

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

DATE: THURSDAY, AUGUST 21, 1997
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII

PRESENT:

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| MEMBERS: | Michael Wilson Christopher Yuen William Kennison | Colbert Matsumoto Lynn McCrory Kathy Inouye |
| STAFF: | Dean Uchida Sharon Riley Kimberly Lowe Peter Garcia | Paul Conry Eric Onizuka John Hino Gail Murayama |
| GUESTS: | Dawn Chang Kanani Brown Sydney Fuke Gordon Cran Rachel Kealanui Wayne Nasser David Frankel Theresa McHugh Lisa Carter Bruce Graham Roy Nakamura Coochie Cayan | Bill Tam Scott Lucas Bill Moore Lani Cran Tony Takitani Robert McLaren John Howell Sue Garner Peter Schall Greg Wingham Tom Laidlaw |

Chairman Michael Wilson commenced the meeting of the Board of Land and Natural Resources at 9:10 A.M.

ITEM D-22 AMENDMENT OF PRIOR BOARD ACTION DATED OCTOBER 13, 1995 (AGENDA ITEM F-1-E, AS AMENDED), HAWAIIAN GREENHOUSE, INC., ASSIGNOR TO BIG ISLAND FLORAL, INC., ASSIGNEE, KEONEPOKO HOMESTEAD LOTS, PUNA, ISLAND OF HAWAII, TMK: 3RD/1-5-07: 17, 62, 63, 65

Dean Uchida stated that the Big Island Floral, Inc. has failed to submit the necessary mortgage

document. Staff is recommending to rescind prior action removing the 20 year extension of lease term and to rescind the recommendation for the consent to mortgage, subject to terms and conditions. Uchida said the outstanding \$1500 appraisal fee should be added as Condition 3. He said they were current in their lease rent.

Kanani Brown explained about his purchase of 50% of George Shiroma's share of Big Island Floral and that they had been in negotiations since May, 1997. He said he was not aware of any of the problems that existed and assured the Board that he was prepared to remedy the situation. He presented a check for \$1500 to clear the outstanding appraisal balance. Brown read a letter from Chuck Ersken of First Hawaiian Bank which explained the loan agreement and that the bank was presently reviewing Big Island Floral's request. He is anticipating a decision within the next 60 to 90 days and asked the Board for a deferral for 6 months.

Motion to defer for six months to allow Big Island Floral to process the mortgage documents. (Yuen/Kennison).

All in favor.

ITEM D-11 REMOVAL OF TWO AFTER-THE-FACT DIVERSION DAMS WITHIN ALAKAHI AND ONOMEA STREAMS, AND REQUEST FOR NEW ELECTRIC AND TELEPHONE ALIGNMENT WITHIN THE HAWAII TROPICAL BOTANICAL GARDEN, SOUTH HILO, HAWAII.

Uchida said in September, 1996 the Board approved the various land use elements proposed by Hawaii Tropical Botanical Garden with 29 conditions. One of the conditions required resolution of 2 unauthorized dams that were constructed on 2 streams in the area and that the applicants have been working with the Aquatic staff and the Water Commission to resolve the situation. He said the applicant is also requesting the installation of electrical and telephone lines on the property which he showed on a map. The staff recommends that the Board authorize the removal of the after-the-fact dams at Alakahi and Onomea Streams subject to terms and conditions and approve the proposed electrical and telephone easement alignments.

Uchida said since September the Department of the Attorney General has been working to resolve the remnant situation. He explained that there are some State remnant parcels located within privately owned property owned by the owners of Hawaii Tropical Botanical Gardens. A condition of approval of the easement is that a mutually accepted resolution on the State remnants be completed within 90 days. Uchida said the staff is trying to resolve the location of the remnant to determine whether there should be an easement process or whether a sale would be more appropriate.

Uchida presented written testimony from Ed Johnson and Ron Carey stating that they had no objection to the action but indicated that the remnant situation be resolved.

Member Lynn McCrory asked about the time frame in which they had to submit the plan of

removal for the dams and Uchida said there is no time frame. Deputy Attorney General Dawn Chang explained that it has taken awhile to get a determination by the surveyor due to the shortage of staff. She said the Department of the Attorney General expressed to the landowner the State's position that there are government property located within the Garden property and that the State was willing to seek a resolution.

Scott Lucas said they hired a private surveyor and a translator to interpret the Hawaiian description of the land and their conclusion was that there is no remnant along the Kahalii Stream. They decided that both surveyors [private and State] should discuss the issue. Lucas said if the Board approves, they will proceed to remove the dam during the month of September.

Member Chris Yuen said the prior Board approval for the electrical alignment along the highway was supposed to include a foliage cutting plan that would be submitted to the Department and asked whether such a plan was submitted. He said the cutting turned out to be "a butchery" on the side of the road. Lucas said he would have to check whether Sandy Schutte submitted a plan as she was their representative at the time. He said the cutting was done in accordance with HELCO's regulations on foliage removal. Uchida said he would check whether a plan was submitted or not. Member Yuen said he had hoped that when the condition of cutting trees for the power lines were put in, it would have been handled with more sensitivity than what came out of it. He said HELCO should be persuaded to modify their normal requirements a botanical garden in a conservation district. Lucas stated there will be no cutting in the present proposed power line alignment.

Motion to approve the staff's recommendation with the September time frame. (Yuen/McCrory).

All in favor.

Member Colbert Matsumoto arrived at 9:30 A.M.

ITEM D-38: ISSUANCE OF DIRECT LEASE TO ROMAN CATHOLIC CHURCH OF HAWAII ON BEHALF OF ST. THERESA'S CHURCH; AND ISSUANCE OF REVOCABLE PERMIT, PORTION OF KEKAHA HOUSE LOTS, KEKAHA, WAIMEA, KAUAI (TMK: 1-3-4: 54) AND KEKAHA BEACH HOMES SUBDIVISION, BLK. 3, KEKAHA, WAIMEA, KAUAI (TMK: 1-3-11:1).

Uchida said the applicant proposes to construct a park for various recreation activities to be used by the church as well as for public use on limited bases. He said the staff's recommendation is that the Board authorize a direct award of lease to the applicant subject to terms and conditions and to also authorize issuance of a revocable permit while the lease document is being prepared.

Member McCrory said there is a difference between a private non profit and a non profit for community benefit. She said in a public trust the highest return for the lands should be

provided. She found it difficult to be discounting the annual rent of 25% for an organization that has many of the same features as a business and that the other 75% will be borne by everyone in the State for a lease of land that in essence will be used exclusively by the applicant. Member McCrory said she would not have a problem if the applicant was looking at having community benefit for the entire community. She would like to see amendments to this application in which the annual rental is at the *fair* market rate, that the lease term is the same as a business lease which is 35 years, and that the rental reopening be the 10th, 20th and 30th. Member McCrory does not believe that the State and everyone paying taxes should subsidize an organization when a utility company does not.

Member Colbert Matsumoto asked whether the Department of the Attorney General was consulted as to whether or not the reduction in rent given to an organization such as this violates establishment clause in the constitution and Uchida said ~~no~~. Member McCrory thought it would be more of a statute where they have special tax treatments given to them but they operate the same as a business. Her problem is that they are looking to utilize this land in the same manner for the enhancement of their customers and not for the enhancement for the community as a whole. Member Yuen said he strongly supports the State providing land to non profit groups where they had a subsidized or discounted rate as they provide services for the public benefit. He said one of the purposes that State lands can be used is the provision of land for public purposes.

there was no consultation made w/ the Atty Gen's Office on that issue.

Member McCrory said she didn't disagree with Member Yuen if it's for the good of the community, but she felt this one is not. She said this is very clearly saying that they will be able to choose who and when they can use the land and what they are saying is, it is only for their customers benefit and not for the benefit of the community. Member McCrory said the applicant decides who comes in and when they do that, they have total control of the property and as such, should pay full price because they are excluding the community and it is for the benefit of their customers. Member Matsumoto felt that the Board should get guidance if the rent would be anything other than fair market value.

Member McCrory requested amendment to Condition 7, that the monthly rent under revocable permit be determined by staff appraisal and the commencement date to be determined by the Chairperson. Member Kathy Inouye agreed with Member Yuen that if there is public purpose, then it should be investigated. She said if the Board decides to subsidize a rental, the Board should review the terms and conditions in which the public would have access and use of the property.

Sidney Fuke said his role was in assisting the Roman Catholic Church in acquiring a lease from the State. He understands that the area was going to be used by the church and its members and at the same time be opened to the general public. The controls that the church were concerned about was to be sure that they [the public] would take care and clean up the trash and etc. Fuke said the church has no intention of charging for the use of the property and it needs to be clarified at this time.

Motion to defer item. (McCrorry/Matsumoto).

Vote: All in favor for deferral.

ITEM D-29: FEDERAL HIGHWAYS ADMINISTRATION AND OKAHARA AND ASSOCIATES, INC., ENGINEERING CONSULTANTS REQUEST FOR RIGHT-OF-ENTRY TO VARIOUS GOVERNMENT LANDS ON THE ISLAND OF HAWAII, HAWAII DEFENSE ACCESS ROAD - SADDLE ROAD PROJECT [A-AD-6(1)]

Uchida said this involves the Saddle Road realignment project and that the Board originally granted a right-of-entry in 1995 that expired in 1996. The Federal government is in the process of doing environmental work preparing a CDUA for the realignment. The staff is recommending that the Board grant the Federal Highways Administration and Okahara and Associates and Engineering Consultants the right-of-entry on the various State owned parcels to do the necessary environmental and surveying work subject to terms and conditions.

Bill Moore who works with Okahara and Associates and said he is responsible for the EIS. He said the original environmental work under the right-of-entry is complete and going through the final review of alignments and that the EIS is about to be released.

Motion to approve as submitted. (Yuen/McCrory).

Vote: All in favor.

ITEM D-5: AMEND THE CHARACTER OF USE OF GENERAL LEASE #S-5374, KAPAPALA, KAU, HAWAII, TMK: (3) 9-8-1-PORIONS 3, 9, 10 AND 9-7-1-PORION 1.

Uchida said this is the Kapapala Ranch on the Big Island for which the character use is currently pasture and residential use. This lease was first issued under Act 237 which allowed the permittee to get a direct lease for agriculture purposes issued to Kapapala Ranch. The ranch requests that they be allowed to conduct some eco-tourism type of activities on the property like horseback rides. The staff's recommendation is to consent to the change in the character of use and allow the eco-tourism activities to occur provided certain conditions regarding the length of time that they can be on the property and that they pay the State 2% of the gross receipts as a percentage rent on the eco-tourism activities.


Member McCrorry asked about the commercial use policy which defines eco-tourism. Uchida believed it was being handled by another division and was not sure what the status was in the development of a policy. He said the ranch's definition of eco-tourism in the proposal are horseback rides, hikes, truck trail rides and over night camping. Chair Wilson said the departmental policy for the eco-tourism policy is not limited to forestry and that there were discussions on it at the Implementation Advance and is expected to come before the Board within the next two months. He said there is a definition of eco-tourism, a recommendation of where

it is going to take place and a description of the impact of the land. There was a question about whether an Act 237 lease can be amended to include unlimited commercial activities that would not be permitted under agricultural lease. Uchida said the Land Division is viewing it as direct lease and have not discussed it with the Attorney General as yet.

Gordon Cran said he was interested in offering people the opportunity to come to the country to experience the life style that are typical of an Hawaiian ranch and intends to keep it small.

Lani Cran the general partner of the ranch said her job is to help 39 ranchers market 40% of the State's production. She said ranchers are faced with economic changes due to the infrastructure loss of the feedlots and slaughter houses in the last few years. She asked that the Board consider the economics that face the industry.

Member Yuen asked about the different types of activities, what accommodations were available, how many employees and whether any of these logistics have been worked out. Ms. Cran explained that they are looking at preserving the historical site with another enterprise. They have no idea as to the number of people and buildings they will be using but that the family is not in favor of creating a "circus act". She said the Ulupalakua Ranch uses the hotels that are within the area now.

 Rachael ~~Kealanui~~ said she has been assisting the Crans to put something together because she believes the ranch should be preserved in its lifestyle and characteristics. She said she has worked with the County and has a permit prepared but that the next requirement is the approval from the Land Board. Kealanui's vision is to take children on trail rides to point out historical areas and allow people to appreciate the ecology of the area. She felt it is an opportunity for the Ka'u area and didn't think it would have negative impacts.

Member Yuen asked whether the water system is out of the conservation district and Ms. Cran said yes. He asked whether the family would be doing the operations or whether it would be concessioned out to another business entity. Ms. Cran said there would be no concession. Member Yuen asked how many vacant employee housing there are. Ms. Cran said there are 11 houses, one of which they live in. She said several people will continue living in the houses and they would repair some for short term guests.

Member Yuen said the Board cut 20% from the rent for the wild bird program which was dropped by Forestry, and wanted to know whether they reinstated the 20% cut in the rent? Cran said it is not 20%, that it is a set amount and that it was 20% of the old rent. Mr. Cran said the amount of the discount now from the rent is \$8,000 for bird hunting. Member Yuen asked whether anything could be done about the miricafaya trees that are in the upper part of the ranch. Cran said economically, it is not affordable. He said they try to use the land to its highest potential to create an environment they can live with.

Member William Kennison commended the Crans for trying a new venture to help the economy in the Big Island. Chair Wilson said it was a creative approach that could provide to be a model

for other ranches that might be trying to preserve a life style that is in jeopardy and hopes it turns out to be a successful operation that can attract the attention of the visitor industry as well.

David Frankel introduced himself with the Sierra Club. He suggested that instead of the Board charging the additional 2%, that the lessee be involved with the restoration of native plants and the removal of alien species. Member McCrory asked whether the Sierra Club would join in partnership to help get rid of the trees. Frankel said the club is out every week clearing miconia and cleaning different areas. He assured the Board that the club would continue to help get rid of alien species and plant native species in the environment throughout the State.

Motion to amend the character of use to permit eco-tourism type activities of the kind described in the staff submittal and when the lessee is more prepared, to come before the Board for approval. The use of employee housing and the gross receipts be left open until more specific plans are made. (Yuen/Kennison).

Member Matsumoto asked for clarification on whether the rent would still be subject to review. Member Yuen said it would be the subject when the applicants come back with specific commercial proposals.

There was a discussion about whether or not the applicant could go to the County for permits and it was agreed that if the commercial use policy is not out by the time the applicant came back, it would not be addressed and that the Board will look at what the proposals are.

Vote: all in favor.

Chair Wilson said staff recommendation is accepted as amended.

ITEM D-20: REQUEST FOR DIRECT SALE OF GOVERNMENT REMNANT PARCELS 2 AND 11 TO KCOM CORP., TMK: 4-4-01, SITUATE IN HONOKOWAI, LAHAINA, MAUI.

Uchida said this is a request for a direct sale of a government remnant and involves 2 parcels for sale to KCOM Corporation, in Lahaina, Maui. The 2 remnants were created as a result of Maui County's Honokawai Stream Channelization Project, one remnant is approximately 16,000 sq. ft. and the other 480 sq. ft. He said under the Statute, the State is allowed to sell remnants if they have no economic value and since the parcels meets the criteria of a remnant, the staff recommends that the Board authorize to proceed with a direct sale to KCOM Corporation subject to terms and conditions.

Tony Takitani requested that Condition 1 be deleted as he felt it was not necessary as it would apply only when there is multiple abutting landowners that are interested in acquiring the property. Uchida said in the past, the State has required when a remnant property is sold it must be consolidated so that it cannot be resold to someone else as a remnant parcel. He asked that Condition B-1, that the applicant shall submit a consolidation map approved by the County of

Maui, addressing the consolidation of the subject remnants with the applicant's abutting properties, remain as is and that it be consolidated.

Motion to accept staff recommendation with an amendment to delete B-1. (Kennison/Yuen).

Member McCrory objected to deleting B-1 and said she would feel more comfortable to see it consolidated. She said it is being sold at a "very discounted price" and it would "make good sense for you to sell it to someone else if you could". Member Kennison explained that the remnant is too small a piece and would not make sense for anyone to purchase that property.

Vote: 5 in favor, 1 object (McCrory).

ITEM D-21: REQUEST FOR A DIRECT ISSUANCE OF PERPETUAL, NON-EXCLUSIVE EASEMENTS TO CHRISTOPHER AND LANI STARK FOR ACCESS AND UTILITY PURPOSES, AND AN IMMEDIATE RIGHT OF ENTRY FOR SITE CONTROL PURPOSES, OVER, UNDER, ACROSS AND ON GOVERNMENT LAND, IDENTIFIED BY TMK: 2-9-03: PORTION 20, SITUATE AT HONOPOU-HOOLAWA, HAMAKUALOA, MAKAWAO, MAUI.

Uchida said because of circumstances of death and illness, the parties of the existing easement on the property aren't around to make the assignment to the Starks. Staff is recommending to rescind prior action and authorize the direct issuance of a perpetual, non-exclusive easements to the Starks for access and utility purposes, including a right-of-entry subject to terms and conditions.

Member Matsumoto asked about the indemnity provisions by the Board's action. Deputy Attorney General Dawn Chang said she was not sure what the implications of the decisions would be. Member Matsumoto suggested the approval of the recommendation with the condition that the applicant and any successors would indemnify the State with respect to the Board's action today. Wayne Nasser said he did not have any problems with the indemnification.

Motion to accept staff recommendation as amended. (Kennison/Matsumoto).

Vote: Six in favor.

Uchida requested taking Items D-1 through D-4 together as they were all related to the consent to sublease which involves the UH's master lease and involves telescope sites.

Item D-1: CONSENT TO SUBLEASE OF GENERAL LEASE #S-4191, KAOHE, HAWAII, TMK: (3) 4-4-15-9 (UH, SUBLESSOR AND NATIONAL ASTRONOMICAL OBSERVATORY OF JAPAN, SUBLESSEE).

Item D-2: CONSENT TO SUBLEASE OF GENERAL LEASE #S-4191, KAOHE,

HAWAII, TMK: (3) 4-4-15-9 (UH, SUBLESSOR AND SMITHSONIAN INSTITUTION, SUBLESSEE).

Item D-3: CONSENT TO SUBLEASE OF GENERAL LEASE #S-4191, KAOHE, HAWAII, TMK: (3) 4-4-15-9 (UH, SUBLESSOR AND ASSOCIATED UNIVERSITIES/NATIONAL RADIO ASTRONOMY OBSERVATORY, SUBLESSEE).

Item D-4: CONSENT TO SUBLEASE OF GENERAL LEASE #S-4191, KAOHE, HAWAII, TMK: (3) 4-4-15-9 (UH, SUBLESSOR AND NATIONAL SCIENCE FOUNDATION, SUBLESSEE).

Uchida said the UH currently holds a general lease for the observatory use that had been constructed in the early 1990s. The staff's recommendation is that the Board consent to the subleases subject to terms and conditions.

Member McCrory commented on the return of gratis of the lease to the State whether it be by education for the children in public schools or the acknowledgement to the State for its support especially since it is at no cost. Uchida said the gratis refers to the master lease between the department and the UH.

Bob McLaren introduced himself as Interim Director for the Institute of Astronomy, UH. He said there is a guaranteed share of the observation time of approximately 15% on the facility for the UH Scientists which is the consideration for the use of the site. There is also a contribution to the infrastructure on the mountain for such things as paving the road, providing communication facilities, and the common operating costs on the mountain such as the maintenance of the road, snow clearing in the winter and the operation of the visitor information station. McLaren said each sublessee pays an equal share and the cost of operating the visitor center is a little over \$100,000 a year. He explained that the contribution begins while they are under construction.

There was a discussion as to why the sublease agreement that began in June, 1992 is before the Board now as opposed to back in 1992. McLaren said these particular subleases weren't submitted until recently due to the tardiness on the part of UH and not Land Division doing.

There was also a discussion about using the visitor center for special programs for the State. McLaren felt sure that they would contribute into the outreach fund and that the appropriate time would be when they begin their operational phase. Member Yuen stated that the visitor center does provide for an observation program where people [the public] are allowed to use the telescope for four nights a week.

Chair Wilson said one of the concepts that is being discussed is the idea of getting together with the community to discuss what could be done to improve the visitor experience and to diminish the concerns that members of the community might have about cultural sensitivity and cultural impacts. He asked whether the Board should wait to discuss with the community first before

giving consent. McLaren asked that the consent be given to do their "house cleaning". He said the facilities are there, essentially on a right-of-entry arrangement and close to finish while some are in operation. He talked about some policy issues associated to the extent that the Board would want to promote and encourage visitor use of Mauna Kea.

McLaren explained that at the mid level, the Halepohaku is critical for endangered species and any expansion of the facilities to accommodate more people, parking areas and expanded infrastructure will have an impact. He suggested as an alternative is sea level visitor related facilities that could be linked to these observatories. He said when the visitor center was originally set up, the intention was to provide an information source for people who were visiting the mountain, not only the environmental aspect of it but also the safety aspect.

Member McCrory suggested an ad hoc group to hold a shared position to design and discuss what should be at sea level to support the research and not harm the environment at the upper level. She said the time frame should be 6 months or a year to design a program to work with businesses as a tourist attraction to look through a telescope. McLaren said such discussions would be very appropriate and that they will move towards that.

Uchida said a management plan is being developed in conjunction with the Master Plan with the UH and that a visitor center on the lower level could be incorporated as part of the management plan discussions. He expects the management plan to be brought back before the Board after the legislative audit is completed in November. Member Inouye commented that while there's a mutual benefit to the State to having telescopes there, all of the expenses should be incorporated into the Master Plan and include present and future subleases. Member McCrory agreed because of the gratis. McLaren felt that it was not gratis for the consideration that observation time is considerable and said from their [sublessee'] point, they would not consider this a gratis.

Phyllis Coochie Cayan introduced herself on behalf of Mililani Trask of Ka Lahui Hawaii and the Sierra Club. She urged the Board to reject the pending applications for subleases to operate the telescopes in the Mauna Kea science reserve. Cayan said those telescopes in one way or another are in violation of the Master Plan, the CDUA permits, the EIS and the federal laws governing environmental protection, which are being investigated as part of the legislative audit. She stated that the Hawaiian community has great concerns on the sacred sites and known burial sites in the area. She said it's not just spiritual but that it had a cultural significance. Cayan said there is a need for an ad hoc group and can't see how the Board can make decisions regarding Mauna Kea's use without the people's input, "you can't separate people from the culture".

Member Yuen stated that he has been on the Board for seven years and the Board has always taken extreme care to make sure that the archaeological and cultural sites are protected. He said that a recent archaeological survey has shown that no archaeological sites have been affected by the construction. Member Yuen said he is frustrated with the matter of process when the question of the 11, 12 and 13 telescopes keeps coming up. He said when the Smithsonian

telescope came as a normal application for the Conservation District Use permit, there were no comments or opposition by anyone at the time the permit was considered. He said no one pointed out any negative environmental affect with the construction of the pads. Member Yuen said he was concerned about the fact that it went through the entire process of being built before anyone really complained about it and that no one has identified and explained what is wrong with the construction from an environmental point of view. Chair Wilson's concern was that people felt the Board does not take destruction of cultural sites into consideration. He said the natural area reserve on Mauna Kea is meant to provide the highest protection to the cultural significance of the area.

David Frankel felt the problem was that the Smithsonian did not do an EA. He said the Sierra Club participated by submitting comments but failed to succeed. Frankel commented that the natural landscape is being urbanized. He said there needs to be a firm determination of what the maximum number of telescopes are going to be and what the use of the area by the public will be in terms what is the appropriate level of the use.

Member Yuen commented about an article he read in which a spokesperson from the Sierra Club implied that DLNR had some agenda of closing off public access to the mountain which the Board does not intend to. Member Matsumoto think it was funny to have the Board's position be misrepresented by the press to the community and said everyone has the responsibility to accurately communicate what the Board's true position is including the Sierra Club.

Frankel said one of the conditions in the Master Plan was that a cultural study of historical sites be done and said it hadn't even commenced. He said the archaeological survey was done by driving all around the mountain. Member Yuen clarified that there have been detailed archaeological studies done at the locations where construction would occur and the Board felt comfortable in approving the construction of particular sites. He said although there was a substantial delay in the UH doing the archaeological study of the entire summit region, he said it is finally under way.

Chair Wilson said the Historic Preservation Division has done a tremendous amount of work on Mauna Kea with respect to the cultural and archaeological sites to establish the natural area reserves. He asked whether the Sierra Club's position was that the construction shouldn't have taken place until there was a broader cultural study of the entire mountain. Frankel said since the condition was not fulfilled and therefore not appropriate to allow them permission to sublease and do other activities.

Chair Wilson asked what the Sierra Club's position was on the number of visitors allowed. Frankel said they have not come up with numbers but know that various people have expressed concerns about the whole commercialization of the mountain.

Frankel said there should be less telescopes than what is up there now. He said they are concerned about what was going to be proposed in the future and suggested, 1) to amend the Master Plan, and 2) to take advantage of the amendment that was made years ago to count the

telescopes in a different way. Frankel said how the telescopes should be counted in that 12 is 12 and 14 is 14, not 14 structures as one telescope. Member McCrory asked whether the basis of what the Club is looking for is the impact to the resource and Frankel said one of the basis of their concern is that that kind of analysis has not occurred. He said the kind of analysis that has been going on does not make people feel comfortable. Member Yuen said the UH people has assured him that there can be no new major construction except possibly the replacement of instruments on an existing pad or telescope facility without the preparation of a new Master Plan which would require a new EIS. He said when and if they come out with a new Master Plan there should be ample time for people to oppose the construction, suggest conditions, etc. but that the Board will continue to discuss it.

There was a discussion about the lease amount of \$1.00 a year to the UH and for that reason Member Matsumoto said it is a gratis lease and didn't think it was appropriate to treat the use of the facility as a rental.

Motion to approve and consent to the subleases. (Yuen/Kennison).

Member McCrory talked about the involvement of the community group so that by the time the UH is at the point where they were ready, they would have had the input of the community. Uchida said he will have his staff work to touch bases with some of the community members and will report via memo to the Board members.

Vote: Six votes in favor.

Deputy Attorney General Bill Tam arrived at 11:55 A.M.

Chair Wilson called for a recess at 11:57 A.M. and reconvened the meeting at 12:10 P.M.

ITEM D-23: AMENDMENT OF GENERAL LEASE NO. S-4560 ISSUED TO THE EASTER SEAL SOCIETY FOR CRIPPLED CHILDREN AND ADULTS OF OAHU, INC. AT KEWALO, HONOLULU, OAHU, TMK: 1ST/2-1-39: 19.

Uchida said the lease is presently written as a 65 year lease, the first 20 years was fixed at a dollar a year. The reopening at the end of the 20th year has occurred and the lease rent at fair market value is \$32,547. Uchida said the Land Division was contacted by the Easter Seal people indicating it is beyond what they had expected the lease rent to be. He said in other cases of non profit organizations because it is on ceded land, the State requires 20% of fair market value payment. The Board has the discretion to amend sections or different conditions because it is a direct lease. Uchida said the staff's recommendation is to amend the terms of the general lease so that the reopening is not necessarily at fair market but 20% [\$6,500] of fair market value to bring it in line with what the Easter Seal would consider to be a more reasonable rent for the operation.

Member McCrory said she has the same problem with this lease as with St. Theresa's. She said

while it may be non profit it is not a benefit for all community with very select clients but that the expenses are no different than any other businesses. Member Yuen felt organizations such as this provides the State a service and if it weren't for non profit organizations such as this to perform these services that the State would be having to spend more tax payers money. He even questioned the 20% policy and said he didn't think there is nothing legally, morally or ethically wrong with the State leasing land for a \$1 a year to a non profit that is performing a service for the people in this State.

John Howell introduced himself as the Executive Director of Easter Seals. He said the Easter Seals have served Hawaii for 51 years statewide and that it was not only for crippled children but for young children with developmental disabilities including adults and teenagers. A program in Maui was closed because of funding issues. Howell said the Easter Seals subsidizes the State of Hawaii, running 8 different programs and a 2-1/2 million dollar operating budget. He said the State contracts does not come close to covering the cost of the program to provide the services. The electric company does not give them discounts but does give them grants. He distributed copies of the operating budget sheets to the Board members and said at the end of the year they have a positive balance of \$5,000, however, with the \$6,000 increase, they would show a deficit budget. Howell pointed out that over 50% in Hilo are Hawaiians and 70% of the people are low to moderate income families which is very characteristic of the population of the people they serve. He said they are in the process of a capital campaign on their own initiative to improve electrical and plumbing in their building. Howell said his only issue and appeal to the Board is one of affordability and if there is an increase in rent, services would have to be cut back.

Member Matsumoto said he didn't have a problem with charging organizations a nominal rent but that the Board's hands are somewhat tied with respect to the 20% rental that has to be extracted because the State is currently involved with the issue of fair compensation for ceded lands. He said if the Board grants the reduced rent, he would like to see that ~~they~~ acknowledge the fact that the State is providing a significant subsidy with respect to the rental which is a significant savings to the organization. → Easter Seals

Motion made to approve. (Inouye/Matsumoto).

Vote: Five in favor, 1 objection (^{Yuen}~~McCroary~~).

ITEM D-26: ACQUISITION OF QUEEN'S BEACH ON THE KA IWI SHORELINE, MAUNALUA, HONOLULU, HAWAII, TMK: 1ST/3-9-11: 02, 03 & 05

Uchida said this is for acquisition and preservation of Queen's Beach for retention of open spaces and scenic vistas. The landowner is the Kamehameha School Bishop Estate. He said there was an appropriation of \$14 million last session by the legislature and that they are working with the Department of Transportation to access some federal funds that are available for this type of project. The area in question is about 314 acres and is presently being planned for golf course purposes. Staff's recommendation is that the Board authorize the acquisition of

the parcel and that the State be authorized to secure right-of-entry from KSBE, to hire consultants, and whatever the Chairperson deems necessary to proceed with the negotiations. Upon the decision of the U.S. Department of Transportation, ISTEA funds, authorize the Chairperson to enter into an agreement with DOT and the State of Hawaii to acquire by negotiations or condemnation, transfer the Ka Iwi site to the Department. The staff also requests the Governor's approval to delegate authority to expend the 14 million dollars in the general fund obligations and once acquired, set aside the area to the Division of State Parks for the Ka Iwi shoreline park.

Theresa McHugh, Sue Geruer and Lisa Carter, members of the Ka Iwi Action Council, testified in support of acquiring Queen's Beach. Carter submitted written testimony.

Member Matsumoto recused himself.

Robert ^{Wenkam}~~Winkam~~, Chair of the Conservation Committee of the Hawaiian Trail Mountain Club, said they are in full support of the acquisition.

Motion to approve staff recommendation. (Inouye/Yuen).

Vote: Five in favor.

Chair Wilson called for a recess at 12:42 P.M. and reconvened the meeting at 1:38 P.M.

ITEM D-35: REQUEST BOARD APPROVAL, DIRECT ISSUANCE OF LEASE, HILTON HAWAIIAN VILLAGE JOINT VENTURE, HILTON LAGOON AQUATIC RECREATIONAL FACILITY, OAHU, TMK: 2-3-37:21

Uchida distributed a letter by Bruce Graham, attorney for Hilton Hawaiian and requested some changes for clarification for the intent of the arrangements. Staff's recommendation is to approve the direct issuance of the lease subject to terms and conditions as amended by Graham.

There was a question about the reopening and Uchida clarified that it should be 10, 20 and 30 years.

A discussion about the indemnity of the insurance requirement that requires that the State be the additional insured for injuries suffered in connection with the construction of the project. Uchida clarified in the general liability requirement, that it would be for coverage during the construction and when the operations begins, there is a standard requirement in the leases which he believes is for a million dollars.

Uchida clarified Recommendation 6 which talks about the general public having parking fees validated. He said the Hilton is going to encourage all the users of the facility to park within their structure and try to discourage them from parking in the areas that may take away from the general public.

In answer to Member Matsumoto's question of what portion of the lagoon is covered by this lease, Uchida said about one third on the mauka side of the lagoon, and that the makai side will be open to the public. Member Matsumoto wondered whether or not the State is covered for liability with respect to the remaining portion of the lagoon. Uchida explained that the original development agreement of September 22, 1955 which is being amended as part of the action today allowed for the construction of the lagoon. He said it needs to be modified so that the Hilton can construct their swimming activity in the mauka section but that the makai section of the pond will still be open to the public. Uchida said all would benefit by this project as it will improve the circulation and the flushing of the lagoon for improved water quality level. Member Matsumoto wanted to be sure that the enforcement of the water quality level in the lagoon is maintained as a condition. He was also concerned that based on the development agreement having been entered into many years ago, that the insurance provisions were adequate for today's potential exposure.

Peter Schall introduced himself as the Managing Director for Hilton Hawaiian Village and introduced attorney Bruce Graham. He addressed the subject of the water quality and said that it is part of the lease agreement and that the permits tie directly into the obligation. Schall gave an example of the Department of Health's specific water monitoring and on going maintenance standards that are being established which the hotel is obligated to pay for and to comply with. He also clarified free parking for all participants of the attractions and the obligation to provide educational tours for children with disabilities.

There was a discussion about how the hotel would anticipate returning the area to the condition that it was originally in, in the event that the operation was discontinued. Graham said the 1955 development agreement defines the lagoon with the depth of the perimeter, defines the beach area and the width of it. He said if he were the State, he would elect to keep the pumps and the intakes that would be installed as part of a new development to balance the lagoon waters. Chair Wilson expressed concern about unforeseen financial problems and the need to protect the public if for some reason Hilton could no longer run the operation. Graham said if a bonding requirement is deemed necessary by the Board, it can be discussed. He said the total estimated development cost is between 20 to 24 million dollars and anticipates construction to last approximately 12 to 15 months beginning April 1998.

Roy Nakamura introduced himself and testified against any development along the shorelines.

Greg Wongham testified that there "are special privileges given certain companies" and this is about trying to privatize the natural resources. He said the "BLNR is guilty of conspiracy and ripping off Hawaiian lands" and that they are asking that the Board vote "no" to the allowance to any further privatizing or giving of more leases on these Hawaiian lands.

Nakamura talked about the State parking lot and was concerned about the area that was not going to be part of the development. He said it is against the environmental program to run pipes along the shorelines. Chair Wilson assured Nakamura that they are not allowed to dump water that is not in compliance with the Department of Health standards.

Wongham said the Hilton Hawaiian Village experienced a "sweetheart deal" in the form of a lease. He said the Hilton is being able to take part of the State's Kahanāʻmoku Beach and turn it into a "for profit" situation. He said instead of creating a lagoon and taking away the beach from the people, he suggested filling the lagoon to provide more beach area.

Tom Laidlaw introduced himself and said he has been involved with developing this project for 8 years. He said many good things will come from this for the environment and the beach area and that they do not have any intentions of chasing out the canoe clubs, or using the public parking, or of polluting the waters. Laidlaw testified that they are very committed and will stand by what they build and will "do the right thing".

There was a question on whether the land was ceded or non-ceded. Uchida was not sure but said this was part of a land exchange with Kaiser and that some lands were acquired by the Territory. He said the Hilton pier is non-ceded.

Member Yuen suggested that since the State could conceivably be held responsible for the water quality, Hilton should also indemnify the State with respect to the water quality issues.

Motion to approve as amended. (Matsumoto/Kennison).

Vote: Six in favor.

ITEM B-1: REQUEST FOR APPROVAL TO ENTER INTO AGREEMENTS WITH THE UNIVERSITY OF HAWAII SEA GRANT COLLEGE PROGRAM FOR STUDIES UNDER THE MAIN HAWAIIAN ISLANDS MARINE RESOURCES INVESTIGATION TO EVALUATE VARIOUS HUMAN IMPACTS ON NEARSHORE FISHERIES ECOSYSTEMS, UNDERSTAND TRENDS IN SHORELINE SEDIMENT MOVEMENT AT WEST MAUI, SEEK METHODS OF RESOLVING USER CONFLICTS, EXAMINE TUMORS IN FISHES AND CORALS, AND DETERMINE THE EFFECTIVENESS OF DLNR'S FISHERIES MANAGEMENT AREA (FMAs) AND MARINE LIFE CONSERVATION DISTRICTS (MLCDs) IN PROTECTING INSHORE FISH POPULATIONS.

Eric Onizuka introduced Kimberly Lowe, the Hawaiian Islands Coordinator, and said the staff requests approval of submittal.

Kimberly Lowe said this is an opportunity to work with some of the political and social mechanisms within the UH. She said the topics were selected according to the concerns that were identified 5 years ago. Lowe said the topics are scientifically reviewed and upheld by peer review. She said as part of this project there are public workshops, in the process of creating a video tape for public television and trying to publish information to be available to the public.

Motion to accept as submitted. (Yuen/Kennison).

Vote: Unanimously approved.

ITEM C-1: REQUEST FOR APPROVAL OF A CONTRACT WITH THE PEREGRINE FUND TO PROVIDE SERVICES TO OPERATE ENDANGERED BIRD CAPTIVE PROPAGATION FACILITIES ON MAUI AND CONDUCT RELATED FOREST BIRD PROPAGATION PROJECTS THROUGHOUT THE STATE

Paul Conry introduced himself as acting Administrator of the Division of Forestry and Wildlife and also introduced Sharon Riley. He made a correction to the date of the submittal from August 22 to August 21. He said \$300,000 funding comes from the Federal government that the U.S. Fish and Wildlife Service has provides to the State and \$50,000 from the State general funds. Conry said the operation of the State propagation facility were transferred to the Peregrine Fund in March 1996 and has been successful. He said the contract is a standard one with two special conditions. The first condition allows the Peregrine Fund to publicize the State's and the Peregrine Fund's participation in the program and the other condition is a requirement to adhere to federal financial audit requirements. Conry said the staff's recommendation is for the Board to authorize the Chairperson to execute the contract for services pending any modification by the Department of the Attorney General.

There was a question about whether there would be an annual financial progress report and Conry said it is forthcoming and that the Peregrine Fund has always complied with this requirement.

Sharon Riley said the State of Hawaii has hired the best people in the world to run this type of operation. She said this contract represents a excellent example of how public and private partnerships can contribute to conservation of endangered species.

Motion to approve submittal as submitted. (Kennison/Matsumoto).

Vote: Unanimously approved.

ITEM C-2: REQUEST APPROVAL OF CONTRACT WITH MR. KARL DALLA ROSA TO COORDINATE THE FEDERAL FUNDED FOREST STEWARDSHIP PROGRAM WITH THE DIVISION OF FORESTRY AND WILDLIFE.

Conry corrected the date of the submittal. He said since 1993, Mr. Dalla Rosa has provided contractual services to administer the forest stewardship program and that they are very satisfied with his performance. The contract is for \$48,000 and those funds are being provided by the U.S. Forest Service via a federal cooperative forestry assistant grant. Conry recommended Board approval for the continuance of the services of forest stewardship program to Mr. Dalla Rosa. Conry said there are requirements for the annual report also and that an amendment to allow the contractor to publicize the program be added.

Conry said Dalla Rosa solicits public participation for the program, brings in new projects and makes sure that the programs that are submitted are worth the State's and the Federal's funding of the program.

Member Yuen commented that it would be nice if this money could be used for some of the lessees that are on State land. Conry said he was not aware of the Statutes for this program. He said the Federal program may have more restrictions but it may be that they have to have managerial control of the property so that it may be available to State lessees.

Motion made to approve submittal. (Yuen/Matsumoto).

Vote: Unanimously approved with amendment.

ITEM D-6: CONSENT TO ASSIGNMENT AND PROMISSORY NOTE OF GENERAL LEASE #S-4448, OLAA, PUNA, HAWAII, TMK: (3) 1-9-1-18.

The staff recommendation is that the Board consent to assignment and consent to promissory note subject to terms and conditions. In answer to Member Inouye's question of whether the applicant is qualified or not, Uchida said the applicant is only checked to see whether or not they are bonafide farmers or not.

Motion made to approve. (Yuen/Matsumoto).

Vote: Six in favor.

ITEM H-1: AUTHORIZATION TO ENTER INTO AN AQUACULTURE EXTENSION SERVICE CONTRACT.

John Corbin said the aquaculture industry continues to expand, that the industry should produce \$20 million in wholesale product value. If research and technology are added, it should be a \$34 million industry. Corbin said permission is requested in this submittal to contract with the UH Sea Grant Extension Service to continue the aquaculture extension specialist project that provides the industry with expert technical assistance. Staff's recommendation is that the Board authorize the Chairperson to negotiate, subject to the Governor's approval and enter into contract with the UH.

Motion made to accept as submitted. (McCrorry/Yuen).

Vote: Unanimously approved.

ITEM J-1: AUTHORIZATION FOR THE LEASE OF CONCESSION BY SEALED BID OF GOVERNMENT LANDS SITUATED AT KAILUA-KONA PIER, LANIHAU, NORTH KONA, ISLAND OF HAWAII.

John Hino introduced himself as the Property Manager of the Division of Boating and Ocean Recreation. This is a vacated office building that was turned over to BOR by the Department of Transportation in 1992. He said because it's on the pier and falls under the lease for concession, a retail/service type operation for profit. Hino said there were many inquiries about

the space and substantial amount offered for the lease. Member Yuen said that the pier patrol may be interested and asked that it be brought back to the Board. Chair Wilson commented that it was dedicated brand new about one year ago and shortly there after the restrooms were vandalized to the point that it had to be rebuilt and gated at night. Member Yuen clarified that he is not saying that he wants the pier patrol to get the facility, but since the inquiry was made, he wanted it checked out.

Motion to defer item. (Yuen/Matsumoto).

Vote: Six in favor.

ITEM J-2: CONTINUANCE OF REVOCABLE PERMITS, DIVISION OF BOATING AND OCEAN RECREATION

- 1) B-93-41 - HILA DOG, ALA WAI SMALL BOAT HARBOR, ISLAND OF OAHU
- 2) B-93-44 - PINEAPPLE HILL RESORT, LTD., MAALAEA SMALL BOAT HARBOR, ISLAND OF MAUI
- 3) B-95-70 - MAGIC ISLAND PETROLEUM, INC., ALA WAI SMALL BOAT HARBOR, ISLAND OF OAHU

Hino reported that the Division has no problems with any of the permittees. He said Magic Island Petroleum is on a revocable permit because the issue of the submerged land is still unresolved and that they are supposed to be a lease facility.

Motion to approve. (Kennison/Matsumoto)

Vote: Unanimously approved.

ITEM K-1: MOTOR COACH GROUND TRANSPORTATION SERVICES (AIRPORT SHUTTLE BUS) CONCESSION, HONOLULU INTERNATIONAL AIRPORT, OAHU

Peter Garcia said the determination of the award will be based on the total amount of bid for the entire term of the lease, minimum annual guarantee will not be less than \$165,000. The staff recommendation is that the Board approve the proposal for airport shuttle bus concession.

Motion made to approve. (Matsumoto/Kennison).

Vote: Unanimously approved.

ITEM K-2: LEASE FOR CENTER FIELD WIND INSTRUMENTS, KAHULUI AIRPORT, MAUI (FEDERAL AVIATION ADMINISTRATION).

Garcia said the lease request is for the installation, operation and maintenance of instruments to enhance the operation of both runways. He said the staff recommendation is that the Board approve the lease.

Motion made to approve. (Kennison/Inouye).

Vote: Unanimously approved.

ITEM K-3: APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS, NON-CONFORMING USE, KAPALUA-WEST MAUI (PRIMECO PERSONAL COMMUNICATIONS, L.P.).

Garcia said DOT recommends the approval of the application.

Move to approve. (Matsumoto/Kennison).

Vote: Unanimously approved.

ITEM K-4: LEASE OF EASEMENT FOR THE TRANSMISSION OF PETROLEUM PRODUCTS AND ISSUANCE OF INTERIM REVOCABLE PERMIT, COVERING PUBLIC LANDS SITUATE AT PIERS 32, 33 AND 34, HONOLULU HARBOR, OAHU (TOSCO CORPORATION).

Garcia said the rental for the first through the fifth year will be determined by an independent appraisal, the rental for the sixth to tenth year will be 125% of the annual rent of the fifth year, the eleventh to fifteenth year will be 125% of the annual rent for the tenth year, the remaining ten years period will be determined by independent appraisal. He said the interim rental of the revocable permit shall be \$3,223 per month plus pipeline tolls. Garcia said the staff recommendation is that the Board approve the issuance of the revocable permit and the lease.

Move to approve. (Matsumoto/Kennison).

Vote: Unanimously approved.

ITEM K-5: CONSENT TO ASSIGNMENT OF HARBOR LEASE NO. H-92-2, KAWAIHAE HARBOR, ISLAND OF HAWAII (UNION OIL COMPANY OF CALIFORNIA (UNOCAL)/TOSCO CORPORATION).

Garcia said the purpose is for construction, installation and maintenance and lease of two existing subsurface 6" fuel pipelines. He said the base as determined by independent appraisal is \$416.00 for the first five years, \$541 during the sixth through the tenth year, and \$703 during the eleventh year through the fifteenth year. Garcia said the staff recommendation is that the Board approve the consent to assignment.

Motion to approve. (Yuen/Kennison).

Vote: Unanimously approved.

ITEM K-6: ISSUANCE OF LEASE BY DIRECT NEGOTIATION, PIER 20, HONOLULU HARBOR, OAHU (KEVIN VAN dba HI-SEA FISHING SUPPLY).

Garcia said the purpose is for the sale of fishing gear and bait to commercial fishing boats. The term is for 5 years and the rental is \$2,999 per month. He said the staff's recommendation is the Board authorize the lease by direct negotiation, subject to terms and conditions.

Move to approve. (McCrary/Kennison).

Vote: Unanimously approved.

ITEM K-7: ISSUANCE OF REVOCABLE PERMIT, NEAR PIER 32, HONOLULU HARBOR, OAHU (CALIFORNIA SEAFOODS, INC.).

Garcia said the purpose of the lease is for storage of refrigerated containers, a forklift and a truck for \$315 per month. The staff's recommendation is that the Board approves the issuance of the revocable permit.

Motion to approve. (Inouye/Matsumoto).

Vote: Unanimously approved.

ITEM D-7: ISSUANCE OF A REVOCABLE PERMIT TO MID-PACIFIC HAWAII FISHERY, INC., WAIKEA, HAWAII, TMK: (3) 2-1-12-41.

Uchida said this permit was never transferred from DOT when the lands were withdrawn. He requested an amendment to the rental from \$2,329 to "to be determined" by the Chairperson. He explained that his Division's in-house appraisal does not coincide with DOT's numbers and requested more time for the staff to look into it. He said staff's recommendation is to authorize issuance of a new revocable permit subject to terms and conditions.

Move to approve with amendment of the rental to "to be determined". (Yuen/Kennison).

Vote: Unanimously approved as amended.

ITEM D-8: ISSUANCE OF REVOCABLE PERMIT TO GROVE FARM ROCK COMPANY, MAKAHA, RIDGE, MANA, KAUAI, TMK: 1-2-02: POR.1.

Uchida said this is for equipment and process material storage purposes. He requested an amendment to the rental to be changed to "to be determined". In the past, the Board looked at nominal permit rent for pasture lands and is concerned that if a minimum figure is too high, it

may encourage overgrazing of the property. Uchida said in this case where there is no impact on the land, the Division wants an opportunity to re-coup the cost to process and manage the permits.

Motion to approve. (McCrorry/Inouye).

Vote: Unanimously approved as amended.

ITEM D-9: ISSUANCE OF LAND PATENT IN CONFIRMATION OF LAND COMMISSION AWARD NO. 238-0, APANA, 1, TO KANEIKI, MOLOAA, KAUAI, TMK: 4-9-13: 28.

Uchida corrected the TMK numbers to 4-9-14: 28 and not 4-9-13: 28. The staff's recommendation is that the Board authorize the issuance of the patent under terms and conditions.

Motion to approve. (McCrorry/Yuen).

Vote: Unanimously approved.

ITEM D-10: CONSENT TO LICENSE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA, DEPARTMENT OF THE NAVY, LICENSOR, AND THE STATE OF HAWAII BY ITS BOARD OF LAND AND NATURAL RESOURCES, LICENSE NO. N6274297RP00035, TO PUMP WATER FOR IRRIGATION OF LICENSEE'S ADJACENT AGRICULTURAL LANDS LEASED TO A COMMERCIAL FIRM, AT UPPER POUHALA, WAIKELE, EWA, OAHU.

Uchida said the surface area is leased to Del Monte and an executive order was issued to the U.S. Government for an underground communication facility at Kunia. Several wells were drilled to be used for an air conditioning plant for a underground communication facility. The agreement was that once the cooling water was used, Del Monte would be able to use it for pineapple irrigation. In 1976 the communication facility was closed and because of a federal law, they could not enter into a direct agreement to continue to provide the water. The State stepped in and entered into a license agreement with the Federal government that enabled Del Monte to use the water.

Uchida said staff's recommendation is that the Board consent to the license agreement to provide water to Del Monte subject to terms and conditions.

Motion to approve. (Inouye/Matsumoto).

Vote: Unanimously approved.

ITEM D-12: FORFEITURE OF GENERAL LEASE NO. S-3653, JACK L. AYERS,

TRUSTEE & ELSIE M. AYERS, TRUSTEE, LOT 13, KANOELEHUA INDUSTRIAL LOTS, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3RD/2-2-50: 81.

Uchida said the Ayers failed to keep the lease rent payments current and failed to pay the special installment agreement. Staff's recommendation is that the Board authorize the cancellation of the lease under terms and conditions.

Motion to approve. (Yuen/Kennison).

Vote: Unanimously approved.

ITEM D-13: REQUEST BOARD APPROVAL FOR THE DIRECT ISSUANCE OF A PERPETUAL NON-EXCLUSIVE EASEMENT TO HAWAIIAN ELECTRIC COMPANY FOR A POWER TRANSMISSION LINE EASEMENT AT THE HAWAII STATE VETERANS MEMORIAL CEMETERY SITE AT KALUAPUHI-WAIKALUA, KANEOHE, KOOLAUPOKO, OAHU, TMK: 1ST/4-5-33:02 (PORTION).

Uchida said the staff's recommendation is that the Board authorize the issuance of the easement subject to terms and conditions.

Motion to approve. (Matsumoto/Kennison).

Vote: Unanimously approved.

ITEM D-14: CONSENT TO THE ASSIGNMENT OF GENERAL LEASE NO. S-5493 FROM GAVIN YAMADA, (ASSIGNOR), GAVIN TO. YAMADA AND JANICE G.M. YAMADA, (ASSIGNEE), FOR GOVT LAND SITUATED AT PUPUKEA, WAIMANALO, KOOLAUPOKO, OAHU, TMK: 4-1-018: 52.

Uchida said this items is to add Mr. Yamada's wife to the lease.

Motion to approve. (Matsumoto/Kennison).

Uchida explained the 25% premium when the Legislature recognized that permittees of agriculture lands were given 35 year direct lease that is paid off within 4 years.

Vote: Unanimously approved.

ITEM D-15: DIRECT ISSUANCE OF A PERPETUAL NON-EXCLUSIVE EASEMENT TO GTE HAWAIIAN TELEPHONE COMPANY, INC., FOR CABLE CABINETS INSTALLATION OVER, UNDER AND ACROSS GOVERNMENT LAND SITUATE WAIPIO, EWA, OAHU, TMK: 9-4-059:74 (POR.).

Uchida said the staff's recommendation is for direct issuance of easement.

Motion to approve. (Matsumoto/Inouye).

Vote: Unanimously approved.

ITEM D-16: AUTHORIZATION TO SELL AT PUBLIC AUCTION INDUSTRIAL LEASE COVERING GOVERNMENT LAND AT MOANALUA, HONOLULU, OAHU.

Uchida said there were no bids in a public auction. The staff's recommendation is that the Board authorize the sale of the lease at a public auction subject to terms and conditions and authorize the termination of the existing revocable permits to be determined by the Chairperson.

Motion to approve. (Inouye/Kennison).

Vote: Unanimously approved.

ITEM D-17: DIRECT ISSUANCE OF A PERPETUAL NON-EXCLUSIVE EASEMENT TO THE BOARD OF WATER SUPPLY, CITY AND COUNTY OF HONOLULU, FOR WATER METER PURPOSES AT WAIKELE ELEMENTARY SCHOOL SITUATE WAIKELE, EWA, OAHU, TMK: 9-4-007:69 (POR.).

Uchida said the staff's recommendation is the issuance of a perpetual non-exclusive easement subject to terms and conditions.

Move to approve. (Inouye/Kennison).

Vote: Unanimously approved.

Uchida requested that both Items D-18 and D-19 be approved together as they both involve the same property, issuing revocable permit to the abutting property owners, one for pasture and the other for agricultural purposes.

ITEM D-18: REQUEST FOR ISSUANCE OF A REVOCABLE PERMIT BY MR. ERNEST NUNES FOR PASTURE PURPOSES AND A RIGHT OF ENTRY FOR THE SITE CONTROL PURPOSES ON GOVERNMENT LANDS, IDENTIFIED BY TMK: 4-4-04: PORTION 11 SITUATE AT HANAKAOO & HONOKOWAI, LAHAINA, MAUI.

ITEM D-19: REQUEST FOR ISSUANCE OF REVOCABLE PERMIT BY MAUI PINEAPPLE CO., LTD. FOR AGRICULTURAL PURPOSES AND A RIGHT OF ENTRY FOR SITE CONTROL PURPOSES ON GOVERNMENT LANDS, IDENTIFIED BY TMK: 4-4-04: PORTION 11, SITUATE AT HANAKOO & HONOKOWAI, LAHAINA, MAUI.

Uchida said both parties expressed interest in the gulch area, the mauka section to Mr. Nunes and the makai section to Maui Pineapple Company. The staff's recommendation is the issuance of revocable permits and construction right-of-entry subject to terms and conditions.

Move to approve. (Kennison/McCrory).

Vote: Unanimously approved.

ITEM D-24: STAFF REQUEST FOR APPOINTMENT OF A HEARINGS OFFICER TO CONDUCT A PUBLIC HEARING REGARDING THE DISPOSITION BY LEASE THE HONOULIWAI FISH TRAP AND KAHINAPOHAKU FISHPOND, TMK: 5-8-02: 68 AND 5-8-01: 02, PORTION HONOULIWIA, MOLOKAI.

Uchida said the staff's recommendation is that the Board authorize appointment of a hearings officer from its membership or authorize the Land Division and Aquaculture Development Program to hire a hearings officer, also to authorize both the Land Division and Aquaculture Program to schedule a date, time and place and handling of all the appurtenant requirements regarding the public hearing on Molokai.

Motion to approve. (Kennison/Yuen).

Vote: Unanimously approved.

ITEM D-25: DEPARTMENT OF HEALTH-HAWAII COUNTY COMMUNITY MENTAL HEALTH CENTER REQUEST FOR RIGHT-OF-ENTRY, COTTAGE #10, HAWAII HOUSING AUTHORITY, TEACHER'S COTTAGE COMPLEX, HONOKAA, HAWAII, TMK: 3RD/4-5-01: PORTION OF 11.

Uchida said this area has been under several different agency jurisdictions and the Land Division would like to put it under a two year right-of-entry to DOH and allow HHA, who has control of the sites, to plan what they want to do with this parcel.

Motion to approve. (Matsumoto/Yuen).

Vote: Unanimously approved.

ITEM D-27: REQUEST THE BOARD'S CONSENT TO THE ASSIGNMENT OF GENERAL LEASE NO. S-4975, LOT 9 OF THE KOKEE CAMP SITE LOTS, WAIMEA (KONA), KAUAI, TMK: 1-4-03: 6.

Uchida said the staff's recommendation is that the Board consent to the lease subject to terms and conditions.

Member McCrory felt there was a problem with the assignee being able to continue the installment fees as the check received was another party's check. She was concerned that the Board not get into a situation with someone who isn't showing he has the capability of paying the lease and suggested the land agent make clear to him the terms of the installment sale.

Motion to defer. (McCrorry/Matsumoto).

Vote: Unanimously approved to defer.

ITEM D-28: CONSENT TO SUBLEASE, LOT 2, BLOCK 39 WAIAKEA HOUSE LOTS, WAIAKEA, SOUTH HILO, HAWAII, TMK: 3RD/2-2-37: 56.

Uchida asked for a withdrawal on the item for time to clarify some issues.

Moved to withdraw. (Matsumoto/Yuen).

Vote: Unanimously approved.

ITEM D-30: CONSENT TO ASSIGNMENT OF GENERAL LEASE #S-3611, WAIAKEA, SOUTH HILO, HAWAII, TMK: (3) 2-2-32-21.

Uchida said this is in response to an ex parte order due to the death of Ms. Kono.

Move to approve. (Yuen/Kennison).

Vote: Unanimously approved.

ITEM D-31: SELL STATE LAND TO THE COUNTY OF HAWAII FOR ROAD WIDENING PURPOSES AT WAIMEA, HAWAII, TMK: (3) 6-7-2-PORION OF 25.

Motion to approve. (Yuen/Matsumoto).

Vote: Unanimously approved.

ITEM D-32: REQUEST FOR WAIVER OF THE PERFORMANCE BOND REQUIREMENT FOR GENERAL LEASE NO. S-5324, IDENTIFIED AS WAIAKEA PASTURE LAND, PARCELS A AND B, WAIAKEA HOMESTEADS, 3RD SERIES, SECTION B, LOTS 7-A AND 7-B, WAIAKEA, SOUTH HILO, HAWAII, TMKs: 3RD/2-4-04: 12, 13, 21 & 22.

Uchida said staff's recommendation is that the Board grant a waiver subject to terms and conditions.

Motion to approve. (Yuen/Kennison)

Member McCrorry preferred not to relinquish the performance bond because pasture lands can be damaged and have to be dealt with anyway.

Uchida requested deferral of the item.

Member Yuen withdrew motion and motioned for a deferral. (Yuen/Kennison).

Vote: Unanimously approved to defer.

ITEM D-33: SET ASIDE TO THE UNITED STATES OF AMERICA, U.S. DEPARTMENT OF TRANSPORTATION, UNITED STATES COAST GUARD FOR LIGHTHOUSE PURPOSES, SITUATE AT COCONUT POINT AT THE FOOT OF WAIANUENUE AVENUE, HILO, HAWAII, TMK: 3RD/2-3-03: 28.

Uchida said in 1947 the Executive Order was canceled and the Coast Guard later reactivated the lighthouse and have been operating ever since. He said it is being corrected now and asked that the Board authorize the set aside of the site, subject to terms and conditions and to authorize the immediate entry to the Coast Guard for the use of the site.

Motion to approve. (Yuen/McCrory).

Vote: Unanimously approved.

ITEM D-34: CANCELLATION OF GENERAL LEASE #S-4717 AND #S-5157 AND DIRECT ISSUANCE OF NEW LEASE TO NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY AT KONA, HAWAII, TMK: 7-3-43-3 AND 42.

Uchida withdrew item.

Motion to withdraw. (Matsumoto/Yuen).

Vote: Unanimously approved to withdraw.

ITEM D-36: RE-OPENING OF PARADISE PARK UNDER A HAWAIIANA BOTANICAL AND ZOOLOGICAL THEME PARK.

Uchida withdrew item as the applicant has failed to consult with the neighborhood board or the community association.

Motion to withdraw. (Inouye/Kennison).

Vote: Unanimously approved to withdraw.

ITEM D-37: REQUEST TO AMEND PRIOR BOARD ACTION OF MARCH 14, 1997, AGENDA ITEM D-10, RELATING TO AUTHORIZATION TO ACQUIRE FIFTY ACRES, MORE OR LESS, OF LAND FOR NEW KEAAU HIGH SCHOOL SITE AND FOUR ACRES, MORE OR LESS FOR CONNECTOR ROAD SITUATE AT KEAAU, PUNA, HAWAII, TMK: (3) 1-6-03: PORTIONS OF 3, 15, AND 68.

Uchida said in the authorization of the acquisition of the site indicated that the conveyance of land by warranty deed appears to be restrictive. The Land Division needs the flexibility to acquire the property by negotiation and condemnation if necessary.

Member Yuen asked whether there was a problem with the title. Uchida said the Department of the Attorney General felt it was too restrictive.

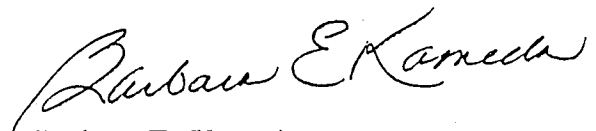
Motion to approve. (Yuen/McCrory).

Vote: Unanimously approved.

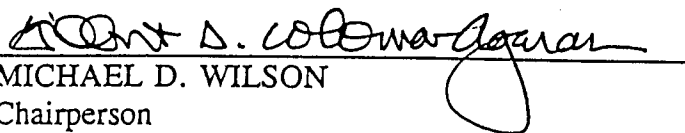
The meeting was adjourned at 4:14 P.M.

NOTE: ALL MATERIALS LISTED ON THIS AGENDA ARE AVAILABLE FOR REVIEW
IN THE DLNR CHAIRPERSON'S OFFICE.

Transcribed by:


Barbara E. Kameda

APPROVED FOR SUBMITTAL:


for MICHAEL D. WILSON
Chairperson
Board of Land & Natural Resources