

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

DATE: FRIDAY, OCTOBER 22, 2004
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

Chairperson Peter Young called the meeting of the Board of Land and Natural Resources to order at 9:12 a.m. The following were in attendance:

MEMBERS

Mr. Peter Young
Mr. Ted Yamamura
Mr. Toby Martyn (arrived at 9:15 a.m.)

Mr. Timothy Johns
Mr. Ron Agor

STAFF

Ms. Dede Mamiya, Land
Mr. Richard Rice, DOBOR
Mr. Dan Quinn, Parks
Mr. Paul Conry, DOFAW

Mr. Sam Lemmo, OCCL
Mr. Steve Molman, DOBOR
Mr. Walter Ikehara, DAR
Ms. Vickie Caraway, DOFAW

OTHERS

Ms. Linda Chow, Deputy Attorney General
Mr. Max Graham, D-4
Ms. Linnel Nishioka, M-2
Mr. Philipp Steingraeber, D-2
Mr. Mike Beason, D-6, K-3
Mr. Rees Falkner, K-4
Mrs. Robin Wakefield, K-5
Mr. Anthony Germano, K-6
Mr. Rick Egged, E-1
Mr. Sid Synder, E-1
Mr. Rex Johnson, E-1
Mr. Scott Kawasaki, E-1
Ms. Barbara Miller, E-1

Mr. Joe Farber, D-1
Mr. Ernie Dias, D-3
Ms. Joyce Nakama, D-7
Mr. Bruce Meyers, K-2
Ms. Jaque Kelley-Uyeoko J-2
Mr. Wakefield Ward, K-5
Mr. Ted Liu, E-1
Ms. Judy Drosd, E-1
Mr. Clark Hatch, E-1
Ms. Nalani Choy, E-1
Mr. David Booth, E-1
Mr. Porter Miller, E-1

Ms. Shirley Alexander, E-1
Ms. Michelle Matson, E-1

Mr. Daniel Chun, E-1
Mr. Ron Gibson, E-1

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

Item A-1: Minutes of October 8, 2004

Unanimously approved as submitted (Johns/Yamamura).

Item D-4: Grant of Term, Non-Exclusive Easement for Access and Utility Purposes to Association of Apartment Owners of Kulana Condominium, Waipouli, Kauai, TMK: (4) 4-4-03:Ditch 8-A.

Dede Mamiya, Administrator of the Land Division conveyed that the subject parcel, which was formerly owned by the Lihue Plantation Company, runs through State irrigation Ditch 8-A. Also since Ditch 8-A is part of the overall water delivery system in Kapaa Homesteads Ms. Mamiya is suggesting it would be appropriate to include their recommendations for this portion of the ditch. Ms. Mamiya recommended the Board authorize the issuance of a 55-year term non-exclusive easement for access and utility purposes under the terms and conditions cited in staff's submittal.

Max Graham representing the applicant was present.

The Board amended:

- 1) **The Tax Map Key in the Title. Location and Remark Sections from (4) 4-4-3 to 4-3-3; and**
- 2) **The Recommendation Section by adding subparagraph 2.G. to read as follows: "2.G. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (4) 4-3-03:05, provided that when the easement is sold assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document."**

Unanimously approved as amended (Agor/Johns).

Item D-1: Direct Lease to Aoao O Na Loko Ia O Maui for Restoration of the Koieie Fishpond for Educational, Cultural, Historical and Recreational Purposes, Waiohuli-Keokea, Kaonoulu, North Kihei, Maui, TMK: 3-9-01: Submerged Land Seaward of 85, 87, 147.

Ms. Mamiya reminded the Board on March 25, 2004 the Board approved the applicant's Conservation District Use Application and they are now following up with a direct lease. She let it be known the lease is subject to Section 171-28(b) HRS and Section 171-43.1 HRS. According to Section 171-28(b) it states that in lieu of legislative authorization the

board may lease such fish ponds if: 1) A public hearing is conducted on the proposed lease; 2) The board finds that the proposed lease does not cause a substantial adverse environmental or ecological impact on the fish pond or surrounding area; and 3) The proposed lease is not in violation of applicable federal, state or county laws. Ms. Mamiya indicated the State has met all three conditions. A Final Environmental Assessment together with its finding of no significant Impact (FONSI) was submitted to the Office of Environmental Quality Control and was published in the February 8, 2004 issue. Ms. Mamiya recommended the Board authorize the issuance of a direct lease to Ao'ao O Na Loko I'a O Maui covering the subject area under the terms and conditions listed in staff's submittal.

Joe Farber of Ao'ao O Na Loko I'a O Maui was present.

Unanimously approved as submitted (Yamamura/Johns).

Item M-2: Consent to Continuation of Lease No. 92-10-0463 from Department of Accounting and General Services, Lessor, to Washington Place Foundation, Lessee, for Washington Place under Governor's Executive Orders No. 535 and 1429, Honolulu, Oahu, TMK: (1) 2-1-18:1.

Ms. Mamiya pointed out on November 15, 2002 the Board consented to the subject lease from Department of Accounting and General Services to the Washington Place Foundation for Washington Place. Currently the subject lease will expire on October 31, 2004. Discussions have begun with Washington Place Foundation on a new agreement but while the talks proceed staff would like to extend the existing lease an additional 1-½ years to allow time to work out the terms of this new agreement. Ms. Mamiya recommended the Board consent to the continuation of Lease No. 92-10-0463 between Department of Accounting and General Services and Washington Place Foundation for 1-½ years, subject to any applicable conditions.

Linnel Nishioka appeared on behalf of Washington Place Foundation to answer any questions.

Unanimously approved as submitted (Johns/Agor).

Item D-3: Forfeiture of Revocable Permit No. S-7256, Controlled Environment Aquaculture Technology, Inc., Permittee, Hanapepe Town Lots, 1st Series, Lots 54-B, 58-B and 82, Hanapepe, Kauai, TMK: (4) 1-9-10:34, 35, 38 and (4) 1-9-11:07.

Ms. Mamiya informed the Board Controlled Environmental Aquaculture Technology, Inc has failed to keep their property tax current. At present the rent and insurance obligations are current. A previous Notice of Default was sent to the permittee at which time they executed a repayment plan with the Real Property Tax Collection Division. However, by letter dated 8/4/04 The Real Property Tax Collection Division notified the Kauai Office that the permittee has failed to honor its agreement. Ms. Mamiya recommended the Board

authorize the cancellation of Revocable Permit No. S-7256 and authorize the retention of all sums heretofore paid or pledged under Revocable Permit No. S-7256 as liquidated damages. Ernie Dias, President and CEO of CEATECH USA told the Board his company was hit by a virus which looks suspicious and which he suspects to be some form of sabotage. He let it be known his company has been shut down for about a year while investigations have been on going as well as the clean up of the virus. He announced his company has had to bury four million dollars worth of their product. Currently the company is undergoing a reorganization therefore Mr. Dias is asking until January 31, 2005 to come current on his property tax problem. He believes in his company and the product they are producing and feels he can make it work.

The Board allowed CEATECH until 1/31/05 to resolve the default. If they haven't corrected the default then staff would bring this matter back to the board.

Motion to Defer

Unanimously approved to Defer (Agor/Martyn).

Item D-2: Grant of 55-year Non-Exclusive Easement for Seawall and Fill Land to Philipp Steingraeber and Marie Kastensmith, Kaneohe, Koolaupoko, Oahu, TMK: (1) 4-7-19:34 seaward.

Ms. Mamiya conveyed that the applicant is one of the pier owners participating in the Kaneohe Piers Amnesty Program. It was noted during a pier survey, their seawall was found to be encroaching onto State lands approximately 93 square feet. Because the encroachment is less than 100 square feet staff is asking that the \$500 fine be waived. Lastly the applicant is requesting an estimated easement calculation to allow the shoreline certification process to proceed while the easement is being processed. The estimated lump sum payment for a 55-year easement is \$3,335.00. Ms. Mamiya recommended the Board authorize the issuance of a 55-year term non-exclusive easement for seawall and fill land purposes to the applicants.

Philipp Steingraeber was present.

Unanimously approved as submitted (Johns/Martyn).

Item D-7: Grant to Term, Non-Exclusive Easement to Frederick and Joyce Nakama for Seawall and Fill Land Purposes, Waialae Beach Lots, Honolulu, Oahu, TMK: (1) 3-5-22:01 seaward.

Ms. Mamiya communicated during a shoreline certification it was discovered that the applicant's seawall was encroaching onto State-owned lands. The area of encroachment is approximately 321 square feet. The Office of Conservation and Coastal Lands has determined that allowing the encroachment to remain would have no adverse impacts on natural resources. Currently there is an existing wire-mesh fence that extends beyond the corner of the applicant's property and the applicant will remove this fence. Furthermore, Ms. Mamiya is requesting the Board authorize the acceptance of a deposit to process the

shoreline certification, which is needed for the applicant to pursue a building permit application. Ms. Mamiya recommended the Board authorize the issuance of a term, non-exclusive easement to the applicants covering the subject area for seawall purposes and authorize the Department to accept a deposit in the amount of \$33,495.00 from the applicant pursuant to the conditions set forth in the Remarks section.

Joyce Nakama the applicant came forward to provide testimony. Ms. Nakama asked the Board for the opportunity to purchase the land instead of leasing it from the state. She informed the Board she needs to rebuild her damaged home but cannot do so until the shoreline certification process is completed. She informed the Board she has a letter which shows the seawall has been there since 1958. As for the mesh-wire fence, it has also been in place since 1958 therefore she feels she should not be assessed a fine.

Unanimously approved as submitted (Johns/Martyn).

Item D-6: Amend Prior Board Action of August 22, 2003, Item D-16, Consent to Sublease General Lease No. S-3852, United States of America, Department of the Navy, Sublessor, to Cellco Partnership, Delaware general partnership dba Verizon Wireless, sublessee, Waimea, Kekaha, Kauai, TMK: (4) 1-2-02: por. 26.

Ms. Mamiya reminded the Board approval was granted for the subleasing of General Lease No. S-3852 at the August 22, 2003, board meeting. At that meeting the tax map key for the subject parcel was incorrect therefore she is before the Board to make the necessary change. Ms. Mamiya recommended the Board amend its prior action of August 22, 2003, Item D-16 by changing the Tax Map Key of the subject parcel to (4) 1-2-02: por. 26.

Mike Beason for Verizon Wireless was present.

Unanimously approved as submitted (Agor/Johns).

Item K-3: Second Time Extension Request for Conservation District Use Permit (CDUP) KA-3094, by Verizon Wireless c/o Mike Beason 2943 Kalakaua Avenue #108, Honolulu, Hawaii, 96815, located at United States Navy Barking Sands, West Kauai, Subject Parcel TMK: (4) 1-2-002:026.

Sam Lemmo, Administrator of the Office of Conservation and Coastal Lands pointed out this is the second time extension requested by Verizon Wireless. According to the consultant, the lease agreement with the State has been sent to the Attorney General for approval, and the final authorization from the United States Navy facility is still being processed. Mr. Lemmo recommended the Board approve this request to amend CDUP KA-3094 subject to the two conditions listed in staff's submittal.

Mike Beason for Verizon Wireless was present to answer any questions.

Unanimously approved as submitted (Agor/Martyn).

Item K-2: Time Extension Request for Conservation District Use Permit (CDUP) HA-2969 for Improvements to Saddle Road from Milepost 27 to 42.2 (known as Section II), Hamakua, Island of Hawaii, Subject Parcels TMK's: (3) 4-4-015:004 and 008; (3) 4-4-016:003, 005, 006 and (3) 3-8-001:001:007, 008 and 013.

Mr. Lemmo indicated the applicant previously came before the Board for approval of Improvements to Saddle Road. Staff notes the applicant did not initiate construction until December 2001 with actual roadway construction beginning in February 2004. Mr. Lemmo pointed out the delay in the progress of the road improvements is a result of insufficient funds being appropriated for this project. If funding continue at recent fiscal year levels then two additional projects may be needed to complete Section II. Mr. Lemmo recommended the Board approve an extension of four (4) years to complete the project's construction subject to the conditions listed in the submittal.

Bruce Meyers for representing the consultant was present.

Unanimously approved as submitted (Johns/Yamamura).

Item K-4: After the Fact (ATF) Conservation District Use Application (CDUA) KA-3191 Subdivision by Boy Scouts of America Aloha Council, Waimea Canyon State Park, Kauai, Subdivide TMK: (4) 1-4-001:015 from TMK: (4) 1-4-001:002.

Mr. Lemmo communicated the Boy Scouts would like to acquire this property however, the State is prohibited from selling its land outright, therefore a land exchange was proposed. In 2002, the Board approved the proposed exchange and the Legislature approved the exchange in House Bill 83 during the 2003 Legislative session. The Kauai Planning Commission also approved the subdivision of Camp Alan Faye. Due to an oversight, the Board did not approve the subdivision therefore this after the fact application is to address that oversight. Mr. Lemmo recommended the Board approve this application subject to the twelve (12) conditions listed in the submittal.

Rees Falkner representing the Boy Scouts Aloha Council was present.

The Board made the following change to the Recommendation Section

“Based on the proceeding analysis, staff recommends that the [~~Department of Land and Natural Resources~~] Board approve this application subject to the following conditions.”

Unanimously approved as amended (Agor/Johns).

Item K-5: Enforcement File OA-05-04 Regarding a Shoreline Encroachment and Alleged Shoreline Violation (filled land seawall) Seaward of TMK: (1) 3-

8-002:004, by Richard Wakefield Ward, 6057 Summer Street, Honolulu, Hawaii, 96821.

Mr. Lemmo noted the alleged violations in question are a seawall and filled land area located Makai of the homeowner's property line. During the survey of the shoreline an encroachment was identified and a violation case was opened. Mr. Lemmo let it be known that staff finds that the structure does not pose an immediate threat to the environment and because the violation does not meet the board's 1999 "no tolerance" policy staff finds that the structure may remain for further consideration. Mr. Lemmo recommended the Board find that the alleged violated the provisions of Title 13-5 Hawaii Administrative Rules and Chapter 183C, Hawaii Revised Statutes by failing to obtain the appropriate approvals for the construction of a shoreline structure and be subject to the conditions listed in the submittal.

Robin and Wakefield Ward were present.

The Board amended condition 5) of the Recommendation

"5. That in the event of failure of the alleged to comply with items [~~B and C~~] 2, 3 and 4, the matter shall be turned over to the Attorney General for disposition, including all administrative costs."

Unanimously approved as amended (Johns/Yamamura).

Item K-6: Enforcement File NO. HA-04-18 Regarding the Alleged Unauthorized Disturbance (grubbing/grading) of 21,000 Square Feet of Geological Features, and Unauthorized Excavation of 315.6 Cubic Yards of Material from the 1960 Kapoho State-owned Land TMK: (3) 1-4-002:047 by Anthony Gilbert Germano, P.O. Box 477, Pahoa, Hawaii, Owner Subject Parcel TMK: (3) 1-4-011:068.

Mr. Lemmo pointed out the State-owned subject parcel was formerly submerged land however through the occurrence of the 1960 Kapoho eruption, the lands became accreted unencumbered state-owned lands. As background information, Mr. Lemmo indicated the aggregate material from the 1960 lava flow that was on the state-owned parcel was excavated and transferred to Mr. Germano's parcel to be used as fill and to increase the elevation of the property. Staff believes Mr. Germano removed approximately 315 cubic yards of aggregate from the state parcel. Staff also believes Mr. Germano should not benefit from the removal of aggregate material from state-owned land to elevate is proposed single-family residence and pool and/or to bolster the selling price of the subject parcel he owns. Mr. Lemmo is suggesting Mr. Germano pay for the removal and transportation of the excavated aggregate to a place where the DLNR, Land Division Hilo Branch designates, within a period of sixty (60) days from the date of the Board's decision. Mr. Lemmo recommended the Board find Mr. Germano in violation of Hawaii Revised Statutes, Chapter 183C and HAR, Chapter 13-5 and is subject to the seven conditions listed in the submittal.

Anthony Germano the alleged appeared before the Board and apologized for his actions. Mr. Germano told the Board he takes full responsibility for his actions and will do what the Board decides. He mentioned he met with and was fined by the Hawaii County Planning Department for the same action that is before the Board today. He noted he received confirmation from the Planning Department that he could leave the aggregate material on his property provided he received approval from the State. Mr. Germano told the Board he is willing to purchase the material removed from the State land if they so desire. Lastly he asked the Board to reduce the amount of the fine as he feels he was already fined by the County of Hawaii for the same violation.

The Board amended condition 4) of the Recommendation Section

4. **That Mr. Germano shall remove approximately 315 cubic yards of aggregate consisting of the 1960 Lava flow from his subject parcel. Mr. Germano [~~will not bulldoze the evacuated materials from his subject parcel onto the State-owned subject parcel, but~~] will pay for the removal and transportation of the excavated aggregate to a place where the DLNR, Land Division Hilo Branch designates, within a period of sixty (60) days from the date of the Board's action;**

Unanimously approved as amended (Martyn/Johns).

Item K-7: Enforcement File No. HA-05-25 Regarding the Alleged Unauthorized Disturbance (grubbing/grading) of 18,500 Square Feet of Geological Features, and Unauthorized Excavation of 1,240.7 Cubic Yards of Material from the 1960 Kapoho State-owned Land TMK: (3) 1-4-002:047 by Douglas V. Shaver, P.O. Box 2072, Pahoa, Hawaii, Owner Subject Parcel TMK: (3) 1-4-026:002.

Motion to Defer

Unanimously approved to Defer (Martyn/Johns).

Item K-1: Approval of Award of Construction Contract Job Number 500B099A, Kuhio Beach Small Scale Beach Nourishment Project, Waikiki Beach, Oahu, Hawaii.

Mr. Lemmo disclosed a single bid for the subject proposal was received from American Marine with an offer of \$452,500.00. The project consists of carrying out small-scale beach nourishment by pumping up to 10,000 yards of sand from 2000 feet offshore Waikiki to the beach, maintaining a dewatering system and distributing the sand to the shoreline. Mr. Lemmo recommended the Board authorize the Chairperson to proceed with awarding the contract for Job No. 500B099A Kuhio Beach Small-Scale Beach Nourishment to American Marine for their bid of \$452,500 and sign the necessary documents to implement the project.

The Board amended the Recommendation Section as follows:

That the Board authorize the Chairperson to proceed with awarding the contract for Job No. 500B099A Kuhio Beach Small-Scale Beach Nourishment to American Marine for their bid of \$452,500 plus \$22,600 for extra work approved by DLNR, for a total amount of \$475,100 and sign the necessary documents to implement the project.”

Unanimously approved as amended (Johns/Yamamura).

Item J-2: Consent to Subleases, Harbor Lease No. H-83-2, Kona Fuel & Marine, Inc., a Hawaii corporation, Lessee, by way of assignment of lease from Kona U-Cart, Inc., to two sublessees, Honokohau Boat Harbor, Kealahou, Kailua-Kona, Hawaii, Tax Map Key: (3) 7-04-008:40.

Richard Rice, Administrator for the Division of Boating and Ocean Recreation and Steve Molman, Property Manager appeared before the Board to present the above item. Mr. Rice pointed out the lessee is seeking permission to sublease a portion of the subject property to Kamanu Charters, Inc. and Hale Kipa, Inc. Mr. Rice recommended the Board consent to the two subject subleases under Harbor Lease No. H-83-2.

The Board questioned if Hale Kipa Inc. business was marine related, as it is a requirement in the lease. Mr. Molman made it known the Department of the Attorney General Office noted they had no objection to the sublease and stated that the issue of whether the sublease is marine related is a question for the Board to decide.

Jaque Kelley-Uyeoko, Program Director at Hale Kipa came forward to testify. She told the Board this space will allow them the opportunity to partnership with other organizations to provide their clients with insights into marine related fields.

Unanimously approved as submitted (Johns/Martyn).

Item J-1: Rescind Prior Board Action of April 25, 2003, Agenda Item J-1, Granting Approval to the Division of Boating and Ocean Recreation to Solicit Sealed Bids for Permits to Use Specific Areas to Conduct World Class Water Events.

Mr. Rice asked the Board to rescind its prior action to allow the Division the ability to issue permits for world class water events. This process would call for the interested organizations to submit applications to use the area. The Division would then issue the permit provided the organizations submit the necessary insurance coverage and other required paperwork. Mr. Rice recommended the Board rescind its prior Board action granting approval to the Division of Boating and Ocean Recreation to solicit sealed bids for permits to use specific areas to conduct world class water events.

Unanimously approved as submitted (Johns/Martyn).

Item L-1: Approval for Award of Construction Contract – Job No J00CF59A, Puaa Kaa State Wayside ADA Barrier Removal, Maui, Hawaii.

Item L-2: Amend Approval for Award of Construction Contract – Job No. J00CB72A, Keehi Small Boat Harbor, ADA Barrier Removal Projects for Various Boating Facilities in North and Central East Oahu, Honolulu, Hawaii.

Unanimously approved as submitted (Johns/Agor).

Item M-1: Issuance of Direct Lease Washin Air, Inc. Honolulu International Airport.

Unanimously approved as submitted (Johns/Yamamura).

Item D-5: Issuance of Land Patent in Confirmation of Land Commission Award No. 9236 to Kahaulewahine situate at Honokohau 1st, North Kona, Hawaii, portion of TMK: (3) 7-4-06:12.

Item D-8: Continuation of Rent for General Leases No. 5103 (Seventh Day Adventist), 5102 (Hawaii Methodist Union), 5101 (United Church of Christ), and 4544 (Episcopal Church in Hawaii), Kauai and Maui; Rescind Prior Board Approval of October 22, 1999, Agenda Item D-20, Regarding Non-Profit Leasing.

Unanimously approved as submitted (Johns/Agor).

Item E-1: Request to Use Diamond Head State Monument for the Hawaii International Music Conference.

Dan Quinn, Administrator for the Division of State Parks communicated their office has received a request to use the Diamond Head Crater to hold the Hawaii International Music Concert (HIMC) which is to take place somewhere between November 2005 and April 2006. He noted the crater will need to be closed on the day of the event for set up. He also made it known at the last Diamond Head Citizen's Advisory Committee meeting they did not have quorum to discuss this issue but the sentiment of the majority of the committee is in opposition to this request. Multiple issues were raised including parking, traffic, fire, noise, security, sanitation, and consistency with the Diamond Head Master Plan Update and setting a precedent for future events. In order to address the issue of traffic and parking the promoter will include a shuttle bus pass with the ticket purchased which will transport the ticket holder to the crater (they will be parking at a remote location). Also no walk-ins will be allowed. Mr. Quinn reminded the Board in December 1999 when the Board accepted the Master Plan Update it did so with the understanding that the Master Plan will be revised to consider "accommodations or occasional outdoor community gatherings in the crater." It was disclosed the applicant has proposed the creation of a Foundation to be specifically earmarked for significant long term improvements and maintenance of Diamond Head. Concert organizer envision depositing at least \$50,000 of event proceeds into the Foundation account. Mr. Quinn recommended the board authorized issuing a permit for the closure and

use of Diamond Head State Monument for the Hawaii International Music Conference subject to the conditions listed in staff's submittal.

Motion made at 10:35 a.m. by Member Johns and second by Member Martyn to move into Executive Session pursuant to HRS 92-5(4) to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities and liabilities.

Unanimously approved to move into Executive Session (Johns/Martyn).

The meeting resumed at 10:50 a.m.

Chairperson Young informed the public that the Board does not believe the issuance of a permit is subject to a Contested Case Hearing but if members of the public feel they have standing they can submit the necessary paperwork.

Ted Lui, Director of the Department of Business, Economic Development and Tourism (DBEDT) came forward to testify in support of the Department issuing a permit for this one day event. Mr. Lui feels the Arts and Culture aspect of this event need to be emphasized. He pointed out this event will call attention to Hawaiian music. Lastly, Mr. Lui acknowledged the sensitivity to Diamond Head but he feels the cultural, historical and environmental issues can be appropriately addressed.

Rick Egged, President of the Waikiki Improvement Association spoke in support of the submittal before the board today. Mr. Egged feels that Mr. Gibson has successfully addressed the traffic issue. He let it be known his organization has heard Mr. Gibson's presentation on the HIMC and they unanimously approved their support of this event. He also spoke of the money this concert would generate and how it could be the seed money for future fundraising events.

Judy Drosd, Chief Officer of the Arts, Film and Entertainment Division of DBEDT spoke in support of staff's submittal. Ms. Drosd agreed that having a music festival in the crater is a beacon to the rest of the world. She feels through the planning process all issues can be resolved so that the concert will be a win win situation for everyone.

Sid Synder an architect and member of the Diamond Head Citizen's Advisory Committee told the Board his group has not taken a position on this matter as they've just received the application for this event two days ago. He recommended the Board defer this item to give them additional time to review the documents and do additional research. Mr. Synder went on to discuss the history and the purpose of the Diamond Head Advisory Committee. He spoke of the Diamond Head Master Plan and its view for Diamond Head's future. Mr. Synder asked the Board to move forward with the implementation of the goals of the Master Plan. He let it be known the Diamond Head Master Plan does not support a music event in the crater. He believes if the Board allows this commercial event to take place in the crater they will be setting a precedence for other commercial events.

Clark Hatch, President of the East Diamond Head Association spoke against staff's submittal and how this event goes against the Master Plan for Diamond Head. He noted one of their concerns is the erosion that would take place if the concert is held in the crater. Mr. Hatch felt the State can do other activities to raise money for Diamond Head including having a concert in other area in Oahu.

Rex Johnson of the Hawaii Tourism Authority testified in support of holding the HIMC in Diamond Head Crater. He feels this event will provide an new experience to visitors as well as the residents of Hawaii.

Nalani Choy a member of Na Leo Pilimehana and President of their record label testified in support of having Hawaiian music become much bigger than it is today something similar to the progress of country music to the mainstream. She told the Board an event like this would give exposure to Hawaiian music, local artist as well as the smaller record labels.

Scott Kawasaki, Public Relations for the Hyatt Regency Waikiki Resort and Spa appeared before the Board and read the written testimony from the hotel's General Manager, Frank Lavey in support of the Music Festival.

David Booth of Events International Inc. spoke in support of the Board's submittal. Being an international coordinator of events he is very optimistic in promoting an event that will provide a positive outlook on the island as well as to promote Hawaii. He pointed out there have been other events around the world that have been held at unique landmarks that have been done with positive results. Mr. Booth encouraged the Board to approve staff's submittal.

Barbara Miller testified in support of staff's recommendation. She communicated to the Board how she was impressed with Mr. Gibson's proposals as well as his willingness to answer questions from the public. She indicated we should expose our local talent to the world.

Porter Miller, a professional musician spoke in support of a music festival in Diamond Head Crater. Mr. Miller told the Board he feels the state does not support local artist and this event would do just that. He made it known this event will provide an opportunity for local musicians to interact with international musicians.

Shirley Alexander, General Manager of Ticket Master spoke in support of this endeavor. She sees this event as an opportunity to showcase the talents of Hawaiian artists. Ms. Alexander says she is confident Mr. Gibson can deal with the problems that arise and will produce a wonderful concert.

Daniel Chun testified on behalf of Marsh Weinert who is the State's Tourism Liaison. He spoke in support of issuing a permit to conduct the HIMC in Diamond Head Crater. He told the Board he feels the concert will promote Hawaii as well as attract visitors to Hawaii.

Michelle Matson a member of the Diamond Head Citizen's Advisory Committee spoke against holding the HIMC in Diamond Head Crater. Ms. Matson went on to read from her written testimony.

Ron Gibson, Chief Executive Officer of Integrated Outdoor Marketing and Executive Producer of HIMC came forward to testify. He told the Board he has met with the Diamond Head Advisory Committee and have addressed a lot of their concerns. He looked at the communities concerns as being his concerns. Mr. Gibson played a DVD, which provided testimony in support of the HIMC from Amy Hanaialii Gilliom, Jake Shimabukuro, Kealii Riechel and Jim Linkner. Mr. Gibson conveyed his vision of seeing local artist on stage playing with mainland artist. He plans on bringing the talent buyers here to Oahu to seek out new talent. In closing, Mr. Gibson asked the Board for their support of the HIMC.

The Board made the following changes to the Recommendation Section

12. Staff is required to provide a report to the Board before and after the event discussing what the impacts were and how they were mitigated.

13. Hawaiian music performers must be included in the event.

14. The event organizer is required during the course of the event to conduct a briefing, which will include the cultural and natural significance of Diamond Head Crater.

Unanimously approved as amended (Martyn/Johns).

Item F-1: Request for Approval to Enter into a new Project Agreement with the Research Corporation of the University of Hawaii for a Federally Funded Project Titled Finfish Broodstock and Larvae Culture (1/1/05-6/30/05).

Unanimously approved as submitted (Johns/Yamamura).

Item C-1: Appointment and Selection of a Hearing Officer to Conduct Hearings for a Contested Case Hearing and Waiver of Petitioner's Failure to Submit a Written Request for contested Case Hearing within 10 days.

Unanimously approved as submitted (Johns/Yamamura).

Chairperson Young called a recess at 12:30 p.m.

The meeting resumed at 12:50 p.m.

Item C-2: Briefing on the Actions of the Habitat Conservation Plan for the Endangered plant *Abutilon menziesii*.

Vickie Caraway, Botanist with the Division of Forestry and Wildlife gave a briefing on *Abutilon Menziesii*. Her topics of discussion were the history of the Habitat Conservation Plan, the actions outlined for *Abutilon* within the Habitat Conservation Plan, the Present Situation and the Accomplishments of the Habitat Conservation Plan. She reminded the Board in 1996, 88 *Abutilon menziesii* plants were found in an abandon cane field in Kapolei. The area was slated for urban development therefore an Incidental Take License was granted together with a Habitat Conservation Plan. The Habitat Conservation Plan called for three of the populations to be established in another site as well as funding for 20 years of management with the possibility for additional funding if success criteria are not met. Ms. Caraway went over the other areas on Oahu where *Abutilon mezieisii* are present. She made it known with the exception of two out planting sites they have accomplish representation of each of the wild population. With regards to the to the goals set, Ms. Caraway notes they have accomplished most of the short-term goals.

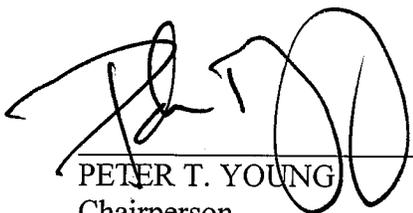
There being no further business, Chairperson Young adjourned the meeting at 1:05 p.m. Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Terry Crowell

Approved for submittal:



PETER T. YOUNG
Chairperson
Department of Land and Natural Resources