

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

DATE: FRIDAY, JANUARY 14, 1994
TIME: 8:30 A.M.
PLACE: LIHUE CIVIC CENTER
MEETING ROOM #1, BUILDING A
4444 RICE STREET
LIHUE, HAWAII 96766

**ROLL
CALL**

Chairperson Ahue called the meeting of the Board of Land and Natural Resources to order at 8:45 a.m. and the following were in attendance:

MEMBERS: Mr. Herbert Apaka
Ms. Sharon Himeno
Mr. Christopher Yuen
Mr. William Kennison
Mr. Michael Nekoba
Mr. Keith Ahue

STAFF: Mr. Roger Evans
Mr. Ralston Nagata
Mr. Glenn Abe
Mr. Sam Lee
Mr. Michael Laureta
Ms. Dorothy Chun

OTHER: Deputy Attorney General Johnson Wong
Mr. Peter Garcia, Department of Transportation
Mr. Andy Anderson, Mr. and Mrs. Roy Vitousek
(Item H-5)
Mr. Vernon Yang (Item K-2)
Mr. Eric Parker (Item H-3)

MINUTES Minutes of November 19, 1993 were approved as submitted.
(Apaka/Kennison)

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

ITEM H-5 PETITION TO AMEND TITLE 13, CHAPTER 2, HAWAII
ADMINISTRATIVE RULES TO CHANGE THE SUBZONE LINE ON
PROPERTY LOCATED AT TANTALUS, HONOLULU, OAHU, TMK
2-9-55:POR. 4; APPLICANTS: DR. AND MRS. JIM GROBE

After his presentation, Mr. Evans stated that the only request before the board this morning is to allow the process to begin.

Mr. Evans informed the board that he had received written testimony this morning from an adjacent landowner, Mr. and Mrs. Roy Vitousek, Jr.. Relative to this petition, they suggest and request that the board decline the process of this application and brought out five (5) particular points which he will try to respond to.

1) That the petition should have been filed by the fee owner and not by a person with an option to purchase the property.

Response: Rule 13-126 is rather specific and states that any interested party may petition the Board. In this particular case, although it is true that the individual applicant is not the landowner, as a matter of record, we do have a letter from the land owner allowing such a petition.

2) That the petitioner has no legal right to demand that the Board take action on this matter.

Response: The petitioner does have a legal interest through the letter from the landowner.

3) That Rule 131-1-26 requires that notice of this type of proceeding be given to all interested parties.

Response: The notice will be done at the public hearing element of this and not at the initiation of the proceeding. There is a requirement of our rule that we must take an action, some kind of action when a petition comes in within 30 days.

4) That Dr. and Mrs. Grobe earlier submitted a Petition to Consolidate and Subdivide the Bishop Estate parcel for the purpose of securing permission to build a residence. That petition was denied and they are attempting to take a second bite of the apple.

Response: Before us today is an entirely different issue. There is no request to subdivide, no request to consolidate and no request to build a residence. This is a request to initiate a process.

5) That a portion of the land to be moved to the Limited Subzone (L) is owned by the State of Hawaii.

Response: There is no portion of the land to be moved to the Limited Subzone. There is a portion of the land to be moved from the Limited Subzone to the Resource Subzone that is owned by the State, a small part of this portion.

A second letter received on this issue was from Senator Carol Fukunaga. She asks that it be put on record her concerns regarding this petition.

She points out that over the past five years there's been several attempts by this petitioner to develop the property and the two cases that came before the Board generated considerable testimony and opposition from the Tantalus residents and other community participants. She urges the Board to decline the process.

Response: Mr. Evans said that the only comment staff would have with respect to the Senator is, we take the Senator's concerns seriously.

Discussion followed whereby Board members requested clarification of staff regarding rule change, public hearing and notification of parties. Mr. Evans explained the difference between the process of this request and a regular Conservation District Use Application (CDUA). He also explained there is one caveat that is different between this process and a CDUA. At the conclusion of the public hearing of this process it would not allow for a contested case. Several years ago, the legislature passed a law that for changes in administrative rules, there would be no contested cases.

Clarifying adjacent landowners, Mr. Evans said that in this case staff has already been through a contested case with interested people, thus the same people would be sent written notices that have participated in this project.

Mr. Andy Anderson, representing the applicant asked the Board to allow the process. He then cited several past instances in which the Board had approved changes one in Nuuanu and one on the Big Island.

Mr. Roy Vitousek, Jr., an adjacent landowner said that this matter has come up several times and it was turned down because of its being the Limited Subzone instead of in the Resource Subzone. He claimed that the applicant wanted to change the zone line to include this as part of the Resource Subzone. Mr. Vitousek claimed that part of the parcel is owned by the State and he feels that the State would be a party to the change or application. He said that they own the property adjacent to the State property. Also a son and daughter own property adjacent to the applicant. (Mr. Evans had responded to the concerns in his written testimony earlier.)

Chairperson Ahue asked Mr. Evans to address the State being a party to the change.

Mr. Evans explained that there have been members of the public who have come in from time to time asking that the State review its subzone. Their motives are not questioned and he gave an example of Mount Olomana. He said that this Board became involved because several members of the public were not happy with it being in the General

Subzone. Through a series of action the zoning was changed.

Mrs. Betty Vitousek said that she was uncomfortable with the fact that it appears that they are present today to protect their own interest. She stated that they were present today because they are adjacent landowners. She stated that it is not a personal interest they are trying to protect but that of the Tantalus Community Association and others. She also mentioned that they did not receive any notice of this meeting but became aware of it.

ACTION Unanimously approved as submitted. (Nekoba/Kennison)

ITEM K-2 AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO DISPOSE OF A PORTION OF LAND AT HONOLULU INTERNATIONAL AIRPORT, OAHU

Mr. Garcia presented Item K-2. Under Recommendation 5. He added after the last word Chairperson, "of the Board of Land and Natural Resources."

Mr. Apaka asked if this were a part of the area that's being leased to GTE for their own baseyard area.

Mr. Garcia deferred to the representative from GTE.

Mr. Vernon Yang, a real property consultant for GTE Hawaiian Tel responded to Mr. Apaka's question that he was correct. Presently GTE has a baseyard operation together with other operations of Hawaiian Tel and this is one portion of the presently leased area to Hawaiian Tel.

Responding to further questions of Mr. Apaka, Mr. Yang answered in the affirmative that should this be granted, there would be further expansion in the area and there will be requests for right-of-ways for easements through the State property.

He then gave some background information: The airport industrial area together with the expansion of the Honolulu International Airport facility is projected to require future service of approximately 13,000 lines just within that airport industrial area. The central office facility from Hawaiian Tel is what they call a major switching center and not an office building per se. The airport industrial area is presently served out of the Moanalua Central Office facility with a cross-connect from a distance of approximately three miles. There are two factors involved 1) increasing service demand; 2) the airport industrial area is presently served from a distance of three miles and is served from what is known as a cross-connect facility. That cross-connect facility is now located on private land and was purchased by a Japanese developer. Hawaiian Tel's tenancy

there is on a month to month basis and it is projected in the near future that they will have to remove the facility from that site. These reasons have caused Hawaiian Tel to determine that they needed their own central switching facility. This is conceptually speaking, the hub from which the entire area will be served and through this facility will be inter-connected with the balance of Hawaiian Tel's system.

ACTION Unanimously approved as submitted with staff's addition to Recommendation no. 5. (Apaka/Nekoba)

ITEM H-3 TIME EXTENSION REQUEST FOR CONSERVATION USE PERMIT OA-2587 FOR MARINE EDUCATION AND TRAINING CENTER, AND PUBLIC BOAT LAUNCH FACILITY (SUBMERGED LANDS SEAWARD OF CERTIFIED SHORELINE AT TMK: 1-5-41:06); APPLICANT: DEPT. OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM

Mr. Evans presented Item H-3 with staff's recommendation for approval.

Mr. Eric Parker of DBEDT said that they have already gone out to bid and they feel that a three months extension would be sufficient.

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM H-2 CDUA FOR A SINGLE FAMILY RESIDENCE AND RELATED FACILITIES AT OKOE, KONA, HAWAII, TMK 8-9-03:02; APPLICANT: MARGOT SKILLING; AGENT: MENEZES TSUKAZAKI YEH AND MOORE, ATTORNEYS AT LAW

Mr. Evans stated that staff would like to amend their submittal before he begins his presentation so that the recommendation will be in two parts.

Referring to page 15 under Recommendation where it reads, "The Board approve the single family residence." they would like to change that to 2. Then they would like to add a new "1. That the Board agree to the conditional withdrawal by the applicant of the contested case, based upon the outcome in section B."

Mr. Evans then went over the particulars that led up to today. Previously the Board did approve a request for a contested case made by the applicant for an opportunity to prove that the kuleana was correctly located. There were concerns from the Office of Hawaiian Affairs (OHA). OHA had concern that there was a possibility that the kuleana may be mislocated. OHA has been kept informed of the process.

The State surveyor was asked to assist in the process. They indicated, based upon their records and maps, that the kuleana was properly

placed. The State surveyor went on site and submitted a report that says the kuleana is located correctly on the property. This information was communicated to OHA. OHA acknowledged by letter that they did receive a copy of the surveyor's report, that they are satisfied that as reported, the property remains in its original location and from OHA's perspective, therefore is still kuleana property. Based upon that and staff's modification, the recommendation is for approval.

Mr. Yuen asked if anyone asked to intervene in the contested case.

Mr. Evans responded that OHA kept in contact.

Ms. Himeno asked, "So it's your position that because it is kuleana land which has been confirmed, that we cannot deny this petition? We have to grant it but the only thing we can do is put conditions on it?"

Mr. Evans said, "You put conditions clearly. ..." He said that you can tell, in our view, can tell people where on the site they can put a house. But that's different from saying 'you get a house'.

Ms. Himeno asked, "O.K. what you're saying because it is kuleana land, staff's position is we have to grant them the house?"

Mr. Evans responded, "Gotta grant them the use."

Mr. Himeno asked, "We can say where it can be and how big, etc. but we have no choice but to grant the use?"

Mr. Evans stated, "Yes, where, how big, grant the use, that's our position."

Mr. Johnson Wong, Deputy Attorney General, stated that, "There must be the showing what the previous use was as to the kuleana or reason that they were kuleanas which was given solely for taro conservation. And as such, therefore, under the law, that says they must show that historically, customarily used as such. Roger is trying to read it as an absolute per se kuleana grandfathered, we say "no." The board could have a right to determine whether that kuleana was used as a residence or as solely for taro planting."

Ms. Himeno asked, "So if the kuleana was used as a residence, then we would have to grant the use, but if it were used for some other purpose, the A. G.'s office is saying we don't have to grant the use, it's a discretionary with the Board."

Mr. Evans stated that he did have a disagreement with Mr. Wong, Deputy A. G. He made references to Neil M. Levi, California Law Review

where he had an opportunity to discuss with one of the authors of the review that is supportive of the staff's position. He referenced the Land Commission Awards and Patents citing the further enactment of principles signed by Kamehameha which again disagrees with the Attorney General's Office.

Mr. Evans continued that he did not believe that the Board exceeded its statutory authority and the Board was taking an action that is in direct conflict with the statutes. In the administration of kuleana lands, once established, they get a house, that's the essence based upon the articles as well as our testimony before the legislature as well as the legislators' reaction to us through its legislative resolutions.

Mr. Wong responded, "Mr. Chairman, I think the question facing the board here is a legal question as to the interpretation of the use for kuleana. We have rendered the legal advice and I am very disappointed in the staff questioning that legal advice. We have reviewed all material he has furnished us and we still reach the same conclusion in our advice."

Mr. Evans again stated, "We're in disagreement."

During further discussions, Board member Nekoba felt staff's disagreement with the A. G.'s opinion is a big issue. That is something that you will need to clarify before we can even make a decision.

Mr. Evans stated that staff has considered the A.G.'s opinion to this point in time as an attorney-client relationship and should be treated with a very serious respect.

At this point, Chairperson Ahue recommended that the board go into executive session to discuss the legal issues concerning this matter. Before doing so, he asked if there were anyone present who wished to testify.

Mr. Michael Moore, representing the applicant stated that the debate Mr. Evans and Mr. Wong is really not relevant and doesn't need to be addressed in this application because there's enough evidence on the record that's already been presented by their office to the department to establish that this particular property was in fact historically used for residential purposes. Assuming that Mr. Wong's meeting of the statutory requirement is correct, which not only must it be a kuleana but in fact, 183-41 does provide that any land identified as a kuleana may be put to those uses which were historically, customarily and actually found on that particular lot including if applicable to construction of a single family residence. He continued, ... "If we accept Mr. Wong's advice that you must be showing actual residential use, we meet that requirement and

the Board can act on the application without having to resolve the differences staff and the Attorney General's office. ..."

Mr. Yuen asked if there were remnants and had they been identified archaeologically as a house site. Is there a house platform there or any other features besides the midden type deposits, the castoff remains that show this to be a house site.

Mr. Moore responded, "The archaeologist that did the study, rendered his professional opinion. In his report that was submitted to the department and to Historic Sites Division, in fact this was a residential house lot and it says in his report that was submitted in May of 1993, "This conclusion the present field work has demonstrated the presence of cultural remains on subject parcel. The surface structures that were recorded are probably being from the historic period marked specifically from the latter half of the 19th century to the present, both of midden and other factual remains as well as the testimony of Puni, indicate that this was involved in a residential house lot. The Historic Sites Division actually confirmed that in their memorandum to the archaeologist."

Deputy A.G. Wong addressed the Chair with his feeling that they should go into an executive session to resolve the question of Mr. Evans' concern that all kuleanas per se are grandfathered. He said that all the testimony given was very enlightening. Mr. Wong stated that the standard should be that the Board has a discretion to determine whether there was a historical and customary use. He also stated that they should resolve Mr. Evans' position that there need not be any showing.

Executive Session Mr. Yuen moved to go into executive session. Seconded by Ms. 9:40am-10:05am Himeno, motion carried.

Chairperson Ahue called the regular meeting back to order.

MOTION Mr. Kennison moved for approval.

DISCUSSION Mr. Evans pointed out that he had asked the Board to amend the submittal in the two parts: The applicant's withdrawal of the contested case (Part 1) based upon the approval of Part 2. At the same time he understands that the Board may want to make some modification at the beginning of Part 2 in its action.

AMENDED MOTION Mr. Kennison amended his motion to approve with the addition of recommended amendment as Part 1; Part 2 that the Board is approving this item on the grounds that is has been shown that the ruling is historically, customarily used as a residence and not solely as a kuleana.

Motion was seconded by Mr. Nekoba. Mr. Yuen said that he would vote "NO" against the motion.

Mr. Yuen commented that he was very familiar with the area, an isolated beach area, undeveloped where there's roughly a 7,000 square foot lot surrounded by thousands of acres of State land that has major recreation and open space features. He stated that if the rules and statutes require the Board to pass or allow the residential use here, he felt that the rules and statutes need to be changed. He then quoted the comments of the Division of Forestry and Wildlife, "we lament the effects of this project on the ambience of the area," he said that he also laments on the effects of the project on the ambience of the area as far as he can see it happening.

Ms. Himeno commented that she could see Board member Yuen's concerns and shares those concerns. The problem they were faced with is the law right now and from the opinion from the A.G.'s as well as what has been established today she would be voting in favor of the motion. She stated that the laws should be looked at and probably changed.

ACTION

There being no further discussion, the chairperson called for the question and motion carried with Mr. Yuen voting No.

ITEM F-7

DIRECT SALE OF A PERPETUAL, NON-EXCLUSIVE EASEMENT FOR ROADWAY PURPOSES AND IMMEDIATE RIGHT-OF-ENTRY ON, OVER AND ACROSS STATE-OWNED LAND AT HOOLEHUA, MOLOKAI, TMK: 5-2-01:POR. 14

Mr. Glenn Abe made the presentation of Item F-7 with staff's recommendation for approval.

A representative from Molokai Ranch was present to answer any questions.

ACTION

Unanimously approved as submitted. (Kennison/Himeno)

ITEM E-1

APPROVAL TO ENGAGE THE SERVICES OF A CONSULTANT TO PREPARE A CONCEPTUAL PLAN FOR KOKEE AND WAIMEA CANYON STATE PARKS, KAUAI

ACTION

Unanimously approved as submitted. (Apaka/Kennison)

ITEM E-2

APPROVAL TO ENGAGE THE SERVICES OF TWO CONSULTANTS TO PREPARE A CONCEPTUAL PLAN AND PHASE 1 DEVELOPMENT PLAN FOR BOTH THE KONA COAST STATE PARK AND KEALAKEKUA BAY STATE HISTORIC PARK, HAWAII

ACTION Unanimously approved as submitted. (Yuen/Himeno)

ITEM F-1 TRANSMITTAL OF DOCUMENTS

Item F-1-a Assignment of General Lease No. S-4195 between Lokahi Pacific, Inc., Assignor, and Hale Lokahi Elua, Assignee, Lot 6, Kamaole Beach Lots, Kamaole, Kula, Maui, TMK 3-9-05:46

Item F-1-b License Agreement Between Dept. of Hawaiian Home Lands, Licensor, and Dept. of Land and Natural Resources, Div. of Forestry and Wildlife, Licensee, for Kipuka Aina Hou Wildlife Sanctuary, Mauna Kea Forest Reserve, Humuula, No. Hilo, Hawaii, TMK 3-8-01:Por. 3, Por. 4 and 8

Item F-1-c Issuance of Revocable Permit to Paul and Helen Sweat, Lot 58-A, Hanapepe Town Lots, First Series, Hanapepe, Waimea (Kona), Kauai, TMK 1-9-10:33

Item F-1-d Issuance of Revocable Permit to Francis P. Mission, Lot 58-A, Hanapepe Town Lots, First Series, Hanapepe, Waimea (Kona), Kauai, TMK 1-9-10:33

Item F-1-e Assignment of General Lease Nos. S-4092, S-4871, S-5114 and S-5119 between Samuel K. Thronas (Deceased), Assignor, and Mary Thronas Trust, Assignee, Government Lands, Island of Kauai

Item F-1-f Issuance of Revocable Permit to Asian American Lumber Co. Covering Government Land (Paper Roadway) at Kawaihau, Kauai, TMK 4-5-15:3

ACTION Motion was made by Mr. Apaka to approve Items F-1-a through Item F-1-f, seconded by Mr. Kennison, motion carried unanimously.

ITEM F-2 AMENDMENT OF LEASE OF TELEVISION TRANSLATOR SITE FOR THE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS AT KAHUKU, NO. HILO, HAWAII, TMK:3-2-04:4

ACTION Unanimously approved as submitted. (Yuen/Himeno)

ITEM F-3 AMENDMENT TO PRIOR BOARD ACTION OF AUGUST 27, 1993 (AGENDA ITEM F-3) RELATIVE TO THE CANCELLATION OF REVOCABLE PERMIT NOS. 2-6802 AND S-6803, KAHULUI, MAUI, TMK 3-8-01:POR. 19

ACTION Unanimously approved as submitted. (Kennison/Apaka)

**ITEM F-4 STAFF REQUESTS AUTHORIZATION TO SELL AT PUBLIC AUCTION
GOVERNMENT PASTURE LEASES, ISLAND OF MAUI**

ACTION Unanimously approved as submitted. (Kennison/Apaka)

**ITEM F-5 DIVISION OF FORESTRY AND WILDLIFE REQUESTS SET ASIDE OF
GOVERNMENT LAND AT OLOWALU AND UKUMEHAME, LAHAINA,
MAUI FOR OLOWALU GAME MANAGEMENT AREA, TMK 4-8-02
AND 4-8-03:8**

Mr. Abe requested that this item be withdrawn.

WITHDRAWN Request for withdrawal approved. (Kennison/Nekoba)

**ITEM F-6 AMENDMENT TO PRIOR BOARD ACTION OF OCTOBER 26, 1990
(AGENDA ITEM F-5) RELATIVE TO THE DIRECT SALE OF ACCESS
AND UTILITY EASEMENTS AND CONSTRUCTION RIGHT-OF-ENTRY,
STATE LANDS AT HANAWANA WEST, MAKAWAO, MAUI,
TMK 2-9-11:POR. 8**

ACTION Unanimously approved as submitted. (Kennison/Apaka)

ITEM F-7 See page 9 for Action.

**ITEM F-8 AMENDMENT OF PRIOR BOARD ACTION OF SEPTEMBER 10, 1993
(AGENDA ITEM F-1-c) RELATIVE TO THE ISSUANCE OF A
REVOCABLE PERMIT TO DWIGHT OTANI PRODUCE, INC, IWILEI
PRODUCE CENTER, IWILEI, OAHU, TMK 1-5-07:POR.14**

ACTION Unanimously approved as submitted. (Himeno/Nekoba)

**ITEM F-9 AUTHORIZATION TO AMEND REVOCABLE PERMIT NO. S-6738 FOR
USE OF STATE LAND LOCATED AT KEEHI LAGOON, MOANALUA,
OAHU, TMK: 1-1-64:28**

ACTION Unanimously approved as submitted. (Himeno/Nekoba)

**ITEM F-10 HAWAII FOODBANK, INC. REQUESTS MODIFICATION OF LEASE
PERFORMANCE BOND REQUIREMENTS COVERING GENERAL
LEASE NO. S-5258, LOT 4, SHAFTER FLATS INDUSTRIAL
DEVELOPMENT, UNIT II, MOANALUA, OAHU, TMK: 1-1-64:28**

ACTION Unanimously approved as submitted. (Nekoba/Himeno)

**DIRECT ISSUANCE OF NON-EXCLUSIVE WATERLINE EASEMENT
TO THE BOARD OF WATER SUPPLY, HONOLULU, OAHU,**

ITEM F-11

TMK: 2-7-36

Mr. Abe pointed out a typographical error on the first page of the submittal. On line 6, change "Six-five year term easement" to sixty-five (65) year term easement". He also requested to add under Recommendation, a condition "B. To authorize issuance of an immediate right-of-entry to the Board for various work."*

ACTION Unanimously approved as amended by staff. (Nekoba/Himeno)

*After the meeting, staff submitted a more detailed condition B to read:

"That the Board authorize the Chairperson to issue an immediate right-of-entry to the Board of Water Supply for engineering testing and construction work until the above-mentioned grant of easement is issued subject to the Board of Water Supply adhering to all applicable rules and regulations of all governmental agencies and to the terms and conditions of this submittal and any additional terms and conditions that the Chairperson may prescribe."

**PUBLIC AUCTION SALE OF GENERAL COMMERCIAL LEASE,
KAPAA, KAUAI, TMK: 4-5-05:6**

ITEM F-12

After his presentation, Mr. Abe informed the Board that the Kauai Land Agent, Mr. Sam Lee was present to answer any questions.

Mr. Apaka asked about the options available.

Responding to Mr. Apaka's inquiry, Mr. Lee stated that this was the 1.8 acre, essentially vacant property just behind Big Save in Kapaa. The property has generated a fairly high degree of interest. He believes there is a market for this property.

Mr. Apaka asked if they would be able to design the exits and access to the parking areas citing terrible traffic problems. He felt that the Kauai Planning Department should look into this.

Mr. Lee stated that was one of the definite drawbacks to this site and location that is unless the State becomes involved with acquisition of private property to create another access.

Mr. Yuen inquired as to the way that this is set up, whether this would favor any one person as far as the conditions, such as the widening of the street; would any one have a big advantage as far as doing that, like one owner on one side or the other side.

Mr. Lee responded that particularly because of this road requirement it would throw it wide open to everyone and anyone. If it weren't for that, he would say that the Big Save Organization owns a large block of commercial property immediately adjacent.

ACTION Unanimously approved as submitted. (Apaka/Himeno)

ITEM F-13 ISSUANCE OF REVOCABLE PERMIT AND AUTHORIZATION TO SELL AT PUBLIC AUCTION, LOT 10, BLK. 1, KAPAA TOWN LOTS, FIRST SERIES, KAPAA, KAWAIHAU, KAUAI, TMK: 4-5-09:43
ACTION Unanimously approved as submitted. (Apaka/Kennison)

ITEM F-14 COUNTY OF KAUAI PUBLIC WORKS DEPT. REQUESTS FOR RIGHT-OF-ENTRY FOR PURPOSES OF CONDUCTING SOIL BORINGS AND INVESTIGATIONS, KAPAA, KAUAI, TMK: 4-5-15:POR. 20

ACTION Unanimously approved as submitted. (Apaka/Kennison)

ITEM F-15 PIONEER HI-BRED INTERNATIONAL, INC. ON BEHALF OF CITIZENS UTILITIES COMPANY'S REQUEST FOR CONSTRUCTION RIGHT-OF-ENTRY AND GRANT OF DIRECT EASEMENT FOR ELECTRIC TRANSMISSION LINE AFFECTING PORTION OF GENERAL LEASE NO. S-4741 AT KEKAHA, KAUAI

ACTION Unanimously approved as submitted. (Apaka/Kennison)

ITEM F-16 AMENDMENT TO PRIOR BOARD ACTION OF JUNE 28, 1991 (AGENDA ITEM F-8) FOR DIRECT LEASE TO QUALIFIED PERMITTEES UNDER ACT 237, SESSION LAWS OF HAWAII 1988, ISLAND OF OAHU AND HAWAII

ACTION Unanimously approved as submitted. (Himeno/Nekoba)

ITEM H-1 AFTER-THE-FACT CDUA FOR AN OPEN AIR PAVILION AND BARBECUE PIT AT WAIMEA, KAUAI, HAWAII; TMK: 1-4-002:078; APPLICANT: HONPA HONGWANJI MISSION OF HAWAII

Discussion followed on events leading to the violation and eventual filing of an after-the-fact CDUA. Members of the congregation innocently initiated structural repairs and site improvements after Hurricane Iniki although approval had not been obtained.

A member of the public who was present asked for the Board's compassion for the people in Kauai that had been impacted by the hurricane and who were trying to get back on their feet.

ACTION Motion was made by Mr. Apaka to amend the violation fine to \$100.00. He subsequently amended his motion upon concurrence of fellow board members to waive the fine and approve the application subject to the conditions listed. Seconded by Mr. Kennison, motion carried unanimously.

ITEM H-2 See pages 8-9 for motion and Action.

ITEM H-3 See page 5 for Action.

ITEM H-4 TIME EXTENSION REQUEST FOR CDUA TO EXPAND THE OLOMANA GOLF COURSE ONTO APPROXIMATELY 12.2 ACRES OF STATE LAND AT WAIMANALO, OAHU; TMK: 4-1-13:POR. OF 11; APPLICANT: OLOMANA GOLF LINKS, INC.; AGENT: WILSON OKAMOTO AND ASSOCIATES, INC.

ACTION Unanimously approved as submitted. (Nekoba/Kennison)

ITEM H-5 See page 4 for Action.

ITEM K-1 AMENDMENT NO. 1 TO LEASE NO. DOT-A-86-19, LAGOON DRIVE BASEYARD SUBDIVISION, HONOLULU INTERNATIONAL AIRPORT, OAHU (HAWAIIAN ELECTRIC CO., INC.)

Ms. Himeno recused herself because of a conflict of interest.

ACTION Unanimously approved as submitted. (Nekoba/Apaka)

ITEM K-2 See page 5 for Action.

ITEM K-3 ISSUANCE OF REVOCABLE PERMIT, KAWAIHAE HARBOR, HAWAII (KING KONA PRODUCTIONS, INC.)

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM K-4 REQUEST FOR EXTENSION OF DELEGATION OF AUTHORITY TO THE DEPARTMENT OF TRANSPORTATION FOR THE ISSUANCE OF REVOCABLE PERMITS AT KAPALAMA MILITARY RESERVATION FOR INCONSISTENT PURPOSES

ACTION Unanimously approved as submitted. (Himeno/Nekoba)

NOTE: Mr. Garcia said that at the last meeting he was requested by the Board to make a report on the Tri-Party Agreement. He said that his Director Rex Johnson had identified several sites for possible delivery to the Department of Land and Natural Resources in the trade. He said

that he would probably have a more full report at the next meeting when Mr. Mason Young should be present.

Z. REPORTS

Mr. Abe stated that this report was to inform the Board of the successful Kauai auction. Six leases were sold and only two were sold at the minimum upset price. The others went for many times over and one lease went for 20 times the upset price.

The report was accepted by the Board.

ADJOURNMENT Chairman Ahue adjourned the meeting at 11:15 a.m.

Respectfully submitted by,


Dorothy Chun

APPROVED



KEITH W. AHUE, Chairperson

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