

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

DATE: FRIDAY, MARCH 28, 2003
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 9:10 a.m. The following were in attendance:

MEMBERS

Mr. Peter Young
Mr. Timothy Johns
Mr. Toby Martyn

Ms. Lynn McCrory
Mr. Ted Yamamura
Mr. Gerald DeMello (arrived at 9:39
a.m.)

STAFF

Mr. Dan Quinn, State Parks
Mr. Sam Lemmo, Land Division
Mr. Peter Garcia, DOT

Ms. Dede Mamiya, Land Division
Mr. James Shoocraft, DOBOR

OTHERS

Mr. Gregory Dunn, E-1
Mr. Richard Van Horn, D-13
Mr. Don Persons, D-17
Ms. Laura St. Dennis, D-17
Mr. Jim Evans, D-17
Mr. Sam Saffery, D-17
Ms. Judy Evans, D-17
Mr. Virgil Stinnet, D-17
Mr. Jay Harden, D-17
Mr. Robert Gentry, D-17

Mr. Bill Brilhante, D-7
Mr. Robert Klein, D-17
Mr. Buzz Gitelsow, D-17
Ms. Stephanie, D-17
Ms. Joan Packer, D-17
Mr. Bill Haig, D-17
Mr. Carl Cordes, D-17
Mr. Wes Kinder, D-17
Ms. Katie Keim, D-17

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

Item A-1: Minutes of March 14, 2003

Motion to Defer

Unanimously approved to defer (McCrorry/Martyn).

Item E-1: Request to Amend General Lease No S-97-01 to the Hawaii Nature Center.

Dan Quinn Administrator for State Parks asked the Board to amend General Lease No. S-97-01. Currently the lease is for an existing building and non-exclusive use of the surrounding area. The new lease would include construction of a new state-of-the-art educational facility on the site of the existing building, parking, site improvements and landscaping. The Hawaii Nature Center is also requesting to lease a portion of the land in the valley floor including the "Forester's" house. The nature center proposes to renovate the Forester's house creating office space and one-bedroom living quarters for the DOFAW manager. Mr. Quinn recommended the Board amend General Lease No. S-97-01 to include an area of approximately 10 acres with the understandings listed in the submittal.

Gregory Dunn of the Hawaii Nature Center provided the Board with a drawing of the proposed building. He noted the building would be low impact. For the last twenty-two years Hawaii Nature Center has educated over 800,000 school children and families. So far they have raised 1.5 million dollars including \$750,000 from the State of Hawaii. Their timetable for the project would be as follows: completion of renovations, parking and removal of the old building by summer; break ground for the new building in the fall and completion of the project by winter or early spring.

Unanimously approved as submitted (Martyn/McCrory).

Item D-7: Sale of Remnant to Keiki Aina I, LLC, Waiakea, South Hilo, TMK: 3rd/2-4-12:36.

Dede Mamiya Administrator of the Land Division informed the Board this item is a request to sell a remnant parcel which is an abandoned railroad right-of-entry to the applicant. After reviewing the County of Hawaii Real Property Tax Records, staff confirmed there are no abutting properties to the subject remnant parcel as the applicant's property totally encumbers the subject property. Ms. Mamiya recommended the Board authorize the subdivision and consolidation of the subject remnant and authorize the sale to the applicant.

Bill Brilhante was present to answer any questions.

Unanimously approved as submitted (Yamamura/Martyn).

Item D-13: Amend Prior Board Action of June 28, 2002 under Agenda Item D-22 , for Grant to a 55-year Non-exclusive Easement for Seawall and Reclaimed (Fill) Land to Richard Van Horn, as Trustee of the Richard Hunt Van Horn Revocable Living Trust dated September 14, 1981 and Noreen Mau Van Horn, as Trustee of the Noreen Mau Van Horn Revocable Living Trust dated

September 14, 1981, Kaneohe, Oahu, TMK: (1) 4-6-01:09 seaward and Amend Prior Board Action of August 24, 2001 under Agenda Item D-29, for Issuance of 150 Leases for Private Residential Noncommercial Piers Pursuant to the Kaneohe Bay Piers Amnesty Program, Kaneohe, Koolaupoko, Oahu; Various Tax Map Keys.

Ms. Mamiya told the Board she is requesting to amend a prior Board action in order to authorize the acceptance of a deposit from the applicants so they may begin the process of a shoreline certification needed for the building permit for a retaining wall. Ms. Mamiya recommended the Board amend its prior action by accepting a deposit of \$27,390.00.

Richard Van Horn appeared before the Board and inquired if the amount of \$27,390.00 was the final amount. He was told the amount to be paid would be no more than \$27,390.00.

Unanimously approved as submitted (Martyn/McCrory).

Item D-17: Grant of Term, Non-Exclusive Easement to Gold Coast Neighborhood Association for Ladder Purposes, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 3-1-032: 028 seaward.

Ms. Mamiya indicated this is a request for an easement for Ladder purposes. She informed the Board the original ladder was built in the 1950's and provided access from the seawall into the ocean with out having to walk on coral. In September 2001 the Diamond Head Ambassador (DHA) condominium wrote to the department stating there have been "numerous instances of vandalism and damage to the property by persons using the sea ladder" and requested the State remove and/or relocated the sea ladder. In March 2002 the Department wrote to DHA's attorney and the community and explained that staff determined the ladder was an unauthorized use as no permits had been obtained. Staff asked DHA to remove the ladder. In April 2003, staff met with members of the Gold Coast Association and expressed their desire to reinstall the ladder. In October 2002, the Gold Coast Association submitted an application for an easement for the sea ladder. Ms. Mamiya recommended the Board authorize the issuance of a term non-exclusive easement to Gold Coast Neighborhood Association covering the subject area for ladder purposes.

Robert Klein told the Board his group is committed to the re-installation of the ladder. He noted the ladder has been used for the pass 55-years. He told the Board how some members of the public go to the ocean for recreational and health purposes and how they rely on the ladder to get to the ocean. He told the Board they are a non-profit organization and have acquired the necessary insurance for the stated purpose.

Don Persons a resident of the area for the past twenty years informed the Board he does not use the ladder but he realizes the importance of the ladder to the community therefore he supports the action before the Board today.

Buzz Gitelson who is a member of the Board of Directors of Diamond Head Ambassador (DHA) testified before the Board. He told the Board how residents of DHA also use the ladder. He feels the ladder is a community and public resource as well as a safety matter.

Laura St. Dennis a resident of DHA told a story of a day she was in the swimming area and a shark appeared. As the shark swam to the side the people in the area swam to the ladder to get out of the ocean. She noted if the ladder was not there they would've had to walk over the coral.

Member DeMello entered the meeting

Stephanie Pang a resident of DHA conveyed to the Board for the past twenty years the ladder has been her stairway to the ocean. She said she did not feel safe walking over the slippery coral to get to the ocean and asked the Board for approval to install the ladder.

Jim Evans a resident of DHA told the Board his lanai is approximately ten feet horizontally from the ladder and he whole-heartedly supports the reinstallation of the ladder. He said he was shocked and offended when the ladder was taken out and it caused a lot of disharmony within the DHA.

Joan Packer an elderly resident of DHA told how she relied on the ladder for access to the ocean for health and fitness and asked the Board to restore the ladder.

Sam Saffery a resident of DHA spoke on behalf of his family. He pointed out he is in strong support of the ladder being put back. He told of an instance on a Sunday morning when a couple was struggling out in the ocean. He swam out to the couple and entered the ocean by way of the ladder to rescue them.

Bill Haig a resident of DHA whose apartment is located about 30 yards from the ladder told the Board he has never seen any acts of vandalism.

Judy Evans a resident of DHA has a condo located just above the ladder. She says the noise made by the people using the ladder is music to her ears.

Carl Cordes an active member of Elk's Lodge 616, which is located four buildings down from the ladder, testified. Their lodge has the distinction of being the only lodge located on the ocean. He told the Board the lodge members have enjoyed the access the ladder provides them to the ocean.

Virgil Stinnet a member of the Board of Directors of Tropic Seas (2 buildings Ewa of DHA) told the Board everyone in their 64-unit complex uses the ladder.

Wes Kinder a resident of Tropic Seas since 1951 told the Board when he first arrived in the area there was a rusted straight ladder, later the community developed a stainless steel stair-way type ladder. The only two times they had interruptions in the use of the ladder were during the hurricanes. He strongly urges the Board to consider restoring the ladder.

Jay Harden told the Board he fully supports the matter before the Board today and awaits their decision.

Katie Keim the director of the Gold Coast Association board and a resident of the neighborhood told the Board the reason she moved to this area was due to health reasons. She knew swimming in the ocean would keep her healthy. When the ladder was removed it became a challenge for

her to climb over the reef daily. She told of how she has meet a lot of people at the ladder coming to swim in the ocean.

Robert Gentry, president of the Gold Coast Neighborhood Association appeared before the Board. He applauds the efforts put forth by staff in reaching the point that they are today. Mr. Gentry said his association is willing to work closely with all of their neighbors to deal with any concerns they might have regarding the sea ladder.

Stephen Mau, attorney of the DHA came forward to testify. He told the Board he was the attorney that wrote the letter to Staff asking the State to remove the sea ladder. He also noted his client has not seen the recommendation nor the submittal submitted by staff. He also informed everyone that he did receive approval from the DHA Board to write the letter to the State. His biggest concern is the action before the Board today was not brought to the attention of all residents in the area for comment. He told the Board the applicant has not addressed the issues of noise disturbance and vandalism. Mr. Mau asked the Board to defer action on this matter until all questions are answered and noticed is provided to all residents in the area.

The Board asked Staff for clarification on the ownership of the land the ladder is attached to. Ms. Mamiya replied the ladder is attached to lands owned by the State.

For the record Mr. Mau stated if the land the ladder is attached to belongs to the State his client has no objections to the matter before the Board today.

John Sheenan a resident of DHA addressed the Board. His comments were in regards to Mr. Mau's comment that a great number of the residents of DHA are against this action before the Board. He told the Board no survey about the resident's views on this matter was taken. He also noted upon review of DHA board meeting minutes for the past 1-½ years there was no record of board action regarding a decision against this submittal.

Unanimously approved as submitted (Martyn/McCrory).

Item J-1: Submit request for Adoption of Amendments to Hawaii Administrative Rules, Chapter 13-231, by adding a new section 13-231-72, as it relates to small inter-island passenger vessels.

Jim Shoocraft Boating Staff Officer with Division of Boating and Ocean Recreation (DOBOR) pointed out they are requesting an addition to the Hawaii Administrative Rules by adding a new section, Section 13-231-72 which would apply to small inter-island passenger vessels. Mr. Shoocraft conveyed this amendment is a result of a businessperson with a vessel berthed in Ko'olina being interested in inter-island cruises to small boat harbors in the districts of Hawaii and Maui. To address the issue of potential operators wishing to enter into this industry, DOBOR has allowed for up to 49 passengers on a vessel. Mr. Shoocraft also indicated a fee of 30 cents per passenger plus a nominal mooring fee would be paid by the operator. Mr. Shoocraft recommended the Board adopt the rule proposed and authorize the forwarding of the final rules to the Governor for signature.

Unanimously approved as submitted (Martyn/McCrory).

Item D-6: Request to Extend the Processing Period for an Additional 180-days for Conservation District Use Application No. HA-3089 and Request for a Lease for a Marine Activities in State Waters for Ahi Nui Tuna Company.

Sam Lemmo, Planner with the Land Division told the Board the applicant is asking for a 180-day extension to the Conservation District Use Application (CDUA) processing period. Mr. Lemmo recommended the Board approve the request before them and extend the processing period for an additional 180-days (October 18, 2003) to allow sufficient time to complete the EIS process.

Unanimously approved as submitted (DeMello/Yamamura).

Item D-1: Amend Prior Board Action of May 10, 2002 under Agenda Item D-6, for Issuance of Revocable Permit to Peter Bulanow for Parking Purposes, Wahiawa, Oahu, TMK: (1) 7-3-012: portion 11.

Ms. Mamiya indicated the applicant wishes to change the name of the applicant from Peter Bulanow to his company, Roslindale Inc. Ms. Mamiya recommended the Board amend its prior action by replacing the name of the applicant with Roslindale, Inc.

Unanimously approved as submitted (Martyn/McCrory).

Item D-2: Withdrawal form Governor's Executive Order No. 2649 and Reset Aside to City and County of Honolulu for Waianae Multi-Service Center Site, Waianae-Kai, Waianae, Oahu, TMK: (1) 8-5-28:40.

Ms. Mamiya briefed the Board and noted this action is merely a transfer of management jurisdiction. The subject parcel is currently a portion of Governor's Executive Order (GEO) No. 2649. She noted the City and County of Honolulu and the Department of Accounting and General Services came to an agreement with the City that in exchange for receiving a set aside for the land and improvements, the City will provide improvements on the remaining area under GEO 2649 which is vacant and unimproved. Ms. Mamiya recommended the Board approve of and recommend to the Governor the withdrawing of GEO 2649 and approve and recommend to the Governor the issuance of an executive order setting aside the subject lands to the City and County of Honolulu under the terms and conditions cited in the submittal.

Unanimously approved as submitted (Martyn/DeMello).

Item D-3: Issuance of Right-of-Entry Permit to U.S.A. Department of the Army on Lands Encumbered by Governor's Executive Order No. 3338, Keawaula & Kahanahaiki and Makua, Waianae, Oahu, TMK: (1)8-1-01: 08 and (1) 8-2-01:22.

Ms. Mamiya informed the Board the Department of the Army is requesting for a right-of-entry for access to two muliwai (mouth of streams) ponds to conduct exploratory work. This work is part of the Army's preparation of the Environmental Impact Statement for the Makua Training Site. Ms. Mamiya recommended the Board authorize the issuance of a right-of-entry permit to U.S.A. Department of the Army covering the subject area.

Unanimously approved as submitted (Martyn/DeMello).

Item D-4: Consent to the Mutual Cancellation of Lease of Non-Exclusive Easement No. S-5389, David G. Nottage, Jr., as Trustee of the David G. Nottage, Jr. Revocable Trust Dated May 13, 1997, and Nancy W. Nottage, as Trustee of the Nancy W. Nottage Revocable Trust dated May 13, 1997, Kaneohe, Oahu, TMK: 4-4-14: seaward of 04.

Ms. Mamiya briefed the Board and recommended a mutual cancellation of the existing easement so the applicant can receive a new lease under the Kaneohe Bay Piers Amnesty Program.

Unanimously approved as submitted (Martyn/DeMello).

Item D-8: Amend Prior Board's Action of August 23, 2003, Agenda Item D-2, by Revising the Legal Reference and Character of Use for the Term, Non-exclusive Easement for Maintenance of Three Rock Groins on State Fast and Submerged Lands at Spreckelsville, Wailuku, Maui, TMK: (2) 3-8-002: Seaward of 025.

Ms. Mamiya conveyed that she is requesting to amend a prior Board Action to change the Character of Use from "Rock and Groin Structures Purposes" to "Maintenance of Rock Groin Structures Purposes" and under "Applicants Requirements" staff requests that the Applicant be required to pay an estimated consideration amount as determined by staff. She noted that Arapahoe is trying to obtain a shoreline certification to, in turn, obtain county permits so that they can proceed with construction. Ms. Mamiya recommended the Board amend its prior action, Revise the Legal Reference to Section 171-13 and 171-53 HRS, Revise the Character of Use, add Paragraph 5 under "Applicants Requirements" and add a condition E under paragraph 3, Recommendations.

Unanimously approved as submitted (Yamamura/DeMello).

Item D-9: Consent to Assign Perpetual, Non-exclusive Access and Utility Easement [L.O.D. No. S-27947], from Ronald R. & Miriam M. Jacintho, as Assignor, to First City Corp., Assignee, Onau, Makawao, Maui, TMK: (2) 2-1-006: por. 077.

Member Yamamura recused himself.

Ms. Mamiya pointed out the Jacinthos are in the process of selling parcel 085 to First City Corp and will be closing escrow soon therefore they are requesting consent from the Board to assign their easement. Ms. Mamiya recommended the Board consent to the assignment of L.O.D. No. S-27947 from Ronald R. & Miriam M. Jacintho, assignor, to First City Corp., assignee.

Unanimously approved as submitted (Marytn/DeMello).

Item D-10: Amend Prior Board Action of December 14, 2001 (Agenda Item D-3), Consent to Assignment of General Lease No. S-5322, Peter and Helen Souza, Assignor, to Wilbert and Melody Pigao, Assignees, Kapaa, Kawaihau, Kauai, TMK: (4) 4-5-15:8.

Ms. Mamiya informed the Board that there is a problem in completing the State's consent document due to a typographical error. The Attorney General's office will not prepare the State's consent document because the Land Board approval of December 14, 2001 under Recommendation A states "Wilbert L. and Melody A. Pigao, husband and wife, as joint tenants in common...", instead of "Wilfred L. Pigao and Melody A. Pigao are "husband and wife, as joint tenants." Ms. Mamiya recommended the Board amend its prior action by replacing "tenants in common" to "tenants by the entirety" under Recommendation A.

The Board amended the Recommendation Section amending Paragraph A to read as follows:

"A. Amend its prior approval of December 14, 2001, under agenda Item D-3, by replacing 'tenants in common' to 'tenants by the entirety' under Recommendation A and deleting 'joint tenants'."

Unanimously approved as amended (McCrorry/Martyn).

Item D-11: Issuance of Right-of-Entry to the Garden Isle Racing Association, Inc., for Intermittent Use of the Kauai Raceway Park Facility, Mana, Kauai, TMK: 1-2-2: por. 40.

Ms. Mamiya briefed the Board and recommended the authorization and issuance of a right-of-entry permit to the Garden Isle Racing Association covering the subject area.

Unanimously approved as submitted (McCrorry/DeMello).

Item D-12: RESUBMITTAL – Amend Prior Board Action, Special Permit to Bayview Banyan Corp. for Change in Use from Hotel/Resort to Apartment/Hotel, General Lease No. S-5018, Waiakea, South Hilo, Hawaii, TMK: 3rd/2-1-5:021.

Ms. Mamiya gave a brief overview of the submittal and requested the Board amend its prior Board action of May 9, 1997 by deleting Recommendation A(1) as amended, deleting Recommendation A(2), deleting Recommendation B as amended in its entirety and giving the lessee the right to arbitrate the May 2002 reopening appraisal provided such election to arbitrate be exercised by March 31, 2003.

Unanimously approved as submitted (DeMello/Martyn).

Item D-14: Cancellation of Revocable Permit No. 1387 to James Corr (deceased), and Issuance of Revocable Permit to May Corr and Richard Corr, Hanapepe, Kauai, TMK: (4) 1-8-5: 7 and 24.

Ms. Mamiya informed the Board Mr. James Corr is deceased and his wife May Corr can no longer afford the cost of liability insurance however she still grazes animals on the State Land. Her son Richard Corr would like to satisfy the State's liability insurance requirements for his mother on the revocable permit, but cannot unless his name is included on the revocable permit

document. He can also pay his mother's monthly rent. Ms. Mamiya recommended the Board authorize the cancellation of Revocable Permit #1387 and the issuance of a revocable permit to May Corr and Richard Corr covering the subject area for pasture purposes.

Unanimously approved as submitted (McCrary/DeMello).

Item D-15: Amend Prior Board Actions of January 12, 2001 (D-5), Consent to Assign General Lease Nos. S-5318, S-5319 and S-5484, Edwin Martins (Deceased) Revocable Living Trust, Assignor to Jason Edwin Martins, Assignee and Cancellation of Revocable Permit Nos. S-7150 and S-7200 and Issuance of New Revocable Permits to Jason Edwin Martins, Kapaa, Kauai, TMK: (4) 4-6-3:1; 4-6-4:14; 4-6-3:22, 23; 4-6-6:28, 29; 4-6-5:10.

Ms. Mamiya notified the Board that the assignment of the 3 leases was never completed to Jason Martins due to incorrect wording on the assignment documents. Recently Jason Martins informed Jeannett Martins (executor of Edward Martin's estate) that he did not want to be responsible for the General Lease S-5484 and Revocable Permit S-7150. Being the successor Trustee, Jeannett Martins would like to assign General Lease No. 5484 to herself and with the State's permission a new revocable permit be issued to herself for Revocable Permit S-7150. Ms. Mamiya recommended the Board amend its prior action of January 12, 2001 under agenda item D-15, by deleting Recommendation A and B and add a new Recommendation A and B as noted in the submittal.

Unanimously approved as submitted (McCrary/Martyn).

Item D-16: Issuance of Revocable Permit to Delquist Dominques, Ahupuaa O Kahana State Park, Kahana, Koolauloa, Oahu, TMK: 5-2-02: por. 01.

Ms. Mamiya informed the Board Delquist Domingues has lived on the subject site without a permit since August 1, 2001 and therefore the rent of \$27.00 per month should be retroactive to that date. The term of the permit is anticipated to be from August 1, 2001 to June 30, 2003. Ms. Mamiya recommended the Board authorize the issuance of a revocable permit to Delquist Domingues covering the subject area for residence purposes.

The Board amended the Recommendation Section by adding subparagraph 2.d. to read as follows:

"2.d. Provided that payment of \$540 for the back rent shall be paid by April 30, 2003, otherwise this approval shall be automatically rescinded."

Unanimously approved as amended (Martyn/McCrary).

Item M-1: Issuance of Lease by Direct Negotiation to Pacific Shipyards International, LLC, Pier 41, Honolulu Harbor, Oahu, TMK: (1) 1-2-25-9P.

Peter Garcia from the Department of Transportation addressed the Board. He noted the lease area would be used for ship construction, repair and maintenance facility, together with administrative offices. Mr. Garcia recommended the Board authorize the disposition of a lease for the stated purpose, subject to the terms and conditions outlined in the submittal.

Unanimously approved as submitted (Martyn/McCrory).

Item M-2: Amendment to prior Land Board Action of February 25, 2000, Under Agenda Item K-I, Regarding the Issuance of a Lease by Direct Negotiation to Frederick Edward Salassa, Building T-904, Kapalama Military Reservation, Honolulu, Oahu, TMK: (1) 1-2-25-11P.

Mr. Garcia is requesting the Board amend its prior action of February 25, 2000. Mr. Garcia told the Board the aforementioned lease was put on hold pending set aside of the area by the Department of Transportation, Harbors Division, which has now been issued. Additionally, part of the proposed lease area was needed for the newly build Department of Agriculture Plant Quarantine and Measurement Standards Building which required reconfiguration of the lease lot. Due to these delays Staff agreed the lease be issued from May 1, 2003 to April 30, 2014. Mr. Garcia recommended the Board amend its prior action by amending the term of the lease, the automatic rental step-ups and the location and square footage of the parking yard and landing area.

Unanimously approved as submitted (Martyn/Yamamura).

Item M-3: Authorization to Request Sealed Bids for an Automobile Parking Facilities Concession Contract at Kapalama Military Reservation, Honolulu, Oahu, TMK: (1) 1-2-25-Various Parcels.

Mr. Garcia briefed the Board and noted this request is for the exclusive right, privilege and obligation to manage and operate the Automobile Parking Facilities at the KMR, including the sale of monthly parking passes to tenants and employees at the KMR. Mr. Garcia recommended the Board's approval to seek sealed bids from qualified parking facility operators leading to the award of the Automobile Parking Facilities Concession Contract at the Former Kapalama Military Reservation as herein outlined.

Unanimously approved as submitted (Martyn/Yamamura).

Item M-4: Extension of Harbor Lease No. H-99-2, Atlantis Submarines Hawaii, LLC, Pier 40, Honolulu Harbor, Oahu, TMK: (1) 1-5-32-2P.

Mr. Garcia conveyed the applicant is the lessee of Harbor Lease No. H-99-2 and is planning to dry dock its submarines in compliance to the U.S. Coast Guard and the American Bureau of Shipping to ensure its safe operations. Mr. Garcia recommended the Board authorize the extension of Harbor Lease No. H-99-2 for the stated purpose.

Unanimously approved as submitted (Martyn/Yamamura).

Item M-5: Issuance of Revocable Permit to Commercial Shelving, Inc. for Inconsistent Use, Honolulu International Airport, Oahu, TMK: (1) 1-1-03-1P.

Mr. Garcia informed the Board the approximately 6,139 square feet of improved/paved land will be used for parking of employees and company vehicles. He recommended the Board authorize

the Department of Transportation to issue a month-to-month revocable permit to Commercial Shelving, Inc.

Unanimously approved as submitted (Marytn/McCrory).

**Chairperson Young called for a break at 10:32 a.m.
The meeting reconvened at 10:45 a.m.**

**Motion made at 10:45 a.m. to move into executive session (McCrory/Martyn).
Unanimously approved to move into executive session.**

The Board reconvened the meeting at 12:28 p.m.

Item D-5: Conservation District Use Application No. MA-3114B for After-the-Fact Approval of an Existing Seawall, Fill Area and Concrete Stairs, Applicant – Mr. Warner Lusardi, at State Shore Land Abutting TMK: (1) 4-3-015: 052.

Mr. Lemmo gave the Board an overview of the submittal. He pointed out the applicant is seeking approval for an after the fact Conservation District Use Permit (CDUP) for a 214 square foot area that consists of a seawall, stairs and fill. These improvements were made in 1989 and subsequent years by the prior landowners. Mr. Lemmo indicated the applicant intends to remove the remnant wall and some fill on the north side of the stairs and then apply for a permit from the County of Maui to build a new wall. The applicant will also need to obtain an easement from the State for certain areas. Mr. Lemmo recommended the Board approve an after the fact approval for a 214 square foot area consisting of a seawall, fill and stairs.

The Board asked staff to explain the process of erosion that will take place if State allows approval of the seawall.

Mr. Lemmo explained because of this seawall and one on the abutting property owner's land the ocean will not have any sand to eat because the wall will stop the ocean.

Paul Mancini and Rory Frampton were present to answer any questions.

The Board amended the Recommendation Section by amending paragraph 4) to read as follows:

“4) The applicant shall remove the remnant wall and fill area in existence seaward of the black dashed line (Option A) included as Exhibit 7 of this report;”

Unanimously approved as amended (Yamamura/DeMello).

There being no further business, Chairperson Young adjourned the meeting at 12:38 p.m.

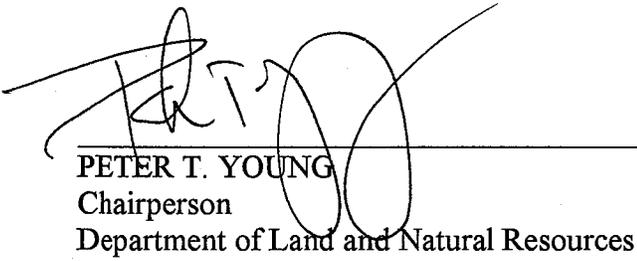
Tapes of the meeting and all written testimony submitted at the meeting are filed in the Chairperson's Office and are available for review. Certain items on the agenda were taken out of sequence to accommodate applicants or interested parties present.

Respectfully submitted,



Terry Crowell

Approved for submittal:



PETER T. YOUNG
Chairperson
Department of Land and Natural Resources