

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

DATE: FRIDAY, OCTOBER 12, 2001
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL ST.
HONOLULU, HAWAII

Chairperson Gilbert Coloma-Agaran called the meeting of the Board of Land and Natural Resources to order at 9:14 a.m. The following were in attendance:

MEMBERS:

Mr. Gilbert Coloma-Agaran	Mr. Timothy Johns
Ms. Lynn McCrory	Ms. Kathryn Inouye
Dr. Fred Holschuh	Mr. Ted Yamamura

STAFF:

Mr. Harry Yada, Land Division	Mr. Sam Lemmo, Land Division
Mr. Jim Schoocraft, Division of Boating and Ocean Recreation (DOBOR)	Ms. Carol She', DOBOR
	Mr. Mike Fujimoto, Division of Aquatic Resources

OTHERS:

Ms. Yvonne Izu, Department of the Attorney General	Mr. John Dooling, Department of Transportation
Mr. Robert Horcajo, D-6	Mr. Sid Mizukami, D-13
Mr. Dennis Niles, J-2	Mr. Doug Haigh, D-16
Mr. Andrew Char, J-3	Mr. Paul Warren, J-3
Mr. Jim Niess, D-10	Ms. Sharon Miyashiro, D-7
Mr. Danny Monroy, D-7	Mr. Lance Kaneta, D-7
Ms. Lee Gomes, D-7	Mr. Neal Wu, D-7
Mr. Bruce Middleton, J-1	Mr. Terry O'Halloran, J-1
Ms. Pat Pettigrew, J-1	Mr. Jim Coon, J-1
Mr. Bill Mossman, J-1	Mr. Robert Twogood, J-1
Mr. Frederick Hoppe, J-1	Mr. Fred Madlener, J-1
Ms. Janet Mandrell, J-1	Mr. Gary O'Donnell, J-1

{Note: language for deletion is [bracketed], new/added is underlined.}

ITEM A-1: APPROVAL OF THE AUGUST 24, 2001 MINUTES

The Board amended Page 2, Item H-1, as follows:

“... Ms. Maile Sakamoto, Information/Education Coordinator [Na Ala Hele Specialist]for the Division of Forestry and Wildlife,...”.

Unanimously approved as amended (McCrary/Holschuh).

ITEM D-17: REQUEST FOR 1) DIRECT LEASE TO WB KUKIO RESORTS, LLC FOR A WATER TREATMENT PLANT AND RELATED PURPOSES, 2) ISSUE CONSTRUCTION RIGHT-OF-ENTRY, 3) ISSUE RIGHT-OF-ENTRY TO COUNTY OF HAWAII FOR A WATER PIPELINE, AND 4) AMEND PRIOR BOARD ACTION OF JULY 24, 1992 (AGENDA ITEM F-5), KUKIO 2ND, MANINIOWALI, NORTH KONA, HAWAII, TMK: 7-2-04: POR. 4

Mr. Harry Yada, Acting Administrator for the Land Division, asked that this item be withdrawn at the request of the applicant.

Withdrawn (Johns/Holschuh).

ITEM D-6: CONSERVATION DISTRICT USE APPLICATION NO. MA-3050 WATERLINE IMPROVEMENTS AND THE CONSOLIDATION AND RESUBDIVISION OF LANDS AT OLOWALU, MAUI, TMK: VARIOUS

Mr. Sam Lemmo, Senior Staff Planner for the Land Division, briefed the Board and recommended that the Board approve the application for waterline improvements and a consolidation and re-subdivision of land at Olowalu, Maui, subject to terms and conditions.

Mr. Robert Horcajo, Olowalu Elua Associations, addressed some concerns raised by the Board. Presently, the main access to the West Maui Forest Reserve and the Lihau Natural Area Reserve is through the Proposed Cultural Reserve. He mentioned some discrepancies in the staff report, that the SMA exemption recently obtained was for the renovation of an existing garage that was built in 1918, and the SMA approval for the project was actually granted on September 12, 2000.

The Board amended the staff recommendation by adding the following condition:

“14. That access to the West Maui Forest Reserve, Lihau Natural Area Reserve, and State Game Management Area, shall be provided through the Proposed Cultural Reserve in the project area unless provided elsewhere.”

Unanimously approved as amended (Yamamura/McCrary).

ITEM D-13: TIME EXTENSION REQUEST – CONSERVATION DISTRICT USE PERMIT NO. HA-2822 FOR SINGLE-FAMILY RESIDENCE, SOUTH KONA, HAWAII, TMK: (3) 8-7-19: 33

Mr. Lemmo briefed the Board and recommended that the Board approve an extension of two (2)-years to complete the approved single-family residence, subject to conditions.

Mr. Sid Mizukami, Permittee, was present to answer questions.

Member McCrory was concerned about applicant's abusing their right to receive extensions from the Board. She asked that this be the last extension on this particular permit.

The Board amended the staff recommendation by adding the following condition:

"3. The Board has determined that this is the last time extension that will be granted for the Conservation District Use Permit."

Unanimously approved as amended (Holschuh/Johns).

ITEM J-2: SUBSEQUENT TO PUBLIC HEARING, THE DIVISION REQUESTS THAT THE BOARD OF LAND AND NATURAL RESOURCES NOT AMEND THE PROPOSED RULE, SECTION 13-256-41, NA PALI COAST OCEAN WATERS, GENERAL RESTRICTIONS, THAT WOULD HAVE INCREASED PASSENGER CARRYING CAPACITY ON VESSELS WHILE WITHIN NA PALI COAST OCEAN WATERS

Mr. Jim Schoocraft, Boating Staff Officer for the Division of Boating and Ocean Recreation, briefed the Board and recommended that the Board concur with the Division by not amending Section 13-256-41, to increase passenger carrying capacity of vessels that operate within Na Pali coast ocean waters.

Mr. Dennis Niles, representing Captain Andy's, testified against staff's recommendation. His main concern was the justification of environmental impacts that vessels with increase carrying capacity would have.

Motion made at 10:08 a.m. to move into executive session to discuss with legal counsel the Board's rights and immunities (Johns/McCrory). The meeting was reconvened at 10:20 a.m.

Member McCrory made a motion to defer this item. She wanted to see the entire set of rules for the Na Pali coast in front of the Board as one complete package, looking at environmental impacts and input from the community.

Deferred (McCrory/Holschuh).

ITEM D-16: CONSERVATION DISTRICT USE APPLICATION NO. KA-3044 BOARD PERMIT – IMPROVEMENTS TO LYDGATE PARK, WAILUA, KAUAI, TMK: (4) 3-9-02: 34

Mr. Lemmo briefed the Board and recommended that the Board approve the request for improvements to Lydgate Park, subject to 12 conditions.

Mr. Doug Haigh, County of Kauai, Department of Public Works, was present to answer questions.

Member Inouye asked that condition no. 4 be amended to include “drainage and erosion control plans”.

In response to a question raised by Member Yamamura, Mr. Lemmo indicated that condition no. 5 should be within three years, instead of within four years.

The Board made the following amendments to staff’s recommendation:

- “4. Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction plans and the drainage and erosion control plans, if applicable to the Chairperson ...”
- “5. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three[four] (3) years of the approval of such use;”

Unanimously approved as amended (McCrorry/Inouye).

ITEM J-3: AUTHORIZATION FOR INSTALLATION OF A SWIMMING PLATFORM, MOORINGS FOR THREE VESSELS, AND PASSENGER LOADING ACTIVITIES AT KAHUWAI BAY FRONTING THE KONA VILLAGE RESORT, KAUPULEHU, NORTH KONA, ISLAND OF HAWAII

Mr. Schoocraft briefed the Board and recommended that the Board: A) Grant after-the-fact approval for installation of three moorings for vessels and a mooring for one swim platform at the approximate locations depicted in Exhibit “A”. B) Approve the use of the adjacent beach area to land, discharge, and embark passengers. C) Require the applicant to remove all extraneous man-made items on the bottom of Kahuwai Bay in the vicinity of the moorings and make the recommended changes to mooring gear, subject to inspection and approval of DAR., and D) Authorize DOBOR to issue mooring permits for three vessels and a swimming platform or use of the moorings at Kahuwai Bay, and charge applicable fees, subject to conditions.

Mr. Andrew Char, representing the Kona Village Associates, requested that permits be granted to both Kona Village Associates and its licensees, as the Kona Village Associates does not own

commercial vessels that tie into the moorings, but would like the ability to permit the persons and companies that have contracts with them. He pointed out a correction on page 2 of the staff report, 3rd paragraph that should read: "By letter of May 10, 2001, the applicant requested..."

Mr. Paul Warren, Licensee of Kona Village Associates, Owner of 2 moorings - a scuba and snorkeling excursion, clarified that findings and recommendation of the Division of Aquatic Resources to remove the man-made junk have been completed.

Motion made at 11:17 a.m. to move into executive session to discuss with legal counsel the Boards rights and immunities (McCrorry/Johns). The meeting was reconvened at 11:38 a.m.

Member McCrorry clarified that the division could issue the mooring permits to the applicant, and then the applicant would have the ability to grant approval to individual boat owners. The Board however, wants to be sure that the particular vessels have commercial use permits, and that the applicant submit documentation to the division. She asked that condition B. be deleted, to have the division continue to make the decision on the use of the adjacent beach area.

The Board made the following amendments to staff's recommendation:

"[B. Approve the use of the adjacent beach area to land, discharge, and embark passengers.]"

"D. Authorize DOBOR to issue mooring permits for three vessels and a swimming platform to the applicant for use of the mooring."

"E. The applicant will submit documentation that the vessels moored have commercial permits in effect, and the term of use."

Unanimously approved as amended (Holschuh/McCrory).

ITEM D-4: SALE OF LEASE AT PUBLIC AUCTION FOR BUSINESS/COMMERCIAL PURPOSES, HANAPEPE TOWN LOTS, 1ST SERIES, HANAPEPE, WAIMEA, KAUAI, TMK: 1-9-5: 49

Mr. Yada requested that the rental reopening be amended from "At the end of 5 years, by staff or independent appraisal" to "There shall be a fixed percentage increase to be determined by the staff appraiser." Staff's recommendation is that the Board authorize the sale of lease at public auction, in accordance with terms and conditions.

Member McCrorry requested that a condition be added, to include that the lease shall contain a performance bond requirement.

Member Johns corrected page 3, by changing the second condition no. 3, to condition no. 4.

The Board made the following amendments to the staff submittal:

“RENTAL REOPENING: There shall be a fixed percentage increase to be determined by the staff appraiser[At the end of 5 years, by staff or independent appraisal].”

“4[3]. Authorize the sale of a lease at public auction covering the subject area...”

“5. The lease shall contain a performance bond requirement.”

Unanimously approved as amended (McCrary/Holschuh).

ITEM D-10: CONSERVATION DISTRICT USE APPLICATION NO. MA-3031B FOR CONSTRUCTION OF A SINGLE-FAMILY RESIDENCE AND ACCESS ROAD IN THE KIPAHULU DISTRICT OF MAUI, TMK: (2) 1-6-01: 04

Mr. Lemmo briefed the Board and recommended that the Board approve this application for agricultural use and associated accessory uses, subject to conditions.

Member Johns was concerned that the project site is in close proximity to the Kipahulu Extension of the National Park Service and that comments were not received from them. He suggested that a condition be added, saying that before construction begins, a letter from the National Park Service be obtained regarding the project site.

To close the Final Environmental Assessment process, Member Inouye requested that a condition be added stating that the FONSI challenge period has lapsed and there has been no challenges.

Mr. Jim Niess, Maui Architectural Group Inc., representing the Applicant, commented on staff's recommendation that the construction fencing be verified by a professional archeologist, as suggested by SHPD, rather than a professional architect as they had requested. He asked that staff's recommendation be modified to include a professional architect, since there are no archeological issues in the area. The placement of the fence was to protect any potential remains in the gulch during construction.

The Board made the following amendments to staff's recommendation:

“13. No land alterations may occur within the gulch itself or within 20 feet of the gulch. This is to ensure that if significant historic sites are present within the gulch will not be impacted by the proposed undertaking. During construction activities, a buffer zone will be established twenty feet in from the edge of the gulch. This buffer zone will be delineated by construction fencing to be effected prior to the commencement of any ground-altering activities. The placement of the construction fencing is to be verified by a professional archaeologist or a licensed architect in writing to the SHPD Maui/Lanai Islands Archeologist prior to the commencement of any ground-altering activities.”

"16. The applicant shall inform the National Parks Service (NPS) at Haleakala of the terms of the project. The applicant will take into account any NPS comments on the project prior to commencing construction."

"17. If an appeal to the Final Environmental Assessment was filed within the thirty (30) day appeal period on the Final Environmental Assessment, the Board's approval becomes null and void."

Unanimously approved as amended (Yamamura/McCrory).

ITEM D-7: AMEND PRIOR BOARD ACTION OF JANUARY 24, 1992 (AGENDA ITEM F-6), SET ASIDE TO HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII (HCDCH) FOR AFFORDABLE RENTAL HOUSING PROJECT, ISSUANCE OF A MANAGEMENT AND CONSTRUCTION RIGHT-OF-ENTRY, HONOLULU, OAHU, TMKs: (1) 1-5-7: 1, 2, 14, 15, 18, 66, 67, 68, 69, 71, 74, 75, 78, 79, 80, 81, 82, 83, & 84

Mr. Yada amended the title of the staff submittal to read: "AMEND PRIOR BOARD ACTION OF APRIL 26, 1991, (AGENDA ITEM F-5), ...", and similarly in recommendation no. 1 to read: "Amend its approval of April 26, 1991, under agenda item F-5, ...". Condition no. 5.B. was also amended to read: "The right-of-entry shall commence upon the termination of all the revocable permits [date of the Land Board approval] and expire upon the issuance of the Governor's executive order [date of the subject deed]". Staff's recommendation is that the Board: 1) Amend its approval of April 26, 1991, acreage to be set aside to the Department of Accounting and General Services (DAGS) should be 4.085 acres, more or less; 2) Authorize HCDCH to act as agent of the landowners, State of Hawaii to process the zoning change, exemptions, consolidation and subdivision of the subject lands; 3) Authorize the cancellation of various easements that encumber the property that are no longer appropriate and needed; 4) Authorize the cancellation of various existing revocable permits currently occupying the area of the proposed HCDCH project with the requirement that they vacate the property by January 31, 2002; 5) Authorize the issuance of a management and construction right-of-entry to HCDCH effective upon the termination of the various revocable permits; and, 6) Approve of and recommend to the Governor the issuance of an executive order setting aside the subject lands to the applicant, in accordance with terms and conditions.

Ms. Sharyn Miyashiro, Executive Director of HCDCH, explained that the project is a 21-story complex for the elderly consisting of 1 and 2 bedroom units.

Mr. Danny Monroy, Kewalo Pickle Produce Inc., one of the tenants being vacated, asked for the Board's help in relocating to another State property.

Mr. Lance Kaneta, Office Manager and Corporate Secretary of Aloha Fender Inc., lessee of property in consideration for Board action, indicated that in losing the revocable permit they would not be able to exit out through the rear of their building to continue to maintain workflow, which the building was designed to handle. He asked for consideration in obtaining some type of easement, perhaps half of their current area, so that they have an exit route for their vehicles.

Mr. Yada indicated that the easement area encumbers the DAGS side of the property, and this would probably be a subject that DAGS and HCDCH would have to make.

Ms. Lee Gomes, Gomes School Bus Service, one of the tenant being vacated, asked for the Department's help in relocating their business, so they could continue to service the students of Oahu.

In response to a question raised by Member Inouye, Mr. Neal Wu, HCDCH Project Manager of the Development Branch, went over the demolition, site remediation, and the tentative construction timetable.

Member Johns asked that a condition be added, that DAGS, HCDCH and DLNR work with Aloha Fender, Inc. for the possibility of providing an access.

Member Holschuh asked that the division do whatever they can to help the tenants relocate.

The Board made the following amendments to the staff submittal:

Title: "AMEND PRIOR BOARD ACTION OF APRIL 26, 1991 (AGENDA ITEM F-5) [JANUARY 24, 1992 (AGENDA ITEM F-6)]"

"1. Amend its approval of April 26, 1991, under agenda item F-5 [January 24, 1992, under agenda item F-6],..."

"5.B. The right-of-entry shall commence upon the termination of all the revocable permits and expire upon the issuance of the Governor's executive order".

"That DAGS, HCDCH and DLNR work with Aloha Fender on the possibility of an easement for circulation purposes in the immediate rear of their property."

Unanimously approved as amended (Inouye/McCrory).

ITEM J-1: REQUEST FOR PRELIMINARY APPROVAL TO AMEND HAWAII ADMINISTRATIVE RULES, SECTIONS 13-231-71, 13-234-25, 13-253-1, AND 13-256-11, AS THEY RELATE TO COMMERCIAL FEE INCREASES

Mr. Schoocraft briefed the Board and recommended that the Board: 1) Grant preliminary approval to conduct a public hearing on the proposed amendments to the Hawaii Administrative Rules, 2) Affirm the Department to schedule the public hearing on this rule as expeditiously as possible following the Governor's approval to conduct a public hearing, 3) Authorize the Chairperson to appoint a hearing master to conduct a public hearing to receive written and verbal testimony concerning the proposed amendments, and 4) Recommend that the Land Board, in light of the opinion to delete the formerly proposed flat fee and charge a percentage based on gross receipts, concur with the Division to proceed to the Legislature this session to amend the statute.

In response to a question raised by Member Johns, Ms. Carol She, Boating Regulations Officer, indicated that she has spoken to the Chairperson of the Small Business Regulatory Review Board (SBRRB) who has received the impact statement and has been trying to get comments to the Board. Thus far, no comments have been received from the SBRRB.

Mr. Bruce Middleton, Member of the Ala Wai Marina Board, provided written and oral testimony in opposition to the administrative rule change. His concerns were the present economic distress, the number of other legal defects the Attorney General is presently addressing, and comments that haven't been received from the SBRRB regarding the impact statement. He suggested that the Board hold the package until the effect of the upcoming legislation becomes apparent.

Mr. Terry O'Halloran, Ocean Tourism Coalition, provided written and oral testimony in favor of the division to proceed to seek legislative approval for the flat fee structure, and recommending that the fee proposal be postponed until after the upcoming regular legislative session, which will give distressed business a chance to get a clearer picture of what their future might be for the industry.

Member McCrory asked Mr. O'Halloran if he had a chance to comment on the letter from Mr. Mossman that was given to him the last time this issue came before the Board, regarding the flat fees. Chairperson Coloma-Agaran recalled that there were some questions raised by some of the recreational boaters that the increases being proposed in the old package hit them a lot harder than the commercial boaters. Mr. O'Halloran apologized for not responding and asked if his comments are still needed. Member McCrory felt it very important because of his statement that the flat fee is a viable option. She asked that the comments still be provided to the Board.

Ms. Pat Pettigrew, Chairperson of the Ocean Users Coalition of Hawaii, provided written and oral testimony urging the Board to hold off on the fee proposal until after the next legislative session to give businesses a chance to recover from economic crises or at least know if they will in fact be in business. This will also give them a unique opportunity to work with DOBOR to try and come up with more innovative improvements that will work for both sides. She also provided written and oral testimony as President of Boats Hawaii requesting that the Board not approve the proposal based on two requirements that have not been completed: 1) An approved impact statement from the Small Business Regulatory Review Board, and 2) A Management Plan that includes a timeline for expenditures, and improvements, that is available to the public for review.

Mr. Jim Coon, former Chairperson of the SBRRB and Co-owner, Operator, and CEO of Trilogy Excursions, submitted written and oral testimony, requesting that the hearings be postponed until after the 2002 legislative session and that the Board concur with the Division to proceed to the legislature this session to amend the statute. He indicated that the timing is tough to be talking any fee increases because everyone is fighting for their survival at this time. He has been in business for almost 30 years and has never had to layoff employees. He asked for the Board's compassion for the struggling entities.

Chairperson Coloma-Agaran asked, since Mr. Coon was involved in the Ocean Tourism Coalition, that he assist Mr. O'Halloran in responding to the questions about the effect of the old fee package, recreation versus commercial. Mr. Coon agreed.

Mr. Bill Mossman, Hawaii Boaters Political Action Association, provided written and oral testimony, giving three reasons why the rule amendments as proposed by DOBOR should be re-accomplished before public hearings: 1) Boating fees should not be imposed or increased until DOBOR has a clear plan for the use of the fees, and establishes a direct relationship between the costs of the proposed facilities and services and the increased fees, 2) Boaters are being discriminated against and treated differently from the normal taxpayer by being asked to pay the additional fees for future indefinite capital improvement projects which they may never use, and 3) DOBOR's Financial Projects are outdated and should be revised to account for the new revenues of the Proposal/Amendment. He also testified on behalf of Mr. Joe Pickard, Boat Operator at Kaneohe Bay, against the fee increases.

Mr. Robert Twogood, Twogood Kayaks Hawaii, and President of Hawaii Kayak and Canoe Association - Member of the Ocean Users Coalition of Hawaii, provided written and oral testimony, requesting that the Board withhold the approval of this package for four reasons: 1) So it will not proceed further toward implementation until an Attorney General's opinion can be obtained on the entire package, 2) The package in its present form does not have the support of any part of the boating community, either commercial or recreational, 3) Given the present state of our economy after the attack on our Nation, many of the businesses that this fee package affects, are teetering on the brink of insolvency and the increases contained in this package would be enough to push many of them over the edge, and 4) There is no current statement of economic impact on this package as it now stands as is required by law.

Mr. Frederick Hoppe, Member of the Ala Wai Marina Board, Officer of the State Harbor Pilot, provided written and verbal testimony, asking that the Board take the initiative and withdraw permission from DOBOR to conduct hearings on the proposed rule change.

Mr. Fred Madlener, Board Member of Hawaii Thousand Friends, stated their position that the State was right in having attempted to open the ocean to the citizens of the State by building harbors and ramps and affording places for boats to lodge. He felt that the initiative before the Board, increasing the rates for commercial operators is only part of a larger package. The larger package, together with these changes, will take it the other way and close the ocean access. He felt the package before the Board has several flaws, and asked that the Board not send the rules forward.

Ms. Janet Mandrell, Public Liaison for the The Makai Society - Member of the Ocean Users Coalition of Hawaii, provided written and verbal testimony, requesting that the Board deny the recommendation to amend merely the commercial rates for using DOBOR facilities, that the entire package needs to be reexamined and discussed before going out to a larger audience.

Member McCrory suggested deleting condition no. 4, because the Board does not have the information requested of Mr. O'Halloran, and nothing is put forth to make a statement that says the flat fees is the correct way to go.

Member Johns had the same issues, and wasn't sure if the Land Board could vote to endorse that without hearing from the public through the public hearing process.

Motion made at 2:17 p.m. to move into executive session to discuss with legal counsel the Board's rights and immunities (Johns/McCrory). The meeting was reconvened at 2:45 p.m.

Member Johns clarified that the commercial portion of the rules is in front of the Board, the non-commercial portion is not, and the Board does not have the authority to act on that portion of the rules. He made a motion to approve staff's recommendation with the following amendments:

"That the public hearing for the proposed rule amendments be postponed until the following conditions are met:

- 1) Completion of the legislative session for 2002;
- 2) That there be a briefing for the Land Board providing a detailed plan for revenues and expenditures from increased fees and the proposed expenditures, capital or otherwise, from the proposed fee increases; and,
- 3) That the Small Business Impact Statement be forwarded to the Governor in accordance with the statute, and that the plan in fact go to the Governor with the recommendations of the Land Board."

"[4. Recommend that the Land Board, in light of the opinion to delete the formerly proposed flat fee and charge a percentage based on gross receipts, concur with the Division to proceed to the Legislature this session to amend the statute.]"

Unanimously approved as amended (Johns/McCrory).

Mr. Gary O'Donnell, who returned to the meeting after the Board took action on Item J-1, indicated that he submitted written testimony, requesting that the Board reject going forward with the fee increases as written and seize the moment to pursue alternative revenue to improve the harbors with a lesser fee increase that would reflect the actual services being provided at this time, that would reflect the need to keep recreational boating affordable for average income earners.

ITEM K-1: ISSUANCE OF REVOCABLE PERMIT TO PACIFIC ORNAMENTAL IRON CRAFT, NEAR PIER 32, HONOLULU HARBOR, OAHU, TMK: (1) 1-5-35-7

Mr. John Dooling, Department of Transportation, briefed the Board and recommended that the Board authorize the Director of Transportation to issue the applicant a revocable permit, subject to conditions.

Unanimously approved as submitted (Inouye/Holschuh).

ITEM K-2: ISSUANCE OF REVOCABLE PERMIT TO KAIKOR CONSTRUCTION ASSOCIATES, INC., NEAR PIER 29, HONOLULU HARBOR, OAHU, TMK: (1) 1-5-38-2

Mr. Dooling briefed the Board and recommended that the Board authorize the Director of Transportation to issue the applicant a revocable permit, subject to conditions.

Unanimously approved as submitted (Inouye/Yamamura).

ITEM K-3: ISSUANCE OF REVOCABLE PERMIT TO PENDLETON FLOUR MILLS, LLC, DBA HAWAIIAN FLOUR MILLS, HONOLULU HARBOR, OAHU, TMK: (1) 1-5-39-50P, 57P AND 7P

Mr. Dooling briefed the Board and recommended that the Board authorize the Director of Transportation to issue the applicant a revocable permit, subject to conditions.

Unanimously approved as submitted (Inouye/Holschuh).

ITEM K-4: RESUBMITTAL – CONSENT TO SUBLEASE, PACIFIC AVIATION SERVICES, INC. TO FLIGHT SCHOOL HAWAII, INC., LEASE NO. DOT-A-92-21, HONOLULU INTERNATIONAL AIRPORT, OAHU, TMK: (1) 1-1-03-1P

Mr. Dooling briefed the Board and recommended that the Board authorize the proposed amendment for the Department of Transportation to proceed with the Consent to Sublease, Lease No. DOA-A-91-21.

Member Inouye was concerned about the extended lease term, from March 31, 2003, to December 31, 2010. She recommended deferring this item, to allow the Department of Transportation to respond as to why the lease term and area is being increased.

Deferred (Inouye/McCrory).

ITEM K-5: REPORT ON REVOCABLE PERMITS ISSUED OR RENEWED BY THE DEPARTMENT OF TRANSPORTATION FOR CONSISTENT USES.

Mr. Dooling indicated that this is a report for the Board's information.

No action.

ITEM F-1: AMENDMENT TO BOARD RESOLUTION NO. 33 – RELATING TO APPOINTMENT OF MASTERS TO HOLD PUBLIC HEARINGS

Mr. Mike Fujimoto, Aquatic Biologist VI for the Division of Aquatic Resources, briefed the Board and recommended that the Board adopt the amendment to Board Resolution No. 33 as submitted.

Unanimously approved as submitted (Johns/Holschuh).

ITEM F-2: REQUEST FOR APPROVAL TO AMEND AN AGREEMENT WITH THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII

Mr. Fujimoto briefed the Board and recommended that the Board authorize the Chairperson to amend the Agreement with the Research Corporation of the University of Hawaii.

Unanimously approved as submitted (Johns/Holschuh).

ITEM D-1: GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT AND ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY TO KAHUI PONO, LLC FOR ACCESS AND UTILITY PURPOSES, HOOLAWA, MAKAWAO, MAUI, TMK: (2) 2-9-002: POR. 017

Mr. Yada indicated that the Maui District Land Office has requested that this item be withdrawn. There has been some recent grading and clearing violations, which is being investigated, and staff would like to bring the submittal back and address those issues.

Withdraw (Inouye/Yamamura).

ITEM D-2: EXTENSION OF LEASE TERM AND CONSENT TO MORTGAGE, GENERAL LEASE NO. S-4524, MRS. ETHEL K. ABREU AND MR. LLOYD F. ABREU, LESSEES, KAWAIPAPA AND WAKIU, HANA, MAUI, TMK: (2) 1-3-006: 007

ITEM D-3: CONSENT TO ASSIGN GENERAL LEASE NO. S-4524, MS. HAZEL OLIVEIRA AND MR. LOUIS J. ABREU (DECEASED), ASSIGNOR, TO MRS. ETHEL K. ABREU AND MR. LLOYD F. ABREU, ASSIGNEE, KAWAIPAPA AND WAKIU, HANA, MAUI, TMK: (2) 1-3-006: 007

Mr. Yada indicated that the Maui District Land Office requests that Items D-2 and D-3 also be withdrawn.

Withdrawn (Yamamura/Johns).

ITEM D-5: RECONSIDERATION OF WITHDRAWAL ACTION TO FORFEIT GENERAL LEASE NO. S-5097, MR. ANTHONY & MRS. BARBARA LOCRICCHIO AND MS. PATRICIA EWING, LOT 82, PUU KA PELE PARK LOTS, WAIMEA (KONA), KAUAI, HAWAII, TMK: 1-4-2:79

The Board decided to defer this item, based on testimony received from the applicant.

Deferred (McCrorry/Inouye).

ITEM D-8: SECOND AMENDMENT TO PRIOR BOARD ACTION OF APRIL 27, 1990 UNDER AGENDA ITEM F-9 FOR CANCELLATION OF EXECUTIVE ORDER NO. 1600 AND SET ASIDE TO DAGS FOR THE STATE CAPITOL SITE, SITUATE AT HONOLULU, OAHU – TMK: (1) 2-1-24: 1 AND 8

Mr. Yada briefed the Board and recommended that the Board approve of and recommend to the Governor issuance of an executive order canceling Governor's Executive Order No. 1600, approve of and recommend to the Governor the issuance of an executive order setting aside the entire State Capitol site to DAGS, in accordance with terms and conditions.

Unanimously approved as submitted (Inouye/Yamamura).

ITEM D-9: AFTER-THE-FACT GRANT OF PERPETUAL, NON-EXCLUSIVE EASEMENT TO VERIZON HAWAII INC., FOR UTILITY PURPOSES, KULA, MAUI, TMK: (2) 2-2-24: PORTION 2

Mr. Yada briefed the Board and recommended that the Board authorize the direct sale of a perpetual, non-exclusive easement to Verizon Hawaii Inc., in accordance with terms and conditions.

Unanimously approved as submitted (Yamamura/Inouye).

ITEM D-11: RESIND PRIOR BOARD ACTION OF MARCH 23, 2001 (AGENDA ITEM D-9), JULY 13, 2001 (AGENDA ITEM D-19), CONSENT TO ASSIGN, EXTENSION OF LEASE TERM AND CONSENT TO MORTGAGE, GENERAL LEASE NO. S-3780, NAPUANANI FARMS, ASSIGNOR, MR. CHUL HO CHO, ASSIGNEE, TERRITORIAL SAVINGS, THE MORTGAGEE, WAIMANALO, KOOLAUPOKO, OAHU, TMK: (1) 4-1-026: 019

Mr. Yada briefed the Board and recommended that the Board rescind its prior action, in accordance with terms and conditions.

Unanimously approved as submitted (Inouye/Yamamura).

ITEM D-12: RESCIND PRIOR BOARD ACTIONS OF MARCH 12, 1993 (AGENDA ITEM F-4), GENERAL LEASE NO. S-3859, MS. FAITH OKABE EXTENSION OF LEASE TERM AND CONSENT TO MORTGAGE, AND NOVEMBER 19, 1999 (AGENDA ITEM D-1), AMEND RENTAL REOPENING DATES AT WAIMANALO, OAHU, TMK: (1) 4-1-25: 22 AND 23

Mr. Yada briefed the Board and recommended that the Board rescind its prior action, in accordance with terms and conditions.

Unanimously approved as submitted (Inouye/Yamamura).

ITEM D-14: REQUEST FOR PUBLIC HEARING AND SMALL BUSINESS IMPACT DETERMINATION: PETITION TO AMEND TITLE 13, CHAPTER 5, HAWAII ADMINISTRATIVE RULES (CHAPTER 13-5, HAR), TO REDESIGNATE A PORTION OF THE STATE LAND USE CONSERVATION DISTRICT LIMITED SUBZONE TO THE GENERAL SUBZONE IN PUPUKEA, DISTRICT KOOLAULOA ON THE ISLAND OF OAHU, TMK: (1) 6-1-02: 22

Mr. Lemmo asked that this item be withdrawn at the request of the applicant who will not be pursuing the project.

Withdraw (Inouye/Yamamura).

ITEM D-15: CERTIFICATION OF ELECTION AND APPOINTMENT OF SOIL AND WATER CONSERVATION DISTRICT DIRECTORS (PUNA, WAIAKEA, MAUNA KEA, AND KAU)

THE BOARD WILL MEET IN AN EXECUTIVE MEETING UNDER SECTION 92-4, HRS, AND PURSUANT TO SECTION 92-5(a)(4), HRS, TO CONSULT WITH LEGAL COUNSEL ON QUESTIONS AND ISSUES PERTAINING TO THE BOARD'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES, AND LIABILITIES.

Mr. Lemmo briefed the Board and recommended that the Board certify the elections and appoint those persons recommended as directors of their respective Soil and Water Conservation District, for the term ending June 30, 2002.

Motion made at 3:15 p.m. to move into executive session (Johns/Inouye). The meeting was reconvened at 3:22 p.m.

Member Holschuh made a motion to approve the list of names, with the exception of the Waiakea District Director, Mr. Francis Pacheco, who is presently serving as Hamakua District Director, until such time as an opinion from the Attorney General's Office is provided on whether he is able to serve as Director on two (2) districts. He asked that staff notify Mr. Pacheco of the Board's decision.

Unanimously approved as amended (Holschuh/McCrory).

There being no further business, Chairperson Coloma-Agaran adjourned the meeting at 3:25 p.m.

Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Kimberly C. Kelihoomalua

Approved for submittal:



GILBERT S. COLOMA-AGARAN
Chairperson
Board of Land and Natural Resources