

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

DATE: October 16, 1992  
TIME: 9:00 a.m.  
PLACE: Kalanimoku Building, Room 132  
1151 Punchbowl Street  
Honolulu, Hawaii

**ROLL  
CALL**

Chairperson William W. Paty called the meeting of the Board of Land and Natural Resources to order at 9:09 a.m. The following were in attendance:

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

**STAFF:** Mr. Henry Sakuda  
Mr. Ron Walker  
Mr. Linford Chang  
Mr. Mason Young  
Mr. Ed Henry  
Mr. Don Horiuchi  
Mr. Richard Fassler  
Mr. Dave Parsons  
Ms. Geraldine M. Besse

**OTHERS:** Linnel Nishioka, Esq., Dept. of Attorney General  
Mr. Peter Garcia, Dept. of Transportation  
Mr. Sidney Fuke (Item No. F-3)  
Ms. Sandra Schutte (Item No. F-6)  
Mr. Phil Lees and Ms. Pat Tummons (Item No. F-7)  
Mrs. Martha Aki (Item No. F-8)  
Mr. Bill Rossler (Item F-14)  
Mr. Lex Smith (Item No. H-2)  
Mr. Bert Tsuchiya (Item No. H-3)  
Dr. Russ Schnell and Mr. Bernard Mendonca (Item  
No. H-4)  
Mr. Paul LaBroad, Ms. Connie Smales, Mr. Fred  
B. Smales, Mr. Clayton Hee, and Ms. Norma  
Wong (Item No. J-1)

**ADDED  
ITEM:**

Upon motion by Mr. Arisumi and a second by Mr. Apaka the following item was added to the agenda:

Item No. H-5 -- Request for Approval to Hire a Seaweed Consultant

Items were heard in the following order to accommodate those applicants and other interested parties present at the meeting:

**ITEM F-6: PANIAU PARTNERS REQUEST FOR AMENDMENT TO PRIOR BOARD ACTION OF AUGUST 9, 1991 (AGENDA ITEM F-8, AS AMENDED), BEING PORTIONS OF THE PUAKO BEACH DRIVE EXTENSION AND PORTIONS OF THE PUAKO BEACH LOTS SITUATE AT LALAMILO, SO. KOHALA, HAWAII**

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

**ITEM H-4: CDUA FOR A SUBDIVISION TO CREATE A LARGER LAND AREA UNDER EXECUTIVE ORDER; AND FOR SUBSEQUENT LAND USE TO CONSTRUCT A NEW 8,500 SQUARE FOOT CLIMATOLOGICAL/ATMOSPHERIC RESEARCH CENTER AT KAOHE V, HAMAKUA, HAWAII; TAX MAP KEY 4-4-16:01, APPLICANT: U.S. DEPARTMENT OF COMMERCE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

Mr. Henry explained that the item would be subsequently referred to the Division of Land Management as a separate process for disposition and asked that a condition be added-- that the Board approves a subdivision if the Division of Land Management deems it to be appropriate.

Applicants, Dr. Russ Schnell and Mr. Bernard Mendonca, were present and distributed brochures indicating the other stations around the world and explained that the purpose of the stations was to monitor the ozone depletion.

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

**ITEM F-14: DIRECT SALE OF ABANDONED ROAD RIGHT-OF-WAY, WAILUA, KAUAI, TMK 4-2-07:ABUTTING 12**

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

**ITEM F-8: DIRECT SALE OF LOTS 2 AND 2A, POUHALA HOMESTEADS, WAIKELE, EWA, OAHU, COVERED UNDER HOMESTEAD LEASE NO. 40, TAX MAP KEY 9-4-11:16 AND 40**

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

**ITEM J-1: ISSUANCE OF REVOCABLE PERMIT, ALA WAI SMALL BOAT HARBOR, HONOLULU, OAHU, FOR YACHT CLUB OPERATIONS (WAIKIKI YACHT CLUB)**

Mr. Dave Parsons explained that this was a request for a revocable permit to continue the operation of the yacht club. The proposed rental is \$9,000 a month. Mr. Parsons noted that the Board approved a public auction but subsequently the Board received a request from the Office of State Planning to suspend processing a lease package pending a determination of the possible acquisition by the Office of Hawaiian Affairs. The permit, Mr. Parsons, explained, would be effective until OHA has made a determination on the acquisition.

In answer to a question from Mr. Yuen, Mr. Parsons explained that the administration of the lease is "pretty straightforward." He said they do work with the yacht club in managing activities held at the Ala Wai Boat Harbor, such as the Kenwood. He said, however, most of the activities are done by the yacht club and Hawaii Yacht Club.

Mr. Parsons explained the rent was for the fast lands; as for the submerged lands revenue is received from the moorings, based on current rates charged the general public in the harbor.

Mr. Apaka asked about the water area; Mr. Parsons explained that under the terms of the license it is an exclusive easement to the yacht club for mooring purposes. Mr. Parsons noted that in the event the parcel was turned over to OHA it would only be the fast land and that the water easement would still remain under the Boating Division. At present, Mr. Parsons said the facilities are located on fast land. The moorings that are in the water portion were installed by the yacht club.

Mr. Paty noted a request for deferral from the Office of State Planning. Ms. Norma Wong stated that in 1990 when the terms of negotiations were agreed to by the Legislature the legislation did specify that OHA could take their back rent in cash, land or a combination of both. In 1992, the audits were concluded and OHA did specify the parcels of land they were interested in. Depending upon the appraisals and further discussion on terms, this particular parcel or other parcels may or may not be conveyed; however, since this parcel is in transition, she said, OSP strongly recommended that action not be taken on this parcel that would place it in a more permanent disposition pending the discussion. Ms. Wong stated that she fully expected the entire negotiations to be completed on all parcels by the end of this year. She clarified that both fast lands and the slips are under discussion. Ms. Wong stated that this piece of property was formerly under the Department of Transportation and OSP had discussions with the Director of DOT and agreed it best not to place the parcel for permanent disposition but to keep it in revocable permit. She said the office neglected to follow the land transfer to the Department of Land and Natural Resources and had relied upon previous conversation. Ms. Wong offered her apologies to the Board.

Ms. Wong stated there are certain terms which may include public access in perpetuity. She said that the State has made an agreement that this was a parcel that OHA could take under consideration but there are some parcels that had such overwhelming public use that the State would not give up.

Mr. Paul LaBroad of the Waikiki Yacht Club stated that the club is not a select group of individuals, that the membership is composed of a well-balanced group from all ethnic and social backgrounds, who share a common interest in water and recreation activities. He said the membership closely resembles the ethnic and social mix of the State and that sometimes there is a misconception of its membership. He said many avail themselves of the facilities and programs even without membership and that a substantial portion of dues are committed to the youth of Hawaii.

He said their concerns are protecting the viability of an organization that provides ongoing community service as well as economic benefit to the State. He said the benefits to the community are detailed in the committee report on H.C.R. No. 463, H.D. 1 from the last legislative session and asked that it be placed in the record. He noted that the resolution states: "Waikiki Yacht Club, situated on Public Trust lands, has been a leader in ocean recreational activities in Hawaii for many years, but rumors have recently surfaced that it may be rendered to the Office of Hawaiian Affairs in partial settlement of pending entitlement claims.

"Your Committee finds that the Waikiki Yacht Club is an invaluable institution that should be preserved and supported for the benefit of members and the general community of water recreation and sports devotees." It was adopted by the Legislature.

Mr. LaBroad said the concern was the delicate balance of a viable and successful recreational harbor might become imbalanced if a "disjointed management structure comes into play." He said it was important to understand that the facility is not just a single entity, but a cog in the machinery of a successful recreational harbor. He also pointed out the lack of recreational facilities and feared that "it might worsen due to an unrestrained focus on income over need or benefit. We are concerned that the cooperative redevelopment of the Waikiki Gateway and the Ala Wai Harbor would be jeopardized by an undue economic burden placed upon the organization. It would seem to me that one of the major mission statements of this board would be to ensure that the land and natural resources of Hawaii would be utilized in such

a manner as to maximize economic and social benefits to the Hawaii residents. Since a cloud has been over the head of our organization for some time now, this has had a devastating effect upon us. Capital improvements have come to a halt; membership recruiting has been stymied because of the uncertainty of our position; in expansion and improvement on our youth and community programs have had to be put on hold. Ladies and gentlemen, any further delay would be extremely detrimental to our organization. A month-to-month tenancy would only serve to weaken the organization month by month. It is imperative that we move on this due to our multi-national negotiations for major sailing events. Some of you may be aware of Kenwood Cups, the 1994 Kenwood preparations are underway now. This event brings an estimated \$12 million to our state. We are unable, at this moment, to make commitments to that event because of our present situation. November of this year we are hosting a national intercollegiate event at our facility. We are unable to make any future commitments because of our current situation. Trans Pacific Yacht race--preparations are underway at the very moment . . . and our inability to host this event, which has tremendous economic impact on the State of Hawaii is in jeopardy. We are unable to make commitments because of our present situation. We've been before this Board before and approval has already been granted for the lease, to go to public auction. We ask that you follow through with that. Any further delay will only beget more delay. And I say this because the . . . we've heard here in testimony earlier, be handled by the end of the year and I think that's only part of the battle. I think the reality of the situation is that it won't go much longer than that. The right of the Governor's Office to transfer title of public lands without legislative approval has already been challenged through S.B. 995, and I enter that item. . . . And I quote from the transmittal letter to the Honorable Wong, 'Your Committee finds the Governor requires authority to confer by this bill in order to efficiently carry out present and pending responsibilities related to land trust.' Again, I will not take your time going word for word. The situation is--I believe--everybody is in agreement on the OHA entitlements and the need for the settlement. It is a worthwhile effort. The situation, though, there is still mechanics involved in the transfer that need to be worked out and there are questions regarding it. So as it pertains to us and the time being of the essence in our organization to put us in limbo would be a devastating blow. We've been dealing with this administration for years in order to obtain the stability that we need to bid on major national and international events. Any further delay would jeopardize our proven ability to attract major events of significant economic impact to this State. The need to resolve this now, for all these reasons, and we ask your assistance to bring about a conclusion of the matter. We ask that you approve and stand by the approval of the bid and be allowed that to be the stand. We adamantly oppose this delay and would like to make this clear, and I hope all parties will make note of it that we do not propose any delay based upon the grounds of OHA's interest in the property as part of this settlement but on the grounds it creates undue hardship on our organization and prevents us from making commitments desperately needed to bring major national and international events to our State, and the loss of this income will not benefit people and the businesses of our State, and it would not reflect well on this administration. We propose the following in the hopes that it will help us all move forward to a solution of this rather awkward situation. Since OHA appears to be interested in accordance with press reports in the paper on this I guess, October 15, another article, OHA is interested in the parcel of land for its income potential. DLNR and this Board obviously have expressed an interest in having a recreational facility in the form of a yacht club as evidenced by the bid specs, the form of the lease approved by this Board on the 12th of August this year. Our group is interested in successfully bidding on a property with terms and conditions that will allow us to survive and to continue to be a valuable asset to the community. The only issue which seems to remain to be reconciled is the perception of value and the reality of that value as it pertains to this property. An appraised value is a perceived value. Only upon sale or long-term lease does perception and reality come together. Pier 60 runs through my mind. The State's perception of value was way up here but when it got to the public, when it got to the businesses' their perception didn't exist of the value so many times we don't, can't reconcile the perception and the reality, the value, and I assume that OHA's interested in getting the most bang for their buck in negotiations with the State. So our organization has successfully operated this type of facility for over 50 years. We are known and respected internationally for the quality of our program and events. We know that the economic potential of this type of facility, and I'm afraid that perception far exceeds reality.

If this Board would allow the property to go to public bid, the value of the property would no longer be speculative. It would be a known commodity. The value would be set. The market would determine what the value is without argument. Then, if the decision is to transfer the property to OHA so be it. The value is known; no guessing; no proverbial 'pig in the poke.' It would simplify the process of negotiations. It is interesting to note that when a person sells a stock he is convinced it is going to go down but it's also purchased by a person equally convinced it's going to go up. I don't believe that the parties involved in this transaction are interested in gambling on the outcome of that transaction. We believe it is in everyone's best interest to allow this property to go to bid and we see no reason why it would not be in the best interest of all parties concerned."

Mr. Paty asked what the commitment was in negotiating an event such as the Kenwood Cup. Mr. LaBroad answered, "The Kenwood Cup Corporation normally puts, the structure, there is a Royal Hawaiian Racing Club which is the organizing body for the Kenwood Corporation because of the magnitude of the event and the attendant liabilities that are involved. None of the yacht clubs wish to be the organizing authority because they have physical property, assets, what not at risk, so there is a central group, the Royal Hawaiian Racing Fleet, which is comprised of members of the yacht clubs in the community of Hawaii. So they organize it with, like Kenwood Corporation and the PanAm group, they provide funding for some of the upfront necessary expenses and the yacht clubs in particular, our club, carries a heavy burden for the physical aspects, and the manpower that is relative to that. So to give you an idea of the scope Kenwood Cup type of event, a national event of that size, typically requires in the neighborhood of 600-800 volunteers, and so I'm sure that it presses the budgets of these types of functions just to provide a free tee shirt for the volunteers, let alone any financial backing relative to that. Hawaii Yacht Club is the only other yacht club in the Ala Wai Harbor. They do not have any berthing facilities of any substance. The majority of the berthing facilities are at our location so we typically house three quarters of the fleet at our facility. We provide shoreside support. We're a conduit for basically all of the spending that goes into the community. We provide them a place to eat, gather and the stage for the events for family and guests to come so it's a significant commitment on our part because the numbers of people that arrive are quite large--they're in the thousands. . . . And just this year, we had a problem with the docking, the dock facilities where we staged all the boats and all of the equipment that we would send out to set the course on the water. The underpinnings of that dock were unsound and we had to repair those. We had to expend \$60,000 to repair 60 feet of dock with less than six months left on our lease. That's a pretty steep amortization from our standpoint and Iniki didn't help us either. We've suffered severe damage on some of our stationery piers and we've had to move boats out of the facility. Some of the underpinnings have been damaged as we simply cannot afford, at this point in time, to find the monies without a long-term commitment because we can't amortize, we can make no capital expenditures, we can't borrow the money so we have to look to the State for it to repair its facilities where normally we would be able to repair the facilities, offset that against rents but, again, we don't own, we built them, we fronted the money for it but we don't own them, they have reverted to the ownership to the State."

In answer to a question from Ms. Himeno, Mr. LaBroad stated that the Waikiki Yacht Club is a "not-for-profit corporation" but they do possess a "non profit" status. . . . as a conduit for their youth programs in order for the monies to flow through that. He stated that the membership dues vary from \$5 to \$100 per month. In return the members have access to the facilities, utilization of the equipment--swimming pool, dock facilities. There is additional rent, he said, of \$5.00 a foot.

Mr. Arisumi asked about contributions to other clubs. Mr. LaBroad stated that there was a fund-raising event recently for the Hawaii Sailing Foundation, the Education Foundation. These are non-profits and club members sit on the boards and there are no charges for their services. Money is given to all applicants who need money to go to the mainland to sail for sailing events, classes, etc. "Those monies are given to anyone regardless, not to our members--any member of any other yacht club, any person from the community-at-large who wishes to come to us, any school child, anybody who is needy, we give those funds without

question and without regard to whether they are a member or not. Our philosophy is that we will grow by giving to the community. The future of our club and the future of our State and sailing is in the youth of this State, and we have made major commitments to them and I stand on our record as to our ability. We take \$60,000 a year to fund a junior sailing program. This is open to the public. We advertise in the schools, the public schools . . . but that's just one item--members dedicating their dues for these kids and we've turned out Olympic medalists . . . ." He also explained that they have had a license for 40 years. He said that the lease never went out to bid. "A long, long time ago that was just wetlands, shacks, no one wanted it . There was a group of people, . . . got together, finally, after the war to get some things going and founded the Waikiki Yacht Club. The actual group was there way beyond that. It was shack and wetlands and that's where they started. One of the founding members of the Club was Duke Kahanamoku. He was on our first Board of Directors. Mrs. Kahanamoku is still a member today."

He said that other yacht clubs in the State would be eligible to bid on the auction but was not aware of any interested parties. Mr. LaBroad explained that the minimum on the auction is based on the appraisal and credits would be applied to the public benefits that would have to be assessed. Mr. Larry Cobb explained that they are still negotiating with the appraiser concerning the report.

Mrs. Connie Smales testified as follows:

"I am the volunteer chairman for the juniors sailing program of Waikiki Yacht Club. The proposal currently being considered, brings into question the value to the community of the programs of the Waikiki Yacht Club which occupies the land currently up for renegotiation by DLNR and/or transfer to another agency.

"Just what does Waikiki Yacht Club offer to the community and what dangers lie ahead that might jeopardize this value if it ceases to exist in its present form.

"WYC has promoted the sport of sailing since before World War II, and is the leading advocate for the sport in the state. It is the most active organization encouraging the enjoyment of the water whether through sailboat racing, fishing, paddling, education or the enjoyment of nature and our surroundings by just being on the water. It is the lead organization in Hawaii in supporting the Transpacific Yacht Race and it organized and substantially supports the highly successful and world renown international competition of the Kenwood Cup Ocean Racing Series.

"In addition and lesser known, is the community service that this club offers to the people of Hawaii. Our junior and adult sailing classes are open to all without the requirement of club membership. Many of our racing boats use crew on a regular basis while competing in ocean or classboat races and membership is not a requirement. The paddling program now has 5 canoes and anyone may become a part of this program as an associate member. The University of Hawaii sailing team uses the club's facilities for training, paying only the member cost for storage of their boats. Team members enjoy full use of the club as 'collegiate members' at no cost to them.

"The concept of transfer of this land and the possible result of charging exorbitant fees that rival those that might be expected from a developer or hotel operator place an undue burden upon the club and its 450 regular members who support the majority of the club's programs. I have often heard us referred to as a 'rich yachtsmen's club.' I can assure you that nothing could be further from the truth when you look at those who comprise its membership.

"For my part, I chair the junior sailing program and have done so for eight years. It is a wonderful program whose youngsters come from all areas of the island from Ewa Beach to Hawaii Kai and from Makaha to Kaneohe - even from neighbor islands. Many come just to

have fun in the summer and many go on to adopt a new hobby and to join in year-round dinghy competition here in Hawaii or go on to the mainland, for national events. The club supports this program by subsidizing its operating costs - now amounting to over half the annual expenses. Even those who are not club members pay only half of the actual program cost (not including rent and administration).

"What is wonderful is to see the confidence, sportsmanship and comraderie that results as these youngsters become aware that they can face difficult wind and sea conditions and have rigors of competition and accomplish their goals. You have no idea of the self-esteem that results when a child finishes his first difficult race through only his own efforts.

"If you create a situation whereby the cost of leasing the land in question is so high you face several possibilities:

"1. The club will become small and 'elitist' because of the high membership fees that would have to be charged to cover the rental costs as a large number of current members could no longer afford the membership dues.

"2. That good programs like the junior sailing program and the paddling program would have to be downgraded or eliminated because the club could no longer afford to subsidize their operating costs.

"3. That the scenario of an altered organization concerned with its high overhead costs would no longer have an interest in international sporting events because the 'worker' could no longer afford to join.

"These are real possibilities, and one which could affect the community - not just those who are paying club dues and subsidizing the programs that are open to all of Hawaii's citizens.

"Thank you for the opportunity to present my concerns regarding this vital issue."

Mr. Fred Smales also testified:

"My name is Fred B. Smales. I have been involved in racing and cruising sailboats for all my adult life. As I moved around the West in pursuing my vocation, I became a Commodore of five yacht clubs and two sailing associations. So I know how other venues treat matters being considered.

"As has been explained, Waikiki Yacht Club is really a misnomer, because it has few, if any, yachts - as most would visualize. I would guess the average size of our fleet is probably 25' or less. For political reasons, we probably should change our name to substitute 'sailing' or 'boating' instead of 'yacht' to avoid common misconceptions of what we are.

"WYC is anything but an exclusive organization, excepting that membership is encouraged from among those who have an interest in boating. Both sexes and all races are included and our membership rolls have never been closed. In fact, we have a membership drive going on now and would welcome your applications.

"We had been working with the Harbors Division of DOT for several years, in an effort to put necessary longevity into our endeavor to do long-range planning and attract additional members. We were pleased when the transfer of boating harbors and activities to DLNR was effective.

"We must borrow to fund needed capital improvements. It is impossible to obtain property loans beyond the next rental renegotiation date. Try amortizing a loan over a 30-day period.

"If OHA is to be our eventual landlord, so be it. They will inherit a fair lease, that has been carefully negotiated. If their sole purpose in delaying action is to double or triple our rent, as has been reported, that is hardly fair or equitable. Perhaps even illegal.

"We much prefer to be accountable to DLNR, which is charged with responsibility for recreational boating. What does OHA know or propose that would enhance activities in Ala Wai Harbor? Might it not instead conflict with a major function which is now in harmony with its neighbors and surroundings, performing useful public purposes?"

"Equity, prudence, fair play and common sense dictate that the DLNR lease be implemented, without further delay. There would appear to be no downside to such action.

"Thank you very much for allowing me to appear before you today."

In reply to a question from Mr. Paty, Mr. Smales stated that to run an event such as the Kenwood Cup it takes several hundred people. The interest of the community, he said, is more evident in the Transpacific race. He said the post-race is a festive occasion involving the whole community. Mr. Smales stated that the Kenwood Corporation funds the Royal Hawaiian Ocean Racing Club in the amount of \$600,000 over a two-year period. Additionally, the volunteers donate their time. He said that a few years ago he served on the Governor's committee trying to attract the America's Cup to Hawaii. He said while Hawaii didn't get the race, everybody involved in that activity wanted to come to Hawaii but that the only reason they didn't was because the Mayor of San Diego informed the San Diego Yacht Club in so many words--if you hold that race anywhere but in San Diego, when your lease comes up for renewal, I'll make a container yard out of that yacht club. Mr. Smales stated that everyone wants to come to Hawaii but what Hawaii lacked was facilities.

Mr. Clayton Hee of the Office of Hawaiian Affairs stated:

"The issue here as I've been listening to the previous speakers is not the Waikiki Yacht Club and the life of Waikiki Yacht Club from our perspective. We have been dealing in good faith--Norma Wong and Harold Masumoto, in particular, with regard to the possible acquisition of the facility. No discussion has been rendered between OSP and OHA with regard as to who should be the lessee or what should happen to Waikiki Yacht Club and no mention has been made with regard to specifically naming the club. I think some things need to be made very clear and that is the '92 session, for 56 issues it designated that OHA is owed \$112 million and that's for the use of Hawaiian lands. We still have yet another ten issues for the back rent owed. We still have yet to reconcile HHA and HFDC projects which have been leased and in some cases sold and we still yet have to do the prospective package so there are many issues and while these issues remain unresolved the Hawaiian people have continued to suffer. I don't think we can argue that or that it's necessary to argue that; however, as has been told to us the State has encouraged us to look at other ways of reconciling the \$112 million plus debt and one of those ways was to acquire land in lieu of cash. We did not look for Waikiki Yacht Club. Waikiki Yacht Club was offered to us. And it was offered to us in good faith. And we have hired an appraiser. That appraiser is going through the facility. We are not looking to acquire parcels to be a social agency. The Trustees have by vote determined that whatever parcels we acquire are to generate revenue so by that means so there's no misunderstanding we will appraise that property, we intend to acquire that property and we would put it out to bid not unlike any corporate structure would do. With regard to Dave Parsons not knowing if there are others, I can tell you straight out--there are others because they have contacted me. Waikiki Yacht Club hasn't contacted me. They've done an end run. They went to the Legislature and that's their prerogatives. But there are others. In fact there's some discussion on the Kenwood Cup. Let there be no surprises--Kenwood Cup has contacted me so we are looking to lift the Hawaiian people and is rightfully so by law. As far as doubling or tripling the rent, no discussion has taken place but we will let at a fair price and reasonable price but it's not going to be a handout. Hawaiians are done handing out. Hawaiian plate lunches are no longer free but that's not why we're here.



"I don't know about the membership. I do know some members. One owns Grand Pacific Life and he's a friend of mine but he's hardly indigent. The whole discussion as I've heard it has been the welfare of the Waikiki Yacht Club. OHA has not said--Waikiki Yacht Club, 'you leave.' What we have said is that we intend to look at that property if everything works out we intend to take the Administration up on their offer but I've communicated to you, Mr. Chairman, is that under normal circumstances in any other case, at least that I'm aware of, particularly with the farmers, they've been given 30-day revocable permits and when I was in the Senate and we worked together with the farmers to give them leases, these are not farmers behind me. These people don't fish for a living. They're not farmers and from the discussion I've heard, I'm kind of saddened because it's colored my view of what I've heard. As a native Hawaiian I take exception to the shoreline being called 'wetland shacks' and I would inform you that the first seafarers over here were Hawaiians so this is the way we're going to play the game so be it. I've done it. . . . I don't think it's fair for OHA to acquire a piece of property that already has a lease on it--that's like me selling my house that has two tenants to any one of you members and say--this is your property but you see these two tenants they're on a lease and that's what they're going to pay you. That's not fair to Hawaiian people or any other people, regardless. We have been dealing in good faith and we have not been reserved in our comments when we've been asked and it just happens that a couple of days ago Andy Yamaguchi called me and asked me what the status of the deal was and I was forthright."

Mr. Hee in reply to a question from Mr. Paty stated that he was encouraged to hear Norma Wong say that the time frame was the end of the year but he himself was not optimistic. The OHA appraiser has not yet made a determination. "Once the appraisal has been rendered to the Board it is a matter of us deciding whether or not to proceed with the negotiations. The Board has already determined that the Waikiki Yacht Club is a site, which we intend to acquire. Naturally, if the appraisal price is above and beyond our expectations, we may decline the invitation but that has not occurred and not what we expect to happen. If the OSP wants to look kindly and drop the appraised value then we would more than likely accept it but Norma has been on the up-and-up. It's always been the appraised value, the marketing potential, and that's the way we intend to proceed. We're not asking for a break and none has been given."

In reply to a question from Mr. Yuen, Mr. Hee stated that, "By the Constitution and enabling legislation we basically could do whatever we wanted to do with that parcel; however, in the case of this parcel, it is the Board intention to put it out to public auction and that has always been our intention. I believe that's why others have called, to express an interest in being included in the bid procedure. We would more than likely hire a property manager outside the Office of Hawaiian Affairs to take care of the actual collection of fees and dockings which need to be done." He further stated that he did not know whether revenue would be the sole consideration. "Naturally, the Board members have expressed concerns about access by the public so it is a major concern because until we get the \$100 million which we are entitled to, it has severely hamstrung the ability of the organization to provide services to our people. Which I don't think we can argue are on the lower end of the economic strategem."

Mr Yuen: "Suppose it was our lease, long term lease, and you knew exactly how much the State would get and that would affect the appraisal for the property. Suppose the State leased it out for less than the market value and the State is getting half of what the market value was that would bring down whatever the appraisal would be, if OHA still wanted it, and the State still wanted to give it up? Then the State would just have to come up with some more money someplace else to cover the \$112 million. Does that make a difference? I don't know what the numbers are --but just now, suppose the property is worth \$3 million encumbered by the present State lease whereby, the proposed State lease, where OHA, where the State is getting, say--\$20,000 a month, and the appraiser . . . says that the property's worth \$3 million because that's what \$20,000 a month is worth and suppose, and then you got it from the State and the appraisal would be \$3 million, now suppose your appraisals without it would be strictly market and we didn't have a kind of lease on it, it would be \$6 million - it's really the State that's taking the 'shaft' on that. The State would have to come up with an extra \$3 million to make up the difference. It's not OHA that would be taking the loss on that."

Mr. Hee stated there was a question of who was taking the "shaft." Mr. Hee stated, "As far as I'm concerned with Norma and OSP, there's been no breaks. Whatever our appraiser--in fact the \$112 million was determined real simply. They hired an auditor, Ernst & Young; we hired an auditor, Deloitte & Touche. The audit firms took the data available, they looked at the difference and they reconciled the differences. There was very little negotiation involved. The ten or so outstanding issues are going to take some creative discussions because we have reached impasse on certain issues and on other issues we need more information. But as far as taking a break here and there, as far as I'm concerned, I think Norma would say the same thing--there's been no give and take. We've relied on auditors and in the case of land acquisitions we've relied on appraisers who are compelled to abide by their own standards of ethics and procedures."

Ms. Himeno asked, "Wouldn't the appraisers appraise the property that's encumbered by long-term lease less than a revocable permit on it?" Mr. Hee said he imagined so but in the case of the particular parcel that is not an issue because there is no lease effective November 1. "We knew about this over a year ago because the State knew this lease was coming to an end. You mentioned to me, 'suppose it was \$20,000 a month.' They're paying \$9,000 a month. I said in the paper when asked by a reporter what I thought would be a rate, and I didn't know, I told him, 'depends on the appraisal.' However, if a single mother working in a bank, to park her car on Bishop Street, pays twice as much as the banker who has a yacht in Waikiki to park his boat, it would make sense to me that we're at least looking at twice as much. The scenario you presented to me is more than twice as much. There seems to be some concern about the price. The market will determine the price. The Office of Hawaiian Affairs is, as far as I'm concerned, a \$112 million corporation and that's why I said earlier that Hawaiian plate lunches are no longer free, that we would be treated as any other corporation."

Mr. Yuen, "Given that the State has to come with \$112 million, this property may be a part of that, but how much of it makes up depends on what it gets appraised at. What we're suggesting maybe is that if you have a lease on it the appraisal might be less and the State would have to come up with more property or more money to, from someplace else, to make up the difference."

Mr. Hee stated: "No. One, we don't wish to have under consideration acquiring a parcel with a lease on it regardless of your good intentions to lower the appraisal for the benefit of the Native Hawaiians. I appreciate that but it's not our desire to encumber a parcel that has a lease on it. No. Two, if that parcel does have a lease we would expect there would be a buy-out provision. We would exercise that prerogative and buy out the lessee with the intention, again, of putting that out to market, what the market will carry. We are here to better the conditions of the Native Hawaiians and money goes a long way in accomplishing that goal. If it's the Waikiki Yacht Club that's the high bidder, I'm all for it. Nobody's against the Waikiki Yacht Club. If it's some other entity, then I'm all for it, too. It doesn't matter to me. Money is colorless. I don't think you folks should execute a lease; it doesn't make sense--the nature of the discussion that you heard with the intention between the Office of State Planning and the Office of Hawaiian Affairs."

Mr. Yuen wanted to know why it was the policy not to take a property that was encumbered by leases. Mr. Hee clarified that OHA would prefer to have the land free and clear. "It's no different than any other developer who would prefer to acquire a parcel for future development free and clear. There are cases where developers acquire parcels that are acquired by leases and under those circumstances I'm sure serious consideration is given to buying out the lessee. Now, we would do the same but this is not a case where we're here before you saying, 'Well, we understand Waikiki Yacht Club has 10-15 years left.' No, we're not saying that; we're saying that this piece has been offered, there's no lease effective November 1 and that we have had 12 months of discussion. We're here for a purpose and these are our intentions to proceed. We're not-for-profit, too. We don't get paid. Now, I don't know why that should even make a difference but apparently it makes a difference. You have your recommendation from Harold Masumoto in writing; he sent me a copy. You have your department's recommendation."

Ms. Himeno stated she had questions to address to legal counsel and moved for an executive session. Her motion was seconded by Mr. Apaka and unanimously carried. (The Board was in session from 10:45 a.m. to 11:25 a.m.).

**ACTION** Ms. Himeno commented, "First of all, as board members of the State Land Board we have to take into account the public in general. I understand the Chairman of OHA comes from a different perspective and that his fiduciary duty is to Native Hawaiians. The Land Board's duty and fiduciary duty is different. In light of that, the Waikiki Yacht Club's service to the public and the youth programs that they conduct are commendable and I think the Land Board has been made aware of that through the various testimonies that have come forth today. But what we have going on now is really something of historic portion and that is the negotiations between the State and OHA to rectify the problems and to justify what went on in the past. In light of that I think it would be inappropriate for the Land Board to assert itself into the negotiation process by sending out to bid a long-term lease, and I think it would be best served to let OHA and the State, particularly the Department of Planning, with input, certainly, from the Waikiki Yacht Club and other members of the public to reach agreement and to what should be done and how the \$112 million is to be satisfied. In light of that, Mr. Chairman, I move that we issue a revocable permit to the Waikiki Yacht Club to go through a six-month period of time so it would expire on May 1, 1993, and that would, hopefully, give all the parties involved an opportunity to have their input. It would be after the legislative session is over and so that way I think we could have a full and fair hearing and input from the public." The motion was seconded by Mr. Apaka and unanimously carried.

Mr. Paty commented that he did not think it would be inappropriate to both the Chairman or the members of OHA or the yacht club to find an opportunity to sit down in an informal setting and talk out the situation.

**ITEM H-3: CONSERVATION DISTRICT USE APPLICATION (CDUA) AFTER-THE-FACT COMMERCIAL NURSERY FACILITIES AT PRINCEVILLE, HANALEI, KAUAI, TAX MAP KEY 5-3-01:16; APPLICANT: PRINCEVILLE CORPORATION**

Mr. Henry commented that staff at present is unsure of the location of the heiau and where the land use elements are. He said the Princeville consultant has determined that there apparently is no impact to the heiau; however, the staff has not received the final report for review. He said a site inspection has not been conducted because of Hurricane Iniki. Mr. Henry noted that there were seven violations and the recommendation is \$500 per violation, as well as a recommendation for denial of the application, that a DLNR inspection be conducted and if it is determined that the heiau has been damaged, the applicant will be asked to remove all structures. If there is no harm to the heiau, the applicant could then submit for reconsideration of the application.

Mr. Henry asked to amend the staff submittal:

- (1) Condition No. 4--that the fine be paid to the Department within 60 days after Board action; and
- (2) Condition 5--in the event of the failure of the landowner to settle the fine within the 60 days, the matter shall be turned over to the Attorney General's office.

Mr. Bert Tsuchiyaa, vice president of Princeville Corporation, showed Board members pictures of the structures and indicated that the structures had to be re-erected; the employees' lanai and soil mixing shed were completely destroyed, he said. The storage shed and office building had very minimal damage and the propagation shed likewise had very little damage. He commented that all of the structures are located in a confined area. He said the

nursery crop was 30-50% destroyed and that the value on the books for the crop inventory was \$2 million. He noted it was more book value as opposed to market value. What remains, he said, they could probably sell for \$250,000, given the market on Kauai and the conditions of the plants.

Mr. Henry commented that the heiau became an issue at the public hearing. The staff was instructed to determine the boundaries of the heiau. Mr. Tsuchiya stated that Dr. William Kikuchi, professor of archaeology at Kauai Community College, worked for Princeville on other issues. He said that Dr. Kikuchi had done some work, not on behalf of Princeville, but in conjunction with student field work at the heiau. Mr. Tsuchiya said he spoke with Dr. Kikuchi who indicated that the nursery had not encroached upon the heiau boundaries. Dr. Kikuchi stated he would try to get the report out but was still trying to locate material that may have been displaced during the hurricane.

Mr. Henry stated that the applicant thought the property was in the ag zone. Mr. Yuen wanted to know if in fact it is determined that the nursery is actually built on the heiau what kind of fines could be imposed. Mr. Henry indicated that the fines being imposed were land use fines but the fines regarding historic preservation are a different process under Chapter 6E.

Discussion followed on whether approval could be granted, subject to the report on the heiau or whether the application could be denied subject to reconsideration.

Mr. Don Horiuchi, staff planner handling the application, stated he has not heard from the Historic Preservation Division since the last board meeting and had no further information.

**ACTION** Part One: Mr. Arisumi moved to reduce the fine to a minimum of \$500 total; seconded by Mr. Apaka, who commented that \$500 was a fair value for the violation due to the fact that the applicant did go through the process of approval of plans through the Planning Commission and in doing so obtained a permit to build and it was no fault of theirs that were cited for a violation.

Mr. Yuen said he believed the reason the County approved the plans was that the County was informed by applicant that it was an agricultural district; that it was an honest mistake.

The motion was carried with a dissenting vote by Mr. Yuen.

Part Two: Mr. Arisumi moved for a continuance. Ms. Nishioka commented that she believed a decision had to be made today to approve the land use or deny it because if a continuance is made there might be a 180-day problem in that a decision was not rendered. Mr. Yuen added that his preference was that an approval not be granted until the report was made because the main issue was the impact on the heiau and there was no answer to that question. Mr. Yuen moved to deny and if it is legally possible to bring the application as a reconsideration without refileing that the applicants be permitted to do that.

Mr. Yuen suggested a time-frame of six months on the refileing if that's necessary or for reconsideration, then the Office of Conservation and Environmental Affairs should bring the matter before the Board to consider the removal of any structures.

Mr. Yuen clarified his motion was to deny the application subject to the possibility of bringing the matter before the Board, if possible, for reconsideration, without refileing. If there is no other way, his motion is that applicant be required to refile and if there is no action within six months staff would bring it up for an enforcement decision. Mr. Yuen expressed his opinion that he would like to have it as a reconsideration if possible to lessen the paper work and difficulty.

Mr. Henry suggested that the land use be approved for six months, and it would bring the application back to the Board for a final review. Mr. Arisumi stated he had no problem with the suggestion.

Mr. Arisumi moved that the land use be approved for six-month time frame, subject to a six-month time-frame and during that time that the applicant prepare a report for the department's review and analysis and a recommendation would be made to the Board on whether to continue or modify the land use should it be necessary following the report.

The motion was seconded by Mr. Apaka and unanimously carried.

**ITEM H-2: REQUEST TO AMEND CONSERVATION DISTRICT USE PERMIT OA-36 FOR IMPROVEMENTS AT HONOLULU COUNTRY CLUB, SALT LAKE, MOANALUA, OAHU, TAX MAP KEY 1-1-63:17, APPLICANT: HONOLULU COUNTRY CLUB; AGENT ALAN K. MAEDA**

Ms. Himeno asked to be recused from participating on this item.

Mr. Henry stated the submittal was a request to amend an existing conservation district use permit for the improvements of the Honolulu Country Club. He explained the background of the application: The Board approved the golf course on September 9, 1966; the approval was subject to the general provisions of DLNR's old Regulation 4 and the current rules of the conservation district. There have been a number of activities since that time--on June 8, 1992, a new master plan was submitted regarding internal-type improvements to the golf course. The Department's position is that the golf course as a land use was approved and this is a modification of that land use so a new application was not necessary. The new master plan included reconstruction of the tees and greens, modification and regrassing of the fairway, border reconfigurations and tree planting, landscaping, a new irrigation system and a drainage improvement system. The old application had no time limit on it so it is staff's consideration that they are coming back to the Board that they attend to the matter by approving the new master plan, subject to new existing conditions, one of which is a time-frame condition and because they want to keep the country club going, they want to keep the greens in operation, applicant is asking for an eight-year extension, which would allow them to do some greens improvement so that the club is not adversely affected; the main condition was that all construction on the golf course must be completed within eight years of the approval date.

In reply to concerns raised by Mr. Yuen, Mr. Lex Smith, attorney for the developer, apologized that the golf course architects were not present. His recollection, he said, of the 1966 permit was that it was quite broad and believed that the improvements proposed by the master plan were originally viewed by the consultant who believed it to be consistent with the initial permit.

Mr. Henry explained that the staff has been attempting to define the parameters of a new application and the criteria used is whether the use is "new, different or expanded land use." Mr. Yuen explained that his concern was whether there was a potential for a different environmental impact from the work being done and maybe the staff should consult with OEQC to determine whether there is a need for an environmental assessment. Mr. Henry suggested that maybe the matter should be deferred until resolution of the need for an EA.

**ACTION** Mr. Yuen moved to defer and suggested staff check with OEQC and have staff look at whether a need exists for an environmental assessment and whether there are any significant different environmental impacts from the original golf course by the reconstruction. The motion was seconded by Mr. Arisumi and unanimously approved.

**RECESS** The Chairperson called for a recess from 12:25 to 12:59 p.m.

**ITEM F-3: ROYAL VISTA ESTATES AND COUNTRY CLUB REQUEST FOR AMENDMENT TO PRIOR BOARD ACTION OF MAY 24, 1990 (AGENDA ITEM F-14, AS AMENDED) BEING GOVERNMENT PAPER ROADS, PUU ANAHULU HOMESTEADS, NO. KONA, HAWAII, TAX MAP KEY 7-1-05:PAPER ROADS**

Ms. Himeno asked to be recused.

**ACTION** Mr. Yuen moved for approval with the amendment that the Department of Land and Natural Resources personnel be allowed access on all roads in the subdivision. Motion seconded by Mr. Arisumi and unanimously carried.

**ITEM F-7: RESUBMITTAL -- DIRECT SALE OF REMNANTS TO PUULANI RANCH CORP., ET AL, GOVERNMENT "PAPER ROADS" AT PUU ANAHULU HOMESTEADS, NO. KONA, HAWAII, TAX MAP KEY 7-1-05**

Ms. Himeno asked to be recused.

Ms. Pat Tummons asked to address the Board and stated that her concerns were non-compliance with the Board rules and regs by the applicant, and the closure agreement. Mr. Young advised that those concerns were addressed in the conditions. She asked that a condition be added that the County of Hawaii be advised of the action of the Board.

**ACTION** Mr. Yuen moved to approve with the condition that the County of Hawaii be advised of the action of the Board; seconded by Mr. Arisumi and unanimously approved as amended.

**ITEM F-9: AMENDMENT TO PRIOR BOARD ACTION OF MAY 22, 1992 (AGENDA ITEM F-17) REGARDING THE UNIVERSITY OF HAWAII AND DEPARTMENT OF TRANSPORTATION'S REQUEST FOR WITHDRAWAL OF LANDS FROM THE SAND ISLAND STATE RECREATIONAL AREA FOR THE MARINE EDUCATION AND TRAINING CENTER AND PUBLIC BOAT LAUNCH FACILITY AT SAND ISLAND, OAHU, TAX MAP KEY 1-5-41:6 AND 130 (PORTIONS)**

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

**ITEM B-1: REQUEST FOR APPROVAL TO PROVIDE FREE FRESHWATER PRAWN SEED TO KAUAI FARMERS AFFECTED BY HURRICANE INIKI, AND TO DEFER PAYMENTS AND INTEREST OWED BY THE FARMERS TO THE DEPARTMENT FOR PURCHASERS OF FRESHWATER PRAWN SEED UNTIL JULY 1, 1993**

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

**ITEM C-1: REQUEST TO CONDUCT PUBLIC HEARINGS TO REVISE APPLICABLE SECTIONS OF CHAPTER 104, RULES REGULATING ACTIVITIES WITHIN FOREST RESERVES**

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

**ITEM C-2: MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE DIVISION OF FORESTRY AND WILDLIFE AND U.S. NAVY PACIFIC MISSILE RANGE FACILITY (PMRF) SERVICE FOR ENDANGERED FOREST BIRD CAPTIVE PROPAGATION**

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

**ITEM D-1: PERMISSION TO HIRE CONSULTANT FOR A WATER MASTER PLAN FOR NORTH KONA, HAWAII**

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

**ITEM D-2: CERTIFICATION OF SOIL AND WATER CONSERVATION DISTRICT (SWCD) DIRECTORS**

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

**ITEM F-1: DOCUMENTS FOR BOARD CONSIDERATION:**

**Item F-1-a: ASSIGNMENT OF GENERAL LEASE NO. S-5208 BETWEEN UNITED VIDEO CABLEVISION OF HAWAII, INC., ASSIGNOR, AND PARADISE CABLE PARTNERS DBA KAUAI CABLEVISION, ASSIGNEE, GOVERNMENT LAND AT MT. WEKIU, KAWAIIHAU, KAUAI, TAX MAP KEY 4-2-01:POR.2**

**ACTION** Ms. Himeno asked to be recused. Approved as submitted (Arisumi/Apaka).

**ITEM F-1-b: ISSUANCE OF LAND PATENTS IN CONFIRMATION OF LAND COMMISSION AWARD NOS. 7337 TO KAAIKOELE, 7346 TO KAINA, AND 7460 TO KUMUHEA AT KEOPU 3RD, NO. KONA, HAWAII, TAX MAP KEYS 7-5-01:2, 7-5-24:23, 24 AND 27**

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

**ITEM F-2: ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII REQUEST FOR APPROVAL IN PRINCIPLE OF A DIRECT LEASE OF GOVERNMENT LANDS SITUATE AT KAIMU, PUNA, HAWAII, TAX MAP KEY 1-2-06:POR.33**

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

**ITEM F-3:** See page 14.

**ITEM F-4: AMENDMENT TO PRIOR BOARD ACTION OF JANUARY 11, 1991 (AGENDA ITEM F-20) BEING DIRECT SALE OF EASEMENT AT HONUULA TRACT NO. 2, NO. KONA, HAWAII**

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

**ITEM F-5: SECOND AMENDMENT TO PRIOR BOARD ACTIONS FOR DIRECT SALE OF REMNANT BEING PORTION OF PAPER ROAD SITUATE AT PONAHAWAI AND KAUMANA, SO. HILO, HAWAII, TAX MAP KEY 2-5-06:PAPER ROAD**

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

**ITEM F-6:** See page 2.

**ITEM F-7:** See page 14.

**ITEM F-8:** See page 2.

**ITEM F-9:** See page 14.

**ITEM F-10: REQUEST FOR AUTHORIZATION TO UNDERTAKE APPRAISAL FOR PROPOSED ULUPO HEIAU STATE MONUMENT/KAWAINUI MARSH RESOURCE MANAGEMENT PLAN, KAILUA, KOOLAUPOKO, OAHU, TAX MAP KEY 4-2-13:POR. 31**

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

**ITEM F-11: RESUBMITTAL -- CLARIFICATION ON RENT CREDIT UNDER MASTER LEASE, SAND ISLAND INDUSTRIAL PARK, SAND ISLAND, OAHU, TAX MAP KEY 1-5-41**

**ACTION** Applicants asked that this item be deferred (Himeno/Arisumi).

**ITEM F-12: REQUEST TO APPROVE SECOND AMENDMENT TO LEASE OF STORAGE SPACE FOR THE DEPARTMENT OF THE ATTORNEY GENERAL, LITIGATION DIVISION, ASBESTOS UNIT, FOR STORAGE SPACE IN THE MODEL PROGRESS BUILDING LOCATED AT 1188 FORT STREET MALL, HONOLULU, OAHU, TAX MAP KEY 2-1-03:1**

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

**ITEM F-13: AMENDMENT TO PREVIOUS BOARD ACTION OF JUNE 9, 1989 (AGENDA ITEM F-10), HANAPEPE, KAUAI, TAX MAP KEY 1-8-08:35**

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

**ITEM F-14:** See page 2.

**ITEM F-15: REQUEST FOR APPROVAL OF PROPOSED LAND EXCHANGE FOR EXPANSION OF HANAIEI ELEMENTARY SCHOOL AND SUBSEQUENT SET ASIDE TO DEPARTMENT OF EDUCATION, WAIOLI, HANAIEI, KAUAI**

Mr. Young asked to correct the tax key number to read 5-1-05:07.

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

**ITEM F-16: RESUBMITTAL--WITHDRAWAL OF LAND FROM THE OPERATION OF GENERAL LEASE NO. S-4222 AND SUBSEQUENT SET ASIDE TO THE COUNTY OF KAUAI AS AN ADDITION TO THE KEKAHA SANITARY LANDFILL, KEKAHA, KAUAI, TAX MAP KEY 1-2-02;POR. 1**

Mr. Young stated that the County of Kauai has provided a mitigating measure and has attempted to address the concerns raised by the Board previously. Mr. Apaka commented that the County has informed residents of the need to separate trash and that the only items that are supposed to be dumped at Kekaha are household items, and not grass or tree cuttings. All lumber, metal are supposed to go to the temporary landfill Mr. Apaka said and was not sure "what they're looking for when they're asking for F-16" and added he thought they should be looking for more temporary sites as more debris will be dumped from home interiors and felt those should not be going to Kekaha and did not see the need for F-16. He said the County needs to come in with a recycling plan to submit to the Legislature and felt that was important. He said he believed they wanted to go down 10 feet and up approximately 50 feet. and noted it is a flat area and to bring it closer to the highway was not the best thing to do. He said there was some kind of lining installed in landfills and; therefore, the landfill could be anywhere. Mr. Young stated that because of the temporary sites the County is hiring a firm to come up with a closure plan and wasn't sure whether the plan would allow the debris to be left permanently at the temporary sites. What is allowed at temporary sites is specific. He said he



was informed that they did not know what the closure plan would be, that there might be a necessity to remove some articles from the temporary sites. The only site available that he is aware of, he said, is Kekaha.

Mr. Apaka noted that the Health Department allowed burning at the temporary sites but a lot of metal also went into the same trenches and it would be a massive undertaking to dig it up and take to Kekaha and felt more consideration should be given to that. Mr. Young said he was unsure as to what the Department of Health would allow under the closure plan. He said the concern was that a lot of unauthorized articles had been dumped there and burned and thought they were looking at Kekaha to remove that material. Mr. Apaka stated that it was not appropriate as the Kekaha site had been developed for household, biodegradable debris.

**ACTION** Mr. Apaka moved to defer until more information was received concerning the County's plan. The motion was seconded by Ms. Himeno and passed with Mr. Yuen voting no.

**ITEM F-17: AFTER-THE-FACT REQUEST BY COUNTY OF KAUAI TO USE STATE LANDS FOR TEMPORARY DUMP SITES FOR DEBRIS CAUSED BY HURRICANE INIKI, WAILUA, ANAHOLA, KAUAI**

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

**ITEM F-18: RENTAL WAIVERS FOR REVOCABLE PERMITS DAMAGED BY HURRICANE INIKI**

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

**ITEM F-19: RENTAL WAIVERS FOR GENERAL LEASES DAMAGED BY HURRICANE INIKI**

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

**ITEM F-20: REQUEST AUTHORIZATION TO RELIEVE ONLY THE PROPERTY OWNERS WHO SUFFERED DAMAGES TO THEIR SHORELINE PROPERTIES AS A RESULT OF HURRICANE INIKI BY GRANTING RELIEF AND AMENDING CERTAIN SECTIONS OF CHAPTER 13-222, HAWAII ADMINISTRATIVE RULES, AND THEREBY EXPEDITING THE APPLICATION PROCEDURE FOR SHORELINE CERTIFICATION**

Mr. Young stated that the certification procedure normally takes 2-1/2 months; staff is asking for certain waivers, such as the \$50 filing fee and the OEQC publication. Those which can be recertified will be done so by the Chairperson. Mr. Young stated that Ms. Nishioka suggested that normally when publication is made in the OEQC Bulletin there is a 20-day period for comment but further suggested that notice of any hurricane-related action be posted at the Kauai office in order to give the public the opportunity to inspect and comment.

Mr. Young stated that owners may replace what was originally existing but in some cases there is no "foot print" and which would require going out into the field. Mr. Young stated that in Iwa in a number of cases they did not get the original "foot print." They were looking at not only one lot but the whole coastline. Mr. Young stated that DLNR is doing the certification, which goes to the County which sets the setback. Mr. Yuen expressed his concern of vacant lands and suggested that they should come in under the normal procedure, that he did not want to see someone who had no structure prior to the hurricane come in and have the shoreline certified under the expedited rules [vacant land being defined as (1) no existing structures or improvements on the property prior to Hurricane Iniki and (2) use of land as vacant and not being utilized prior to the use as set forth by the County ordinance]. Because of the experience with Iwa, the Mayor stated that homeowners must go through the process but Mr. Young stated that enforcement was a concern.

Mr. Young suggested that an amendment be made that "vacant properties without structures the property owner must go through the normal process."

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

**ITEM H-1: REQUEST FOR APPROVAL TO ENTER INTO THREE RESEARCH CONTRACTS WITH THE UNIVERSITY OF HAWAII**

**ACTION** Unanimously approved as submitted with reservations expressed by Mr. Paty (Arisumi/Apaka).

**ITEM H-2:** See page 13.

**ITEM H-3:** See page 13.

**ITEM H-4:** See page 2.

**ITEM H-5: REQUEST FOR APPROVAL TO HIRE A SEAWEED CONSULTANT**

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

**ITEM J-1:** See page 2.

**ITEM J-2: CONTINUANCE OF REVOCABLE PERMITS, VARIOUS PERMITEES**

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

**ITEM K-1: LEASE - CONCESSION, HONOLULU INTERNATIONAL AIRPORT, OAHU; KAHULUI AIRPORT, MAUI; LIHUE AIRPORT, KAUAI (SMARTE CARTE, INC.)**

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

**ITEM K-2: VENDING MACHINE AGREEMENT, KEAHOLE AND HILO INTERNATIONAL AIRPORT, HAWAII (E-Z ROLLER, INC.)**

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

**ITEM K-3: LEASE - AUTOMATIC TELLER (VENDING MACHINE), MAIN TERMINAL LOBBY, HONOLULU INTERNATIONAL AIRPORT, OAHU (BANK OF AMERICA, FSB (FORMERLY HONFED BANK))**

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

**ITEM K-4: AMENDMENT NO. 1 TO LEASE NO. DOT-A-75-16, HILO INTERNATIONAL AIRPORT, HAWAII (UNITED STATES OF AMERICA, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION - NATIONAL WEATHER SERVICE)**

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

**ITEM K-5: APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS, 4848, ETC., AIRPORTS DIVISION, HILO, KEAHOLE, MOLOKAI, LIHUE, HANA, HONOLULU**

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

**ITEM K-6: RENEWAL OF REVOCABLE PERMITS 3661, ETC., AIRPORTS DIVISION, OGG, KOA**

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

**ITEM K-7: CONSTRUCTION RIGHT-OF-ENTRY, SAND ISLAND CONTAINER FACILITY, SAND ISLAND, OAHU (MATSON TERMINALS, INC.)**

Ms. Himeno asked to be recused from participating on this item.

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

**ITEM K-8: CONTINUANCE OF REVOCABLE PERMIT SH-84-1160, ETC., HARBORS DIVISION**

Ms. Himeno asked to be recused from participating on this item.

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

**ADJOURNMENT:** There being no further business, the Chairperson adjourned the meeting at 2:30 p.m.

Respectfully submitted,

  
Geraldine M. Besse

**APPROVED:**



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William W. Paty, Chairperson, BLNR