

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

DATE: FRIDAY, MARCH 12, 1993
TIME: 9:00 A.M.
PLACE: BOARD ROOM
KALANIMOKU BUILDING, ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HI 96813

**ROLL
CALL**

Acting Chairperson John Arisumi called the meeting of the Board of Land and Natural Resources to order at 9:00 a.m. The following were in attendance:

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

ACTING DIRECTOR: Mr. John Keppeler, DLNR

STAFF: Mr. Roger Evans
Mr. W. Mason Young
Mr. Ralston Nagata
Mr. Gary Moniz
Mr. David Parsons
Ms. Dorothy Chun

OTHERS: Edwin Watson, Esq., Deputy Attorney General
Mr. Peter Garcia, Department of Transportation
Mr. Renton Nip, Mr. Darrell Wong (Item H-7)
Mr. Jordan Wagner, Mr. John McLaren (Item H-7)
Representative David Hagino, Mr. Sean Browne
(Item E-1)
Mr. James Singleton (Item H-6)
Mr. Pat Cummins (Item H-5)
Mrs. Anne Lo Shimazu (Item H-4)
Mr. Jack Burford (Item F-3)
Mr. Marshall Ando (Item H-9)
Mr. Carl Christensen, Ms. Lynn Lee, Mr. Michael
Ebinger (Item F-11)

MINUTES

Mr. Apaka moved that the minutes of February 12, 1993 be approved. Mr. Yuen had one amendment to the minutes on Item F-15. He had wanted included in the minutes that the Department of Agriculture was cautioned about the fact that they would have to take care of determining who was going to pay for any kind of hazardous waste clean up left on the site. With that amendment, Mr. Yuen seconded the motion as amended and motion carried. Also note, that board member Ms. Sharon Himeno was absent and excused from the meeting of February 12, 1993.

ADDED

Upon motion by Mr. Apaka and second by Mr. Yuen, the following were added to the agenda:

ITEMS:

F-1-f Consent to Assignment of Grant of Non-Exclusive Easement, Nalani Kele, Assignor to David Keith McGregor, Assignee, Government Land at Kualoa, Koolaupoko, Hawaii, Tax Map Key 4-9-08:05

Z-1 Report of February 26, 1993 Auction Sale on Island of Maui

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

ITEM H-7

PARADISE PARK ANNUAL REPORT, FUTURE PLANS, AND EXHIBITS, MANOA VALLEY, OAHU, TAX MAP KEY 2-9-54:18, APPLICANT: MR. JAMES W.Y. WONG, PRESIDENT, PARADISE PARK, INC.

Mr. Evans apprised the board that this item had been deferred previously at the board's meeting of January 8, 1993. The reason for deferral was to provide the applicant the opportunity to meet with the Manoa Neighborhood Board to have the matter discussed and to have input from the community.

He informed the Board that the Manoa Neighborhood Board did meet on March 3 of this year but were not able to take an official position because they lacked a quorum. The unofficial vote after their discussions were 5 in favor of the 6 months trial period and 3 voted against the increase of the buses. The next scheduled meeting would be sometime in April.

Ms. Himeno asked Mr. Evans, "If the neighborhood board presented an official vote to lift the restriction on the 6 maximum number of buses per day, would staff change their recommendation on that item?"

Mr. Evans said that they would take that into consideration but stated that in terms of staff, they look at the neighborhood board system as it's currently structured as an advisory body and not a decision-making body. For the record staff would not look at any neighborhood board or any community organization as the approving or disapproving entity in the conservation district process. As far as the weight of consideration, their recommendation would be subject to change.

Several board members and staff went on a site visit to Paradise Park yesterday. Ms. Himeno commented that she noticed that the mazes had been tied into the ecological learning experience which could be defined as a botanical, zoological event.

Mr. Evans responded that if they were going to have an educational center then they should have a CDUA, if they were going to have a school, then the CDUA should be amended to provide for a school. He explained that they were taking the original CDUA and applying in their view a rather strict construction approach to it.

Mr. Renton Nip, Esquire, representing the applicant, introduced Mr. Darrell Wong, manager of Paradise Park.

Mr. Nip addressed the Board and as at past meetings he went over the history of the CDUA going over the approval as to the use and purposes. He explained that it was not for a botanical/zoological garden in that sense. He said that the approval was for the establishment of botanical and zoological gardens for recreational purposes. He continued with further explanations.

Mr. Wong said he had attended the neighborhood board meeting. He asked that the limit of buses be increased from 6 to 24 to help sustain themselves. He asked for consideration over the next 6 months on a trial basis. They will keep in touch with the community through the neighborhood board members before coming back to the Land Board. Although there was no quorum at the meeting, the vote was 5 to 3 in favor allowing them on a temporary basis to try to work with the 24 bus limit.

During further discussions the question of whether the walkways were included in the plans. Mr. Jordan Wagner, Esquire confirmed that the request for covered walkways were submitted in the original application.

More discussion followed. One suggestion was to require the applicant to submit to staff any significant changes.

Mr. John McLaren, Chairman of the Manoa Neighborhood Board said that he did not have the position of the neighborhood board currently although they have had this issue before their board twice and both times they ran out of time and had no quorum. He gave his personal view and history of the concerns of the park having lived in Manoa almost all his life regarding the traffic impact, noise and narrow roadway entrance to the park. The noise from the buses have subsided in the last few years. The neighborhood board feels because they live in the community that they should have a say in expressing their views. He personally remains opposed to Paradise Park and feels it is a theme park.

Mr. McLaren said that as a representative of the community he said he does not feel they should kill Paradise Park right now. He did not feel they have an obligation to see that they have an economic existence. As a representative of the community, he said that he had no objection to the request for 24 buses. He felt that although the vote at their last meeting was 5 to 3 to allow the increase of buses, it was not an indication of a change of feeling of the entire or majority of the community. He said Darrell Wong's willingness to work with the Manoa community has opened up channels of communication that they did not have previously with his father.

Before her motion, Ms. Himeno commented that the December 7, 1990 letter does state in the conditions that any future change or alterations in the exhibits at Paradise Park be approved by the Board of Land and Natural Resources, but not meaning any minute change, i.e. like changing a picture of one bird to another bird. After going on the field inspection to the park yesterday, she

noticed that there were three mazes that would fall within that definition and would require prior department approval.

MOTION Ms. Himeno moved that those three mazes be found in violation of the CDUA for fines of \$500.00 each, a total of \$1,500.00. With regard to the streamline approval process, that the chairperson has the discretion to administratively agree or not agree and to come to the board if there appears to be a problem. With regard to the number of tour buses, she moved for approval of the applicant's request to eliminate the restriction, providing the tour buses do not exceed a total, average of 24 buses per day and that the conditions to also state that this would be strictly for a trial period and it would be subject to community input during that 6 months period. Motion was seconded by Mr. Paty.

DISCUSSION It was clarified that the indoor maze was the Echo Maze. The approval would be giving after-the-fact approval for the present exhibits and no removal of the exhibits.

Acting Chairperson Arisumi commented that after the field trip to the park yesterday he noticed that the exhibits appeared to be very educational and the violation does not appear to be intentional but could have been a misunderstanding as to the original understanding. He felt that the \$1500.00 fine was too severe and he would recommend the minimum fine of \$500.00.

AMENDED MOTION Ms. Himeno said that she was willing to amend her motion to reduce the fine to \$500.00 for the one maze that is outside (Explorer Maze). Mr. Yuen seconded the motion, but suggested that the violation be for not seeking approval of the changes.

Mr. Evans said that the point before the board is not the merits, whether this is good or bad. Staff agrees with the Chairman that this is really a good thing but the issue is that applicant failed to comply with the directive to go to the department first.

Mr. Apaka also voiced that his concern was not what occurred but that they did not go to the Board for approval. He agreed that a violation occurred but not necessarily taking each item as a violation.

Mr. Evans asked to go over the amendments:

That on page 11 relative to the exhibits, no removal (that's after-the-fact), on the entrance sign.

Two sets of construction plans; detailed landscaping plan to be submitted; updated master plan to be submitted.

Stream-line the approval process.

A. The applicant will be allowed to have buses not to exceed an average of 24 per day on a trial basis subject to community input. At the end of the six-

month period there will be an evaluation meeting with the neighborhood board.

B. The applicant continues the annual report.

C. Do away with the monthly report which will be included with the annual report.

Fine. The fine will be for \$500.00, specifically showing the fine is because they should have come in for the outside Explorer Maze.

Ms. Himeno wanted to clarify another point, "Subject to the community, the 24 buses. That if there is strong community input before the six-months is up, that is something that the board would take a look at."

Mr. Evans added in terms of clarification regarding the evaluation, the community neighborhood board will have input but no final decision-making authority.

Mr. Paty added that the board will be sensitive to their concerns and it was important that Mr. Wong of Paradise Park try to maintain an aggressive sharing of information during that period.

Mr. Nip addressed the Chair with his concern. So that they don't run into problems at the end of the six-months period, depending on when the Land Board meets, the petitioner requests that it continue till such time the Board determines that a different limit should be set.

ACTION The Chairperson called for the question and the board approved the submittal as amended.

RECESS 10:20a.m. -10:50 a.m.

ITEM E-1 REQUEST TO ADOPT THE CONCEPT FOR A MONUMENT DESIGN BY ISAMU NOGUCHI AT KUKANILOKO BIRTHSTONES STATE MONUMENT, WAHIAWA, OAHU

Mr. Nagata presented Item E-1 to the Board going over the submittal in detail.

Representative David Hagino appeared before the Board and introduced Mr. Sean Browne who has commissioned a number of works for the State of Hawaii. He said that Mr. Browne was also a personal friend of Mr. Noguchi and was responsible for persuading Mr. Noguchi to donate the design to the State. Mr. Noguchi came up with this design about 20 years ago and had not been able to get the State to adopt the design because of certain problems. Rep. Hagino continued to elaborate on the design and information on acquiring the land. He also mentioned that he thinks this represents the last step to give it a fitting design concept that will protect it from the pineapple cultivation and thinks it will be a buffer from the development that is planted in the area and give it the kind of dignity that the stones deserve.

Mr. Browne presented a scale model for the Board members to view. Mr. Browne said that Mr. Noguchi basically came up with an idea that could be changed later on. He pointed out that what was in the middle represented the birthing stones and the birthing stones that are there now are not in that configuration, they're actually more in an ovoid. He continued to give explanation of the display of the size, dimensions, interpretation, etc.

Rep. Hagino said in response to Mr. Apaka's inquiry that he felt they would leave it up to the advisory committee to determine how Mr. Noguchi should be recognized, be it a sign or plaque. Rep. Hagino said that he had already talked to the librarian at the Wahiawa Library suggesting that they might set up a little exhibit at the library about Noguchi's works. Rep. Hagino commented that Mr. Noguchi was a Japanese/American artisan, his mother was American and father a noted Japanese poet.

Mr. Browne added that you could also say that Mr. Noguchi is probably the most famous American sculptor that America's produced in the 20th century.

Acting Chairperson Arisumi reminded Rep. Hagino that Mr. Nagata had mentioned that there are no funds and would have to go back to the legislature. Rep. Hagino said he was aware of this.

ACTION Motion was made by Mr. Paty that the Board adopt the concept of the Isamu Noguchi design including the local birth stones State monument; seconded by Mr. Apaka, motion carried unanimously.

ITEM H-6 REQUEST FOR TIME EXTENSION ON CDUP FOR PROPERTY CONSOLIDATION, RESUBDIVISION AND FIVE SINGLE-FAMILY RESIDENCES, ROUND TOP, HONOLULU, HAWAII, TAX MAP KEY 2-5-18:19, APPLICANTS: DR. AND MRS. ADRIAN BRASH; AGENT: JAMES S. SINGLETON

Mr. Evans made the presentation of the request for time extension. He then pointed out that a correction needed to be made for the record on page 2 of the submittal under the heading "DISCUSSION:" in the fifth paragraph which reads, "The applicant submitted the time extension request before the completion date of December 15, 1993. The present request, therefore, falls under subsection (1)." The subsection should be changed to read "subsection (2)".

Mr. Evans said that in this particular case, staff is recommending that the Board give approval because the request is reasonable to a one year time extension to complete construction on the project.

Mr. Evans mentioned that applicant's counsel, Mr. James Singleton was present to answer any questions that the Board might have.

There were no questions by the board.

ACTION Unanimously approved as submitted. (Paty/Himeno)

TIME EXTENSION AND SITE PLAN MODIFICATION FOR CDUP LA-2300 TO ESTABLISH A CO-HABITATION TELECOMMUNICATION FACILITY AT WAIAKEAKUA PEAK, LANAI, HAWAII, TAX MAP KEY 4-9-02:POR. 1; APPLICANT: MOTOROLA COMMUNICATIONS INTERNATIONAL, INC.; AGENT: CUMMINS AND CUMMINS LAND SURVEYING

ITEM H-5

Mr. Evans said that staff was recommending approval of the submitted site plan and the two-year time extension to complete the project. He also informed the Board that the applicant's agent was present to answer any questions.

Mr. Pat Cummins, consultant, representing Motorola responding to the Acting Chairperson's query said that they needed the time extension because at the initial offset of the project after the permit was obtained, the first stumbling block was unfortunate weather that delayed construction. A letter was sent to the department to explain the difficulties. Unforeseen to themselves and the landowner, there were some reorganizational changes that took place with Castle and Cooke, the landowner, and in their review of the construction drawings, they were asked to make some modifications that they hadn't originally anticipated.

- 1) Replace a steel tower with two single monopoles. The change to monopoles would blend into the surrounding Norfolk pines.
- 2) Another change is to elevate the building on piers rather than on a slab on grade. This would require excavation and transporting of concrete beams.
- 3) In harmony with the landowners plan, to allow the areas as a hiking trail area to increase or improve the landscaping. He said that the intent of the proposed modification is to lessen the potential visual and environmental impacts. They are now asking for a two-year extension.

ACTION Unanimously approved as submitted. (Himeno/Yuen)

TIME EXTENSION REQUEST FOR CONSERVATION DISTRICT USE PERMIT (CDUP) MA-2123A: STORM DRAIN OUTLET AT KAA NAPALI, MAUI, (COAST OF KAA NAPALI, TAX MAP KEY 4-4-2), APPLICANT: KAA NAPALI NORTH BEACH JOINT VENTURE; AGENT: CARLSMITH, WICHMAN, CASE, MUKAI AND ICHIKI

ITEM H-4

Mr. Evans said that staff was recommending approval of the request. He again informed the board that a correction needs to be made on the submittal on page 2 under, DISCUSSION, 5th paragraph. The subsection mentioned in paragraph 5 should be "subsection (2)" and not (1).

Mr. Evans also informed the board that the applicant's representative was present this morning with a proposed change of date which was not discussed earlier.

Mr. Arisumi commented that there was a moratorium on hotel building with the condition that they build a new road before they build this particular project.

Ms. Anne Shimazu of Am Fac J & B, requested to explain the situation. She said that in 1988 they obtained approval on their application and consequently they had to ask the board for several extensions. In 1988 AmFac went through some organizational and personnel changes. In that period in 1990 the County imposed a west Maui hotel moratorium and they were required to suspend any development on the beach until the by-pass had been constructed.

Ms. Shimazu said that they have technically started the project on the ag portion, makai of the highway. They're not able to begin anything in the Conservation District. She said that they would feel comfortable with the initiation of the project as of December 31, 1993. However, they would like to ask the board for a little more time to complete it which is really consistent with the concept of giving the applicant two years to complete the project. They are asking the Board to allow the deadline for completion to December 31, 1995 instead of 1994. They believe that they should be able to finish the project then.

Mr. Evans informed the Board that staff has no difficulty in the request presented by the representative of applicant. Under the conditions presented, staff could support that. They would hope that in the future, AmFac would inform staff of the proposed changes.

Acting Chairperson Arisumi said that he could understand the problem because of the moratorium and lots of projects on Maui are subject to the completion of the highway.

ACTION

Mr. Apaka moved for approval of Item H-4 as amended and the completion date be extended from December 31, 1994 to December 31, 1995. seconded by Mr. Paty, motion carried unanimously.

Mr. Yuen had a general question for Mr. Evans. "If we have a project that's partially in the conservation district, partially outside a project, and we have a condition that you commence construction within one year, does that mean you have to start in the conservation district within one year?"

Mr. Evans responded, "If the Board puts the condition in as a part of the Conservation Application which is limited to the conservation district, our interpretation would be that it has to start in the conservation district."

Mr. Yuen suggested that should similar cases come up, staff should look into it to say sometimes, specifically that you have to start in the conservation district within one year. Other times it maybe enough that they start in some part of the project within one year just to know that they are moving ahead.

AMENDMENT TO PRIOR BOARD ACTION OF AUGUST 28, 1992 (AGENDA
ITEM F-4) RELATIVE TO PUBLIC AUCTION SALE OF LEASE AT PULEHUNUI
QUARRY SITE (REVISED), PULEHUNUI, WAILUKU, MAUI, TAX MAP KEY
3-8-08:POR. 1 AND 3

ITEM F-3

Mr. Young presented Item F-3 and explained the details of staff's recommendation.

In the discussion by the board, it was explained that there was a crushing plant originally and current tenants were informed that the State would like to change over to a long term lease and that it would have to go through the auction sale.

Mr. Jack Burford of Hawaiian Cement explained his situation to the board.

There was more discussion on the difference of the upset price and the current land licenses, Also discussed was the amount of the royalty being paid and rental.

Mr. Burford pointed out that another problem they have is that normally you put the crushing plant on the same land that the stone and rock is on. Their competitor pays no rent on his crushing or batching plant or percentage, but only the flat royalty on the rock tonnage. Mr. Burford says that they pay the same royalty and now they have to pay the State in addition to the standard royalty, whatever that amounts to. They're at a disadvantage but because they are adjacent to the deposit, that's the biggest reason they went ahead with this.

ACTION Unanimously approved as submitted. (Paty/Apaka)

EXTENSION OF TIME REQUEST FOR CDUP MO-2293 WATER TRANSMISSION
LINE AT MOLOKAI FOREST RESERVE, CENTRAL MOLOKAI, TAX MAP KEYS
5-2-14:1-3 and 6-1-1:4, APPLICANT: R.W. MEYER, LTD.; AGENT: ASHFORD
ITEM H-8 AND WRISTON

Mr. Evans made the presentation for time request with staff's recommendation for approval. Request is coming under Subsection or Item No. 2 under Discussion on page 2 of Item H-8.

Mr. Evans clarified Condition No. 2 on page 3 for the Board members. He said that it referred to the basic CDUA that the Board approved. There is a requirement that this applicant present this project before the Water Commission to determine, if any Water Commission permits are needed. This condition says if there are Water Commission permits required and the Water Commission does not grant them the permit then this CDUA is void.

ACTION Unanimously approved as submitted. (Paty/Himeno)

It was suggested that the balance of State Parks Items and the Division of Conservation and Resources Enforcement be taken up before Items F-11 and H-9 which might be lengthy.

ITEM E-2

**REQUEST TO DISPLAY AN ART SHOW PRICE LIST AT THE WAILOA CENTER,
WAILOA RIVER STATE RECREATION AREA**

Mr. Nagata mentioned that staff had spoken to the applicant explaining their policies. The applicant requested that it be brought before the Board for its consideration. Staff's recommendation is to deny the request.

Mr. Yuen asked if this was a policy not to allow the posting of prices.

Mr. Nagata explained that they've tried to and believed that there has been some occasion in the past that the superintendent at the center has been trying to control it and they are trying to keep it as a policy. He felt that by Board action it may give them additional basis to dissuade others. He informed the Board that besides art works there are other varieties of displays such as, ethnic displays for the public at the center and there is no fee charged.

ACTION Mr. Yuen made a motion to approve staff's recommendation which was to deny the applicant's request to post a price list. Motion was seconded by Ms. Himeno and carried unanimously.

ITEM I-1

**APPOINTMENT OF LICENSE AGENT: ULUPALAKUA HUNTING CLUB, ISLAND
OF MAUI**

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM I-2

**APPOINTMENT OF VOLUNTEER CONSERVATION AND RESOURCES
ENFORCEMENT OFFICERS, ISLAND OF MAUI**

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM H-9

**LAND USE REVIEW AND COMPLIANCE REPORT ON CDUP OA-2444 FOR
KEEHI LAGOON CANOE CENTER COMPLEX PHASE IA, KEEHI LAGOON,
OAHU, OFFSHORE OF TAX MAP KEYS 1-1-3:3,4,6 & 138 AND 1-2-021:41 &
45; APPLICANT: DEPARTMENT OF TRANSPORTATION-HARBORS DIVISION**

In his presentation Mr. Evans began by saying that this was a review of a project by the Department of Transportation (DOT) that the Board had approved by way of a CDUA. This project was at Keehi Lagoon. Staff takes no pleasure in presenting the recommendation today being that DOT is a sister agency. Two specific conditions placed in the original CDUA as a standard condition, were that all applicants must submit construction plans to the department for review, done administratively, and because it was on State land that they were required to enter into discussions with the Division of Land Management to have the land disposed of in some form to them, prior to their going in to do the work. In this case, following the Land Board's approval of the CDUA, DOT complied with neither of these conditions.

Staff is recommending a total fine of \$1,000.00 for two violations listed on page 4 of the submittal.

During the discussion that followed by the Board it was brought up that this appears to be one division fining another division because the work being done by the DOT is for the Boating Division which has since been transferred to DLNR. It was explained that this has been done in the past also.

Mr. Marshall Ando, current project manager for the Keehi Lagoon Canoe Complex, said that he would like to apologize that it was an oversight and it was unintentional. He said that they would be more careful in the future.

Mr. Paty commented that it would be counter-productive to assess the fine to have it essentially "rob Peter to pay Paul" in one pocket to another. He said that although they have apologized, DOT is not one that has a record that we would want to hold up as an example. He said that perhaps it could be conveyed back to DOT that the fact that we are not assessing the fine does not indicate that we are not displeased.

ACTION Mr. Paty recommended that the Board dispense with the fine and proceed with the balance of the recommendation. Seconded by Ms. Himeno, motion carried unanimously.

It was also suggested that the Board move up the J-Items for the Division of Boating and Ocean Recreation, followed by the K-Items.

ITEM J-1 ISSUANCE OF REVOCABLE PERMIT, WAIANAE SMALL BOAT HARBOR, OAHU FOR MANUFACTURE AND SALE OF ICE, ETC. (MESSERS. MALCOLM K. AHLO AND VICTOR J. RAPOZA)

ACTION Unanimously approved as submitted. (Himeno/Paty)

ITEM J-2 ISSUANCE OF REVOCABLE PERMIT, ALA WAI SMALL BOAT HARBOR, OAHU FOR OUTDOOR DINING AND POOL DECK AREA ON BOARDWALK/AIR SPACE (JOWA HAWAII COMPANY, LTD.)

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM J-3 ISSUANCE OF REVOCABLE PERMIT, KEEHI LAGOON, OAHU FOR EXPANSION OF EXISTING MARINA (KEEHI MARINE, INC.)

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM J-4 ISSUANCE OF REVOCABLE PERMIT, LAHAINA HARBOR, LAHAINA, MAUI FOR TICKET BOOTH SITE (SCOTCH MIST SAILING CHARTERS, INC.)

ACTION Unanimously approved as submitted. (Apaka/Himeno)

ITEM J-5 ISSUANCE OF REVOCABLE PERMIT, KEEHI SMALL BOAT HARBOR, OAHU FOR MANUFACTURE AND SALE OF ICE (MR. MARK D. NOVAK)

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM J-6

ISSUANCE OF REVOCABLE PERMIT, HONOKOHAU BOAT HARBOR, KAILUA-KONA, HAWAII FOR SITE OF PORTABLE BUILDING FOR STORAGE OF SAILING CLUB EQUIPMENT AND SUPPLIES (KONA SAILING CLUB)

ACTION Unanimously approved as submitted. (Yuen/Himeno)

DISCUSSION Acting Chairperson Arisumi said that he had a few questions and requested that it be a matter of record.

His first question to Mr. Parsons: How do we assign the slips in Maalaea?

Mr. Parsons responded: The assignment of slips in Maalaea for recreational boaters or commercial fishermen is on a first come, first serve basis. For those commercial permittees, there's a provision in the statutes that the owner of any business can sell, but the permits remain with the corporation. There is a very slow turn-over in commercial slips there. Normally if there's a company that has a commercial business with a commercial slip and the owner wants to get out, he can sell the company and the permit will stay with the company so the slip will not become vacant until assigned to someone else.

Second question: There are people that have a commercial permit, most of the business side in Molokini. When they sell their boat, how long can they hold their permit?

Mr. Parsons: It depends on the circumstances. Normally we do have a requirement on a commercial permit, the vessel itself. They have a minimum amount of time, I believe it's 30 days to come in with a new vessel unless they present strong arguments or good cause as to why they should be granted additional time.

Acting Chair Arisumi brought up the case of a person that was transporting drugs, had two boats in Maalaea Harbor and he was locked up in jail. Now that he's out of jail he's trying to sell the slip. Is this possible because of a change of stock ownership?

Mr. Parsons: Yes, if he owned the company and the permit was in good standing, he still has the right to sell that company and the permits would stay with that company for that slip.

Acting Chair Arisumi: Do they also have to be in operation so that the State doesn't lose any revenues?

Mr. Parsons: Our rules state that specific minimum gross receipts are required before they can renew their commercial permit.

Acting Chair Arisumi requested the Division of Boating and Ocean Recreation do a complete review of the number of commercial permits to go to the island of Molokini. He felt a moratorium should be set up or it would be a similar situation like Hanalei.

Mr. Parsons responded that they were aware of the situation and have been working with the Aquatic Resources Division to come up with a joint effort to address the use of Molokini with boats that have permits either from Maalaea or the Kihei launching ramps.

During further discussion it was brought out that there are three over-layers of jurisdiction, the marine patrol, the Coast Guard and DOCARE. Regarding the suggestion of placing a moratorium on commercial permits to Molokini, Deputy Attorney General Watson commented that there is a procedural requirement. Staff should be instructed to come up with a recommendation to the Board to make an announcement of a pending moratorium as is done in fishing areas and other areas.

Mr. Parsons said that presently they are working on proposed rules waiting to go to public hearings regarding the maximum number of commercial permits for Maalaea Harbor with respect to the number of permits that can be granted for the use of Maalaea Harbor for vessels moored outside of Maalaea. Right now they have two permits for vessels not moored within the harbor, they're allowed to come in and use the harbor facilities to load and unload passengers.

Acting Chair Arisumi requested that a complete report be made back to the Board regarding the loading of fish, and the history of a particular cruise line that has had their permit since 1989.

Mr. Parsons informed the Board that this issue has gone through litigation and it would not be a problem to get the entire history for the Board.

ITEM K-1 REQUEST FOR PROPOSAL (RFP) FOR OPEN TAXICAB MANAGEMENT SERVICES, HONOLULU INTERNATIONAL AIRPORT, OAHU

Mr. Garcia requested that this item be withdrawn. The document was sent to the legal office and it appears there is a need for some changes.

WITHDRAWN Unanimously approved to allow the withdrawal. (Yuen/Paty)

ITEM K-2 LEASE, HONOLULU INTERNATIONAL AIRPORT, OAHU (FEDERAL AVIATION ADMINISTRATION)

ACTION Unanimously approved as submitted. (Paty/Apaka)

ITEM K-3 RESUBMITTAL OF RESTAURANT AND LOUNGE CONCESSION LEASE, HILO INTERNATIONAL AIRPORT, HAWAII

ACTION Unanimously approved as submitted. (Yuen/Paty)

ITEM K-4 RESUBMITTAL OF REVOCABLE PERMIT 4887, KOA AIR SERVICE, LTD.

ACTION Unanimously approved as submitted. (Himeno/Paty)

ITEM K-5 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4997 AND 4999,
HILO INTERNATIONAL AIRPORT, KEAHOLE AIRPORT

ACTION Unanimously approved as submitted. (Himeno/Yuen)

ITEM K-6 RENEWAL OF REVOCABLE PERMITS 1771, ETC., HNL, MKK, LNY, HDH, LIH,
OGG, ITO, KOA, MUE

Ms. Himeno asked to be excused from acting on RP 4314 because of a conflict.

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM K-7 AMENDMENT OF LAND BOARD APPROVAL OF CONSTRUCTION RIGHT-OF-
ENTRY AND DIRECT SALE OF LEASE OF EASEMENT, NAWILIWILI
HARBOR, LIHUE, KAUAI

ACTION Unanimously approved as submitted. (Apaka/Paty)

ITEM K-8 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIER 19 SHED,
HONOLULU HARBOR, OAHU (SAUSE BROS., INC.)

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM K-9 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, PIERS 31, 31A AND
32, HONOLULU HARBOR, OAHU (CHEVRON U.S.A. INC.)

ACTION Unanimously approved as submitted. (Himeno/Paty)

ITEM K-10 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, HILO HARBOR
AND KAWAIHAE HARBORS, HAWAII (ALOHA PETROLEUM, LTD.)

Ms. Himeno recused herself because of a conflict.

ACTION Unanimously approved as submitted. (Yuen/Apaka)

ITEM K-11 ISSUANCE OF REVOCABLE PERMIT, HARBORS DIVISION, KAPALAMA
MILITARY RESERVATION, OAHU (COMMUNITY CLEARINGHOUSE PROGRAM
C/O VOLUNTEER INFORMATION AND REFERRAL SERVICE, A
NON-PROFIT PRIVATE ORGANIZATION)

ACTION Unanimously approved as submitted. (Himeno/Paty)

ITEM K-12 CONTINUANCE OF REVOCABLE PERMITS H-90-1661, ETC., HARBORS
DIVISION

Mr. Keppeler said that there was a question on behalf of Administration. They would like to question Mr. Garcia relative to non-conforming uses in violation of statutes and shouldn't they be brought to the Board separately. Cases sighted

are H-90-1661, H-91-1699, H-91-1743, H-78-687 and H-78-691. Administration would like to have it clarified that some of these non-conforming uses that have been permitted by revocable permit, non-conforming with the purpose and intent of the E.O.

Because there were more questions, the Board members felt that this item should be deferred to allow Mr. Garcia time to research each of the permits in question.

DEFERRED Ms. Himeno moved to defer Item K-12, seconded by Mr. Apaka, motion carried.

Mr. Yuen suggested that during the interim, should Mr. Garcia obtain the explanations for the Board it could be brought up at the end of the meeting.

ITEM K-13 AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO DISPOSE OF HIGHWAY REMNANT, PARCEL H-37A, LUNALILO FREEWAY, HONOLULU, OAHU

ACTION Unanimously approved as submitted. (Himeno/Paty)

ITEM K-14 AGREEMENT BETWEEN THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA-DEPARTMENT OF THE NAVY, AND ROYAL-CLARK DEVELOPMENT CO., FOR RELOCATION OF FUEL PIPELINE, INTERSTATE HIGHWAY, FAP NO. I-HI-1(41), HALAWA INTERCHANGE, HALAWA BUSINESS PARK, OAHU

ACTION Unanimously approved as submitted. (Himeno/Paty)

ITEM H-1 CONSERVATION DISTRICT USE APPLICATION (CDUA) FOR A TELECOMMUNICATION HUT AT WAINIHA, HANAIEI, KAUAI, TAX MAP KEY 5-8-2:3; APPLICANT: GTE HAWAII TELEPHONE COMPANY

ACTION Unanimously approved as submitted. (Apaka/Paty)

ITEM H-2 CDUA TO CONDUCT A PILOT RESEARCH PROGRAM IN ORDER TO DETERMINE THE FEASIBILITY OF USING PARASITIDS OR NATURAL ENEMIES TO CONTROL ORIENTAL FRUIT FLIES AT KALEPA RIDGE AND SLEEPING GIANT (KALEPA FOREST RESERVE, TAX MAP KEY 3-8-2:4; NONOU FOREST RESERVE, TAX MAP KEYS 4-2-3:4 AND 4-2-4:4), KAUAI; APPLICANT: DR. ROY T. CUNNINGHAM, USDA-ARS

ACTION Unanimously approved as submitted. (Apaka/Himeno)

ITEM H-3 CDUA FOR AFTER-THE-FACT CONSTRUCTION ACTIVITY AND PROPOSED ADDITIONS TO AN EXISTING RESIDENCE LOCATED ON ROUND TOP DRIVE, HONOLULU, OAHU, TAX MAP KEY 2-5-16:3; APPLICANTS: JACK AND JANE STEVENSON; AGENT: DENNIS G. TARAPI

Before his presentation of Item H-3 to the Board, Mr. Evans requested to make a correction on Page 7 of the submittal. Under Recommendation there is no

change to the recommended fine under A. Violation. Under B. Application, the first sentence should read, "That the Department approve the after-the-fact construction activity and proposed additions to an existing residence ..." This is because this action should not require a Cдуа.

ACTION Mr. Paty's motion was to approve the recommended fine and the application be moved through the administrative process. Seconded by Ms. Himeno, motion carried unanimously.

RECESS 12:45 p.m. - 1:00 p.m.

ITEM F-11 **RESUBMITTAL-ANNUAL REVIEW OF MONTHLY RENTALS FOR REVOCABLE PERMITS ON THE ISLANDS OF HAWAII, MAUI/MOLOKAI, OAHU AND KAUAI**

Mr. Young made his presentation of Item F-11 going over in detail what the Board had approved and issues that they had requested that staff review at the meeting of December 18, 1992.

With respect to the re-evaluation of the monthly rentals to the broadcast industry, at the last meeting the President of KGMB came before the Board and said that there was a big difference between the rate-paying broadcast agency versus a broadcast industry such as KGMB. Staff asked of different tenants to provide data pertaining to rental sites on each respective island so that staff could reassess and determine if it is true that the rental structure on sites between the two broadcast industries vary. They were able to get some data from KGMB and in the submittal it shows the reflective rent that has been revised based on the data received.

Mr. Young then continued on explanation of reasons for adjustment on permits for the Luluku Banana Growers Coop and the Hawaii Polo Club on the island of Oahu.

Mr. Carl Christensen of the Hawaii Native Legal Corporation said that most of what he would have to say, he's said already at previous meetings of the board. His principle concern at this time is to ask whether there is a schedule for converting the 700 and some odd revocable permits to long term leases in some sort of reasonable period of time. With regard to hardship cases, sugar and pineapple and small farmers may well be hardship cases. He hoped that the legislature would recognize the imputed income based on fair market value in the same manner that the polo field matters being held. Even if fair market isn't actually being charged by the State, that OHA's entitlement and where appropriate DHHL's entitlement be based on an appraised value.

Mr. Yuen commented that he was one of those that urged the freezing of the sugar permits.

Ms. Lynn Lee of the Office of Hawaiian Affairs said that she was very pleased to see the work that Mr. Young and his staff has gone through. Her only concern and reason for being present today was the moratorium on the sugar and pine leases. If they are put into abeyance for awhile, she would like to see

statistics included as to why it's necessary and why it is justified.

Mr. Young introduced Ms. Charlene Enoki, staff appraiser who is working on the conversions. He then gave examples of the permits for the Island of Maui, with respect to S-6667, S-5230 and S-6528 these were all identical forms of uses. Previously the Board had questions whether the applications of the methodology for the easements and the resulting rent was fair. Staff thus went back and reviewed the permits. Mr. Young then went over the method used and percentages.

Much discussion followed.

ACTION

Mr. Yuen moved to approve as recommended by staff and as amended in the discussions, subject to Mr. Young working with the secretary in summarizing and including all the amendments for the minutes*. Mr. Young said that the summary will be presented to the board at its next meeting. Motion was seconded by Mr. Apaka and carried unanimously.

*The Board approved an increase in the rental rates as recommended in the schedule lists of revocable permits for all permits issued up to October 1, 1992, except for those monthly rental rates that were revised by the Board, subject to the following conditions:

1. The rental increases shall be effective June 1, 1993.
2. The rental increases shall be implemented over a 3-year period at a rate of 33% per year, subject to the proviso that at the end of each year the 33% will be increased if the market rent for said year is greater; provided, further, that if the market rent remains status quo for the effective year, rent will be only increased by 33%.
3. Staff to provide to the Board at its March 25, 1993 meeting for informational purposes, a summary list of those revocable permits whose rents were revised.

Revocable Permits revised by the Board:

Island of Maui:

1. R.P. Nos. S-5104, S-5117, S-5343, S-5377, S-5405, S-5585, S-5775, S-5815, S-5835, S-5898, S-5900, S-5977, S-6614, S-6646, S-6733, S-6749, S-6749 for landscape and maintenance purposes, the monthly rental shall remain the same and, staff is directed in processing these permits for long-term lease via public auction or negotiation.
2. For those agricultural permits to be converted to long-term lease, pursuant to Act 237, SLH '88, namely,

<u>R.P. No.</u>		<u>Revised Rental</u>
S-4939	J. Lind	\$703.00
S-5174	P. Frelinghuysen	44.00
S-5231	J. Young	98.00
S-5606	H. D. Pohaku	746.00
S-5981	L. Redo	171.00
S-6400	E. Tedeschi	171.00

The monthly rental to be based on land assessment value multiplied by a reasonable market rate of return (3%) less a 25% discount divided by 12 months, subject to the proviso that the revised monthly rent shall not be less than the existing rental.

- For Revocable Permits Nos. S-5230, S-6528 and S-6637, the monthly rental to be based on land assessment value less 80% discount multiplied by a reasonable market rate of return (5%) divided by 12 months, subject to the proviso that the revised monthly rent shall not be less than the existing rentals as follows:

<u>R.P. No.</u>		<u>Existing Rent</u>	<u>Revised Rent</u>
S-6637	N. Investment	\$ 238.00	\$ 310.00
S-5230	R. Harriman	309.00	1911.00
S-6528	Y. Pacific	1020.00	653.00

- For Revocable Permit Nos. S-5548 to E. Liu and S-6196 to S. Hau, the monthly rental shall be \$500.00.

Island of Oahu:

- The monthly rental for the following revocable permits shall be 25% of the "recommended monthly rental" as follows:

<u>R.P. No.</u>	<u>Recommended Monthly Rent x 25% =</u>	<u>Revised Monthly Rent</u>
S-0170	Auwaiolimu \$ 397.00	\$ 99.00
	Mission	
S-3954	Amer. Legion 1464.00	366.00
S-5870	Waimanalo Teen 227.00	57.00
S-6735	Waimanalo 73.00	18.00
	Health Center	

- For Revocable Permit Nos. S-6392 to the Honolulu Polo Club, S-6818 to Honolulu Community Action Program/Nanakuli Headstart Program, S-6600 to Luluku Banana Growers Coop., the monthly rental shall be \$345.00, \$93.00 and \$217.00, respectively.

Island of Kauai:

Revocable Permit Nos. S-4647, S-5152, S-5274, S-5725, S-6024, S-6234, S-6250, S-6452, S-6811 for landscape, home garden, maintenance and/or parking purposes, the monthly rent shall remain the same, and staff is directed in processing these permits for long-term lease via public auction or negotiation.

ITEM F-1 DOCUMENTS FOR BOARD CONSIDERATION:

Item F-1-a Issuance of Revocable Permit to Island Termite Covering Reclaimed Land at Keehi Lagoon, Moanalua, Oahu, Tax Map Key 1-1-03:3.

Amended: 1. to delete "one (1) small office trailer";

2. Added under permitted use: allowing for the placement of one (1) Matson container for the storage of chemicals related to the business, subject to Department of Health approval.

Item F-1-b Assignment of General Lease No. S-4984 Covering Lot 22, Kokee Camp Site Lots, Waimea (Kona), Kauai, Tax Map Key 1-4-04:13.

Item F-1-c Addendum to Sublease of General Lease Nos. S-4331 and S-4332, Lots 6 and 7, Hilo Industrial Development, Leilani Street Section, Waiakea, So. Hilo, Hawaii, Tax Map Key 2-2-37:144 and 145.

Amended: Sublease rent to be revisited by staff appraiser for possible sandwich profit and adjustment to annual lease rent.

Item F-1-d Sublease of General Lease Nos. S-4331 and S-4332, Lots 6 and 7 Hilo Industrial Development, Leilani Street Section, Waiakea, So. Hilo, Hawaii, Tax Map Key 2-2-37:144 and 145.

Amended: Sublease rent to be revisited by staff appraiser for possible sandwich profit and adjustment to annual lease rent.

Item F-1-e Sublease of General Lease No. S-4640, Lot 9, Panaewa Farm Lots, 2nd Series, Waiakea, So. Hilo, Hawaii, Tax Map Key 2-4-49:23.

ADDED

Item F-1-f Consent to Assignment of Grant of Non-Exclusive Easement, Nalani Kele, Assignor to David Keith McGregor, Assignee, Government Land at Kualoa, Koolaupoko, Hawaii, Tax Map Key 4-9-08:05.

Amended: Consideration changed to \$2 million.

ACTION

Ms. Himeno made a motion to approve Items F-1-a, F-1-c, F-1-d and F-1-f as amended and Items F-1-b and F-1-e as submitted. Seconded by Mr. Apaka, motion carried unanimously.

AMENDMENT TO PRIOR BOARD ACTION OF MARCH 27, 1992 (AGENDA ITEM F-1-d), RELATING TO THE ASSIGNMENT OF GENERAL LEASE NO. S-4959, LOT 4, MILOLII-HOOPULOA LOTS, PHASE I, HOOPULOA, SO. KONA, HAWAII

ITEM F-2

ACTION Unanimously approved as submitted. (Yuen/Himeno)

ITEM F-3 See page 9 for Action.

REQUEST FOR EXTENSION OF LEASE TERM AND CONSENT TO MORTGAGE ON GENERAL LEASE NO. S-3859, LOTS 56-A AND 56-B, WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-25:22 AND 23

ITEM F-4

ACTION Unanimously approved as submitted. (Himeno/Yuen)

AMENDMENT TO PRIOR BOARD ACTION OF DECEMBER 18, 1992 (AGENDA ITEM F-11) COVERING DEPARTMENT OF TRANSPORTATION REQUEST FOR SET ASIDE OF LAND AT KAPALAMA MILITARY RESERVATION, KAPALAMA, OAHU, TAX MAP KEYS 1-5-32:21 AND 1-2-25:11

ITEM F-5

ACTION Unanimously approved as submitted. (Himeno/Apaka)

DIRECT SALE OF ABANDONED DITCH REMNANT AT WAIKALUA, KANEOHE, OAHU, TAX MAP KEY 4-5-43:POR. 3

ITEM F-6

ACTION Unanimously approved as submitted. (Himeno/Apaka)

STAFF REQUEST AUTHORIZATION FOR EASEMENT ENCUMBRANCE ON GENERAL LEASE NO. S-5214 TO GREEN THUMB, INC. AND FOR DIRECT ISSUANCE OF NON-EXCLUSIVE TERM EASEMENT FOR ACCESS, UTILITY AND LANDSCAPING PURPOSES TO GERALD Y.H. YOUNG, WAIMANALO, KOOLAUPOKO, OAHU, TAX MAP KEY 4-1-18:40

ITEM F-7

Ms. Himeno requested to be excused because of a conflict. Ms. Himeno rescinded her request as the applicant is no longer her client.

ACTION Unanimously approved as submitted. (Yuen/Apaka)

DIRECT AWARD OF PERPETUAL, NON-EXCLUSIVE EASEMENT TO CITIZENS UTILITIES COMPANY, KAUAI ELECTRIC DIVISION FOR ELECTRIC POLE AND OVERHEAD TRANSMISSION LINES, KEKAHA, WAIMEA (KONA), KAUAI, TAX MAP KEY 1-3-02:23

ITEM F-8

ACTION Unanimously approved as submitted. (Apaka/Himeno)

DEPARTMENT OF DEFENSE REQUEST FOR CANCELLATION OF
GOVERNOR'S EXECUTIVE ORDER NO. 1668 AND ISSUANCE OF DIRECT 5-
YEAR LEASE, KEKAHA ARMORY SITE, KEKAHA, WAIMEA (KONA), KAUAI,
TAX MAP KEY 1-3-02:23

ITEM F-9

ACTION Unanimously approved as submitted. (Apaka/Himeno)

ITEM F-10 STAFF'S REQUEST FOR DECLARATION OF INTENT TO DISPOSE OF
PASTURE LEASE AFFECTING LAND AT WAIPOULI AND KAPAA,
KAWAIHAU, KAUAI, TAX MAP KEY 4-4-04:5

ACTION Unanimously approved as submitted. (Apaka/Himeno)

ITEM F-11 See pages 17-19 for Action.

ITEM H-1 See page 15 for Action.

ITEM H-2 See page 15 for Action.

ITEM H-3 See page 16 for Action.

ITEM H-4 See page 8 for Action.

ITEM H-5 See page 7 for Action.

ITEM H-6 See page 6 for Action.

ITEM H-7 See pages 4-5 for Action.

ITEM H-8 See page 9 for Action.

ITEM H-9 See page 11 for Action.

ITEM I-1 See page 10 for Action.

ITEM I-2 See page 10 for Action.

ITEMS J-1 THRU J-6 See pages 11-12 for Action.

ITEMS K-1 THRU K-11 See pages 13-15 for Action.

ITEM K-12 See page 22 for Action.

ITEM Z-1 REPORT OF FEBRUARY 26, 1993 AUCTION SALE ON ISLAND OF MAUI

The report was accepted by the Board.

ITEM K-12 CONTINUANCE OF REVOCABLE PERMITS H-90-1661, ETC.,
HARBORS DIVISION

Item K-12 was revisited by the Board. Mr. Garcia informed the Board that R.P. H-90-1661 should not have been listed on the submittal, as the land belongs to HCDA. After consultation with Mr. Keppeler and counselor, he is recommending approval of the balance of the R.P.'s

The following were requested to be deferred:

R. P. H-78-687 Hawaiian Bitumuls and Paving Co., Ltd.
R. P. H-87-1438 Island Movers, Inc.

ACTION Motion was made by Ms. Himeno to approve Item K-12 as amended.
Seconded by Mr. Apaka, motion carried unanimously.

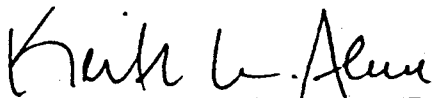
ADJOURNMENT There being no further business, the meeting was adjourned at 2:35 p.m.

Respectfully submitted,



Dorothy Chun
Secretary

APPROVED:



KEITH W. AHUE, CHAIRPERSON