATE LANDS AT PUUKAPU HOMESTEADS, 1ST SERIES, WAIMEA, SO. KOHALA, HAWAII, TAX MAP KEYS 6-4-01:60 AND 6-5-04:7

ITEM F-2

ACTION Unanimously approved as submitted. (Yuen/Himeno)

DIRECT AWARD TO GTE HAWAIIAN TELEPHONE COMPANY INCORPORATED, PERPETUAL, NON-EXCLUSIVE UTILITY EASEMENTS ACROSS STATE LAND AT LALAMILO, WAIMEA, SO. KOHALA, HAWAII, TAX MAP KEY 6-6-01:POR. 2

ITEM F-3

ACTION Unanimously approved as submitted. (Yuen/Himeno)

ITEM F-4 See Page 11 for action.

ITEM F-5 See Page 13 for action.

ITEM F-6 Deferred. See Page 5.

AMENDMENT TO PRIOR BOARD ACTION OF MAY 22, 1992 (AGENDA ITEM F-10) AUTHORIZING DIRECT SALE OF REMNANT AT AUWAIOLIMU, HONOLULU, OAHU, TAX MAP KEY 2-2-03:95

ITEM F-7

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

RESCIND PRIOR BOARD ACTION OF DECEMBER 7, 1990 (AGENDA ITEM F-14) AUTHORIZING FOR ROCK REVETMENT STRUCTURE AT WAIALAE, KAHALA, OAHU, TAX MAP KEY 3-5-23:SEAWARD OF 38

ITEM F-8

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM F-9 See page 16 for action.

**AMENDMENT TO PRIOR BOARD ACTION OF FEBRUARY 14, 1992
(AGENDA ITEM F-9) CONCERNING KAUAI RACING ASSOCIATION'S
RACING EVENTS AT KAUAI RACEWAY PARK, MANA, KAUAI**

ITEM F-10

ACTION Unanimously approved as submitted. (Apaka/Arisumi)

**FRANK O. HAY, JR.'S, ON BEHALF OF CITIZENS UTILITIES CO.,
REQUEST FOR PERPETUAL, NON-EXCLUSIVE EASEMENT FOR
ELECTRIC TRANSMISSION LINE PURPOSES, KOKEE CAMP SITE LOTS,
WAIMEA (KONA), KAUAI, TAX MAP KEY 1-4-04:POR. 43**

ITEM F-11

ACTION Unanimously approved as submitted. (Apaka/Arisumi)

ITEM F-12 See page 15 for action.

ITEM H-1 See page 15 for action.

ITEM H-2 See page 15 for action.

ITEM H-3 See pages 9-10 for action.

ITEM H-4 See page 13 for action.

**APPOINTMENT OF LICENSE AGENT: PUA'S SPORTSMEN HAWAII,
ISLAND OF HAWAII**

ITEM I-1

ACTION Unanimously approved as submitted. (Apaka/Himeno)

ADDED

ITEM I-2

APPOINTMENT OF LICENSE AGENT: BASS ON KAUAI, ISLAND OF KAUAI

ACTION Unanimously approved as submitted. (Apaka/Himeno)

**RIGHT-OF-ENTRY AT MALA BOAT RAMP, LAHAINA, MAUI FOR
INSTALLATION OF NAVIGATIONAL AIDS (AMERICAN DIVERS, INC.)**

ITEM J-1

ACTION Unanimously approved as submitted. (Arisumi/Himeno)

**ISSUANCE OF REVOCABLE PERMIT, HONOKOHAU SMALL BOAT
HARBOR, KAILUA-KONA, HAWAII FOR MARINE PATROL OPERATIONS
(DEPARTMENT
OF PUBLIC SAFETY)**

ITEM J-2

ACTION Unanimously approved as submitted. (Yuen/Himeno)

**APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4900 AND 4902,
AIRPORTS DIVISION, LIHUE**

ITEM K-1

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM K-2 RENEWAL OF REVOCABLE PERMITS 2884, ETC., AIRPORT DIVISION, ITO, HNL, LIH, KOA, OGG, MKK, HDH

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM K-3 CONSENT TO ASSIGNMENT OF HARBOR LEASE NO. H-86-8, PIER 2 TRANSIT SHED, FORT ARMSTRONG, HONOLULU HARBOR, OAHU (PUGET SOUND TUG & BARGE COMPANY DBA HAWAIIAN MARINE LINES - CROWLEY MARINE SERVICE, INC.)

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM K-4 APPROVAL OF CONSENT TO SUBLEASE A PORTION OF THE PREMISES OF HARBOR LEASE NO. H-90-10, BARBERS POINT HARBOR, OAHU (MARISCO, LTD.)

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM K-5 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, NAWILIWILI HARBOR, LIHUE, KAUAI (COCA COLA BOTTLING COMPANY OF HAWAII)

ACTION Unanimously approved as submitted. (Apaka/Arisumi)

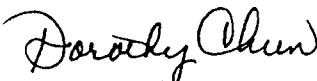
ITEM K-6 CONTINUANCE OF REVOCABLE PERMITS H-82-994, ETC., HARBORS DIVISION

Ms. Himeno requested to be excused because of a conflict with H-82-1011 for Matson Terminals, Inc.

ACTION Approved as submitted. (Arisumi/Apaka)

ADJOURNMENT The meeting adjourned at 1:05 p.m.

Respectfully submitted,


Dorothy Chun
Secretary

APPROVED:



WILLIAM W. PATY, Chairperson

dc