

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

DATE: FRIDAY, JUNE 9, 2017
TIME: 9:00 A.M.
PLACE: KALANIMOKU BUILDING
LAND BOARD CONFERENCE ROOM 132
1151 PUNCHBOWL STREET
HONOLULU, HAWAII 96813

MEMBERS

Suzanne Case
Thomas Oi
Stanley Roehrig

Chris Yuen
Keone Downing

STAFF

Russell Tsuji-LAND
David Smith-DOFAW
Ed Underwood/DOBOR
Andrew Choy-PARKS

Alton Miyasaka-DAR
Kevin Moore-LAND
Maria Carnevale-DAR

OTHERS

Walton Hong/D4
Manuel Madera/D11
Stephanie Pascual/D12-14
Jeff Pearson/CWORM
Eric Fujikawa/D1
Will Okabe/D6
Don Inouye/D6

Kris LaGuire/J1
Ivan Lui-Kwan/D4
Ross Smith/DOT
Yvonne Izu/M1
Peter Savio/D6
Jerry Gibson/D14

The Meeting was called to order by Chair Case at 9:00 am. She conveyed the contested case advisory.

Chair Case said that Items B-1 and D-10 will be withdrawn from the Agenda.

A. MINUTES

1. Approval of March 10, 2017 Minutes.

Board Discussion-None

Public Testimony-None

Motion

Approved as submitted (Gon, Yuen) unanimous.

ITEM M-1 Approve the recommendations of the Water Security Advisory Group to fund projects that will increase water security in the State of Hawaii:

1. Kaho‘olawe Island Reserve Commission, \$100,000 to improve an existing irrigation system in order to plant 10,000 native plants in a 100-acre Tier II Area in the upper Hakioawa Watershed of Kaho‘olawe;
2. Lāna‘i Water Company, \$30,000 to convert 210 outdated meters into “smart” meters for single family homes owned by individual homeowners;
3. Ka‘ala Farm Inc., \$74,293 to pilot test a new method to estimate recharge rate from wetland taro patches; redesign auwai system to be more efficient; and Develop curriculum for visiting school groups;
4. Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW), \$55,743 for ungulate removal, out planting, weed management, and biocontrol in the Kipahulu Forest Reserve;
5. Kupu, \$61,952 to develop and pilot a storm water curriculum geared toward 5th grade level, including installing up to 2 rain gardens;
6. Center for Tomorrow’s Leaders, \$7,500 to install a rainwater catchment at First Assembly of God and Christian Church;
7. Moloa‘a Irrigation Cooperative, \$26,936 to upgrade agricultural meters to Advanced Metering Analytics, which includes a smartphone/table application that provides real-time information for system operators and customers;
8. Department of Land and Natural Resources, DoFAW, \$70,000 to expand and maintain vegetative “green” firebreaks that use native plants to reduce fire threat in Wai‘ānae Kai Forest Reserve, by doing clearing, weed control, out planting, and maintenance;
9. Ko‘olau Mountains Watershed Partnership, \$19,470 to restore 5.1 acres of degraded forest through removal of invasive species and replanting; provide for educational opportunities with nearby Pearl City schools; and establish a 2.0 acre Hawaiian cultural garden;

10. Hoku Nui Maui, LLC, \$100,000 to construct 1,300 feet of an unpaved farm road as a catchment surface for management of storm water runoff and installation of 1.5 million-gallon detention basin and floating wetlands; and
11. The Nature Conservancy, \$68,006 to restore and manage 19 acres of estuarine and wetland habitat in Heeia and conduct community outreach and education.

And:

Declare that projects recommended by the Water Security Advisory Group are exempt from the requirement to prepare an environmental assessment, pursuant to Sections 343-5 and 343-6, Hawaii Revised Statutes and Section 11-200-8 Hawaii Administrative Rules.

Jeffrey Pearson, Deputy Director, Commission on Water Resource Management (CWORM), Kristin Reynolds, Consultant, Lorraine Menor and Fujii present to answer any questions. The submittal in regard to Act 172, passed in 2016 regarding Water Security. It is a two-year pilot program.

Board Discussion

Member Gon disclosed that is he the Senior Scientist and Cultural Advisor for the Nature Conservancy of Hawaii and one of items recommended and approved by the Water Security Advisory Group is a project the Nature Conservancy is putting efforts in Heeia, because of it is one of many projects, and I stand to benefit, I will remain in the meeting.

Member Roehrig asked there are any projects on the Big Island. Pearson said “no”. Member Roehrig made the comment to make sure all the counties have an opportunity to participate.

Member Downing asked when you started to pick out these people, did we look at completion, or is this to get them started then money runs out. I noticed you have a total cost to run the project. We provide them with seed money to start. Pearson replied, we do not give them all the money at one time. They have to provide an update every six-months and timelines. The goal is to complete the project within 2-years.

Public Testimony

Yvonne Izu from Pulama Lanai supported the project.

Motion

Approved as submitted (Gon, Roehrig) unanimous.

ITEM J-1 Administrative Enforcement Action for:

- A. Violation of Hawaii Administrative Rules, Section 13-231-51: Business Activities Against Mr. Shane Turpin dba Kohala Tours, Mr. Sky K. Mullins, and Mr. William L. Gifford for Engaging in Illegal Commercial Operations from the Pohoiki Boat Ramp, Hawaii Island, and Lands Adjacent Thereto Without a Commercial Use Permit; and
- B. Request for authorization to hold a contested case hearing and for the Chairperson to select a Hearing Officer.

Ed Underwood, Administrator, Boating and Recreation explained the reasons for the violations.

Board Discussion

Member Roehrig said that we are overcharging. We are charging the Boat Captains as well as the Owner.

Member Yuen said we can fine them \$5,000.00 for each of the (3) violations, \$15,000.00 max and no fine to the Captains.

Public Testimony

Chris Mcquire representing Shane Turpin asked for a reduced fine to avoid a contested case. Turbin admits to committing the violation.

Motion

Amend the fine to \$15,000.00. No fine to the Captions.
Approved as amended (Yuen, Gon) unanimous.

10: 38 am. Chair Case needs to step out and Member Yuen is asked to conduct the meeting.

Item D-14 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display at Duke Kahanamoku Beach Every Friday From June 9, 2017 to June 8, 2018, Waikīkī, Honolulu, O'ahu, TMK: (1) 2-3-037:021 (Por).

Russell Tsuji, Administrator, Land Division, summarized the submittal. There are two issues that the Board asked Staff to look into. The first one was location to see if the lagoon was a possible site. Hilton tried the location three times and found to move the show to the lagoon and the experience was not very good and they are asking to have the location at the shoreline. The second issue was the \$50.00 fee which did not include the \$500.00 safety zone fee which we were charging to every other firework show. We had many meeting regarding the fees. The submittal is written as a compromise and recommending a fee increase from \$50.00 to \$200.00 per event.

10:45 am. Chair Case returns to meeting.

Board Discussion

Member Yuen said we will hear from the applicant first.

Public Testimony

Stephanie Pascual, Hawaii Explosives & Pyrotechnics, want to point out they have been good stewards and continues to be a priority for us. We are continuing to look for ways to minimize debris. Hilton has been a good partner.

Doug Ewald, Commercial Operator in Waikiki, is opposed to the increase in fee. If you increase the fees and Hilton decides to halt the Friday night fireworks it will have an economic impact on all the permitted boats that go on the water to watch it, as well as the shoreline businesses as people come into Waikiki to see the fireworks. Member Downing asked what type of business do you have in Waikiki? Ewald replied, we run permitted vessels in the Waikiki area. Member Downing asked if they do Friday night firework shows? Ewald said, "yes", which is the most expensive trip they offer and increases 3% revenue. Member Downing said, that if the fireworks go away you lose that revenue. Ewald replied, "yes, absolutely". Member Downing asked if he was willing to put in money to keep the fireworks there? Ewald said he puts in 3%. Member Downing clarified his question, and asked if he was willing to contribute to the increased fee of \$550.00. Ewald replied, he would if all the other business would contribute as well. Member Downing asked if he was willing help pay the fee without those parameters since you benefit from this show. You said you can take out up to 49 people, at \$140.00 if you gave \$ 5.00 to Hilton would that hurt you. Ewald replied, "no", although he does incur an increase in cost to take the boats out for Friday fireworks. Member Downing said that what he is hearing is everyone wants the fireworks to continue but no one is willing to help Hilton with the increase fees. Ewald said, Hilton is not asking anyone to help pay the increase in fees. It is the Board who wants to increase their revenue. I think what Hilton pays for the fireworks for the community at-large, benefits the business, the County and the State. Member Roehrig thanked him for his testimony.

Neil Miyashiro, private citizen, testified opposing raising the fees. He enjoys the fireworks and is worried that Hilton will cease doing Friday night fireworks if they have to pay higher fees.

Jerry Gibson and Ivan Lui-Kwan, representing the Hilton request that the BLNR continue its permit fee of \$50.00 for aerial fireworks display as a community benefit. The fireworks benefit local business in the area and are enjoyed by both the local community and tourists. The GET generated is approximately \$42,900.00, That is 2.2 million dollars a year at 52-weeks.

We incur the expense because we believe the fireworks contribute and benefit the community, the guests and business in the surrounding area. They also presented a letter from the Hale Koa Hotel that called Hilton's fireworks show a display of corporate generosity dollars a year. This community event is for everyone. Hilton maintains the cleanliness of the beach and empties the trash at their own expense on a daily basis. We pay DLNR approximately 1.3 million a year in fees. Hilton considers itself the guardian and custodian of the beach. Our commitment is to cause as little impact to the beach as possible. We truly believe this firework show that has continued for 25-years contributes to the well-being of our community, guests and businesses and request

to allow Hilton to continue to capture the community spirit in a positive way and continue to pay the established price.

Lui-Kwan said Tsuji started out saying we should be treated the same way as the other vendors. We feel we are, he said that it should be looked at as two separate components. The first being a community benefit. The second as a commercial event. Hilton is willing to increase to the \$750.00 per "commercial events". In his written testimony of May 10th, he cited Section 92-28 HRS, he feels it relevant. Is the charge here subject to HRS 92-28? The question is the charge of \$250.00 a fee or other non-tax revenue? If it is subject to this Statue, which says the amount should not increase greater than 50%. It is clear to me this is a fee. The Staff refers to it as a fee.

Chair Case responded that we are not raising the fee, we are proposing to charge you a portion of the fee that is already in place that we have not been charging you. Lui-Kwan said he appreciates and acknowledges that. Member Roehrig asked Lui-Kwan if he agrees to what Chair Case said? Lui-Kwan answered they will follow the Statue. Member Roehrig said that was not the question. Lui-Kwan replied, what I heard the Chair saying is what is imposed here is a new safety zone fee. Chair Case said it is a an imposition of a fee that we charge for these events. We have not been charging Hilton. We are reducing the rate to account for the community benefit.

Lui-Kwan said we already pay that fee. Regarding the two different components, one is a commercial fee. The Friday night fee comes under what is applicable here. Member Downing asked should we be charging you a square foot fee that we normally can charge for usage of permit at land entry? In other words, the fee in land is 10-cents a square foot. Is that the fee we should be charging? Lui-Kwan said you would be violating this provision. Member Downing asked how? Lui-Kwan replied the Statue says you should not be allowed to increase your fee by amount greater than 50%. Member Downing said this fee has been there already, we have actually lowered your fee. Lui-Kwan addressed it as a new safety zone fee. Member Downing clarified that was not the question, is there a fee on our books already that says for usage of land we charge 10-cents a square foot. This is what we charge canoe races, Transpac, and other fireworks. We have fees for usage of the land that we charge a percentage. What I am asking you is that the fee we should using and not this 50%, for some reason you feel we raised your rate over 50% or should we revert back to what the original rate should be? While we are lowering your rate by 200%.

Lui-Kwan said what he understood from the submittal, that the amount that should be charged is an additional \$200.00 per event. That is what I am addressing. He said he wanted to talk about the new safety zone fee. Member Roehrig said, that you call it a new safety zone fee, we do not call it a "new" fee. We call it a reduction of what we charge everyone else. Part of our responsibility under the Constitution, as Trustees of the land is to be equable and fair to the community that uses the land and treat everybody as equable and fair as we can. You want us to charge you a lower rate than what we charge all the small guys around the State that pay more than you. Lui-Kwan replied that brings us back to our original point that we are paying that with the commercial activities. The Friday night activity is not a commercial activity. It is essentially a community benefit that has been going on for 25-years.

Chair Case said she understands their position, just to clarify the Staff submittal, is that as we discussed, we recognize that it is a community benefit as well as commercial benefit to Hilton. This was a way of splitting if you will, in a way that acknowledges both.

Lui-Kwan said Hilton's position is that what happens on Friday night is a community benefit. Chair Case said, arguably anybody else that does this kind of thing can make the same argument that it is a community benefit. Sometimes it is strictly private. But everyone gets to see them. Lui-Kwan argued that we do it 52 times a year. Chair Case replied we have not articulated it this way but the Waikiki community and the people who like to view fireworks, there are others who do not like the fireworks. There is a little bit of a tradeoff.

Lui-Kwan wanted to point out that the 92-28 Statue is applicable. If you look at the Right-of-Entry Permit revenue is subject to that Statue. What I refer you to is HRS 37-62, where the define non-tax revenue and sources, they refer to departmental earnings of various sources, there is another section in 37-62, rentals collected for use of public property. Based on the Statue and the definitions of non-tax revenue, departmental earnings, this is covered by 92-28.

Member Yuen asked Tsuji-Land, if the money goes into the our special land-water conservation fund? If it is lieu, we would only treated as revenue in lieu of rental. Tsuji replied, yes, we refer to it on page 1 of our submittal, RP Statue 171-55. Member Yuen said, I believe Member Downing is correct in his analysis. This is a fee in lieu of normal 10-cents per square foot, per day charge for a Right-of-Entry into a beach area. It was done in lieu of that because when it was calculated for the size of the fireworks safety zone it came out as an enormous amount of money. Although it is described as a fee, it is actually a rental charge for the temporary use of State land. It does not go into the State General Fund as the fee would. But goes into the DLNR Conservation Fund.

Member Roehrig said he took a closer look at HRS 97-28, this provision supports what we are doing as opposed to what you said. First of all, it does not say how many times a year you can raise it not more than 50%, 92-28 does not address that. He quoted a portion of Statue 92-28. He pointed out that the comparability relates directly to what we charge everybody else. That is what we have to balance. Not just raising yours, we have to make it an equitable fashion comparing it to what we do for people similarly situated. In that context, if the increase is overdue, because we are charging everybody more, at 10-cents a square foot. We need to step back and determine what is the relationship between what the revenue derived and the cost of the value of the service rendered. The only way to know exactly what the real benefit is if we look at everybody's book. That is not our purpose. We need to be equitable with all the people similarly situated. I think that 92-28 actually supports the Chairperson's view and the comments made by Members Downing and Yuen.

Lui-Kwan responded, there are two things in the Statue, the relationship between the amount of the fee and the services provided. Hilton pays for all the clean-up, security, and maintenance. The idea is what is the relationship between what your charging and what service you are delivering. Everything is being done by Hilton. The second thing, I agree with comparability provision in this Statue, but I am coming back to the point that we are comparable because on those kinds of items and activities where you are charging \$550.00 we are already paying that

and in an effort to find common ground, Hilton is willing to increase it to \$750.00 (commercial activities).

Chair Case said this is for the safety exclusion. The fact the public cannot go in this area for this period of time and that is the fee we are trying to apply evenly across the board to other permittees. Member Downing asked Tsuji-Land, what is our normal charge for that square footage at our rate of 10-cents a square foot? Tsuji replied, somewhere in the range of \$20,000. Member Downing asked Lui Kwan, using your 97-28, if we use that basis as a fee, we should be charging you \$10,000. Lui-Kwan said you can charge anything you want, but are people going to pay it? Member Downing said when Staff came up with recommendation it start on the premise of first, in order to do fireworks if they went on the rate of 10-cents a square foot, you would be paying \$20,000 a day. They decided to create something for you. This is where it came down to \$550.00 a day. Through Boards before us, you got it down to \$50.00 a day.

Member Yuen said the \$500.00 was not created for Hilton, it was applied generally with the recognition if you charged \$20,000.00 for the safety fee, it probably would result in ceasing the fireworks display. Member Downing said this price was not formed out of rules they already had, it was to be equitable to work with the firework people, to create a rate that they could pay and still have their shows. It was not to put them out of business. Now you come and say this 92-28, we cannot raise it 50%, on the flip-side the rate should have been \$20,000, your saying statue we cannot lower it more than 50%. Yes, we want to be equitable, yes, we want to be good partners, but we have a fiduciary duty to the State. Lui-Kwan, it is not I who is saying this, I am a lawyer, I am following what the law says.

Member Gon made a motion to approve the submittal but amend to lower the rental fee to \$100.00. Member Yuen 2nd the motion. Members Downing, Roehrig and Chair Case opposed the motion.

Member Yuen stated he agrees with Hilton providing a community benefit. He has been down to watch the show and there are hundreds, maybe thousands of local people getting free entertainment, maybe they have to pay for parking, but they are having fun, they are happy. There are not too many things like that anymore.

Member Downing said that is why we discount the rate. Chair Case added down from \$500 to \$200.

Member Yuen said we have something that makes a lot of people happy, and we have a mutually beneficial relationship with Hilton, from the stand point of the joy it brings to people and the increase in spending that makes its way back to the State in GET or 3 % revenue that the boating guy talked about. I think Hilton does not want to come here and say if you charge us x-amount of dollars we are going to yank the show. I have to be concerned about when someone does something really nice, even if we could charge them more, should we charge them more? I would be happy to keep it at \$50.00, the motion is for \$100.00, I am happy to go along with that. It is different from other shows that are put on, you cannot plan to see those like you can plan to see the Hilton fireworks. That is my preference.

Member Gon elaborated on the motion, we have heard the term similarly situated a number of times during this consideration and I do believe I heard Counsel for Hilton say that for those situations that are similar to others, example Corporate one-time thing they are willing to increase it \$750.00, but for this different situation of a regular public benefit display, that it is not the same situation. said it merits consideration of a lower fee. It generally benefits the community, we occasionally go up to our lanai and watch the fireworks from miles away, we get to enjoy it.

Member Roehrig made a motion to defer the matter for 2-months. With respect to the Board members and the views offered by everybody in particular Council for Hilton. The stakeholders of Waikiki need to sit down with Hilton and see how they can share in the cost and everyone gives a little. There is an opportunity for the community to help share in the cost. Chair Case said this is about fairness.

Member Gon said that before we can do that there is a motion that has been seconded. Let me just say that this is for this year's permit and that I think we can grant the permit at the lower rate and in a year's time work with the community with the anticipation that when it comes up again it will likely be at the higher rate.

Chair Case said they did that last year, we have had this discussion before. Member Roehrig agreed. Member Gon said in the nine-years prior to that. that he served on the Land Board we had a pretty stable passage of this with the community service argument. Member Yuen said we should act on the permit today because it is expiring. If we cannot reach a consensus on the amount we could continue it at the present rate and revisit it at a later meeting. Sooner than a year. I prefer not to do that either we keep thrashing this over. Normally we have seven members, we are short two members, we need four votes to pass something. I do not think we are in disagreement in passing permit to continue.

Member Downing said he stands behind Member Roehrig because this came before us awhile back when we had seven members and the applicant deferred it.

The Chair repeated the motion to approve the permit with a \$100.00 fee total. Members Gon and Yuen voted, "Aye". Members Roehrig, Downing, Chair voted, "Nay".

Member Yuen asked Mr. Gibson, you are willing to pay \$750.00 for your corporate events, are you paying \$550.00 now? He replied. "yes". In 2016, we had seven and in 2017, eight so far. Chair Case commented that we are not talking about money here. We are talking about fairness in how we apply a fee. In my opinion, if we were to do that we would not be transparent from the way we apply this fee and be inconsistent. That is my problem with that suggestion.

Member Yuen, said the numbers are not going to balance off. But in the interest of bringing this closer, my thought was when Hilton has a corporate event, it is somewhat easy for them to say this is what it cost and this our fee to you the corporate person and they pass it on where our fee, the have to put that in to the budget they send to corporate office says, "wow" you are doing this show for the people in Hawaii and they want an extra \$10,000 a year more.

The motion did not say anything about increasing the corporate fee, if you are opposed that, I will quit this line of exploration.

There was no further discussion and Chair asked if there was a motion to approve as submitted. Member Gon made the motion to approve and Member Downing seconded.

Member Roehrig commented that this was a good compromise, not perfect. We value your operation. If this does not work you can come back and we can revisit it. We have to be transparent. Member Yuen said, he will vote for the motion rather than defer it, there is a show tonight that is not permitted and the alternative is a deferral, rather than wait for a full Board we might have a different outcome. Member Yuen and Gon both would have liked to see it stay at \$50.00 a show. But with respect to the Chair and other members, and getting the permit in place they will vote to approve the submittal.

Motion

Approved as submitted (Gon/Downing) unanimous.

The Board decided to hear Items D5 and D-6 together.

Item D-6 Sale of General Lease at Public Auction for Hotel-Resort Purposes; Authorization for Staff to Prepare and Publish a Request for Interest in a Long-Term Disposition of State-Owned Lands, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-1-005: 033, 034, 035, & 045.

Russell Tsuji-LAND said that Staff is bringing back to the Board, two things, a sale of public auction for a short-term 3-yr./lease and second, to see if there is interest, if the requirement for a 65-year lease long term disposition, what kind of rent would be possible, if we required a demolition and rebuilding

Item D-5 After-the-Fact Renewal of Revocable Permit No. (RP) S-7879 to Savio HBH Development Company LLC, Permittee, Waiākea, South Hilo, Hawai‘i, Tax Map Keys: (3) 2-1-005:033, 034, 035, & 045.

Report on 2016 Appraised Rents for: (a) RP S-7867 to Association of Apartment Owners of Country Club Hawaii, Inc., Permittee, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-1-005:020; (b) RP S- 7879 to Savio HBH Development Company LLC, Permittee, Waiākea, South Hilo, Hawai‘i, Tax Map Keys: (3) 2-1-005:033, 034, 035, & 045; and (c) RP S-7892 to Reeds Bay Resort Hotel, Ltd., Permittee, Waiākea, South Hilo, Hawai‘i, Tax Map Key: (3) 2-1-005:022; Implement New Ground Rent for RP S-7879 to Savio HBH Development Company LLC, Permittee, Waiākea, South Hilo, Hawai‘i, Tax Map Keys: (3) 2-1-005:033, 034, 035, & 045.

Public Testimony

Will Okabe, representing Mayor Harry Kim, County of Hawaii opposes the 3-year general lease (Uncle Billy's) as the property is not safe. The County Building Inspectors will be going out the building next week Tuesday to further validate the findings of the report. We have obtained credible information that there is at least one party interested in a long-term lease of the subject property. Potentially offering the scope of improvements and services that area deserves and needs. This being said we fail to see the value of the short-term lease that would preclude the prompt consideration of long-term solutions and opportunities to return the property to its rightful place as an asset to the Banyan Drive peninsula. A goal of the Banyan Drive Redevelopment Agency which should be pursued without any further delay.

For the last 30-years with this revitalization project in Hilo, that Member Roehrig mentioned is still in conference, the Mayor has not funded this particular agency due to budget. We really feel this area is a vital part for the economy. We do not have enough facilities to accommodate all those people who come to participate in Merrie Monarch. A lot of the Halau's must use the County facilities/gyms, because we do not have the infrastructure in this particular area. 30-years ago we had first class hotels, accommodations, restaurants in the Hilo Bay area. We feel that giving other hotels an opportunity will help the Big Island economy to grow.

Board Discussion

Chair Case said if this were shut down and maybe it is time it would be vacant and that will be a challenge that we would like to make sure we work cooperatively with the County to secure the building during its vacancy if that is the way this goes. The other is the very significant cost to tear it down and whether we can work that into a long-term bid proposal that would be optimal if not, the building is going to come down with public dollars so we would hope the County would do cost-sharing, otherwise we would have to go to the Legislature for a share of it and it is not cheap. We have to go into this with our eyes wide open, there are future costs in pursuing a closure alternative. Speaking with Mayor Kim yesterday, we are committed to partnering with the State in any way we can to be able to make this particular agreement happen.

Member Yuen asked Mr. Okabe if the Inspectors going to be looking for other situations that are immediately hazardous to people and share the report with the Board. Mr. Okabe said our understanding is it is unsafe. Member Roehrig asked if the Inspectors have the expertise to check on the asbestos that was noted in a 2015 report. Mr. Okabe said, "yes". Member Roehrig said that the report says there is a substantial asbestos issue.

Stu Miller, Tower Development, asked the Board a few procedural questions: Has the gross income of the property submitted by the Lessee to the Board? Is it public record? Tsuji-Land, replied, rents are public record. Miller said rent under the Revocable Permit shall be determined by independent appraisal, has this been done for the holdover period? Is the May 27th appraisal approved by the Chairperson and is this public information as well? Chair referred him to Gordon Heit, Land Division.

Peter Savio, would like to see a long-term lease due to the condition of the property. It is not worth putting money into it even on a short-term lease, for the amount of work that needs to be done. I am not interested in a short-term or long-term lease. We wanted to cancel but would continue on a month-to-month until you find someone.

Member Roehrig said that he went there and feels that it should close down. The concern for the employees regarding asbestos throughout the building. He referred to an environmental report that was done in 2015 (Limited Hazardous Report). He has a sense of urgency.

Savio said, when the report came out we met with your department and we talked about all the violations and what had to be done. At that point, you need to go long-term because of the condition of the property. To be honest, I do not remember the asbestos being a major issue, and usually that would be something I remember, but regardless it should be shut down. Member Yuen commented, we have a report that there is asbestos in places in the building, there are asbestos in many old buildings, neither you or I are an expert on what this means as far as any kind of imminent harm to people. The County is going in next week to look at it and report back if there is any kind of imminent problem with occupancy and we will take appropriate action.

Miller, Tower Development, said we are going to open Tower Three and we are looking to hire employees and would encourage the employees being affected by the closure to apply.

12:10 pm-Break for Lunch

1:45 pm- Back in Session

Continuation D-5 deferred until Savio returns

Item D-1 Partial Withdrawal of 3.20 Acres from Governor's Proclamation dated June 5, 1909; Reset Aside 3.20 Acres to the County of Kauai, Department of Water for Proposed Clearwell Reservoir, Access Road, Water Pipelines, and Related Purposes; Issuance of Management and Construction Right-of-Entry at Kalāheo, Wahiawā, Koloa, Kaua'i, Tax Map Key: (4) 2-4-009: portion of 003.

Tsuji- Land, presented the Staff submittal and did not have anything else to add.

Board Discussion

Member Gon clarified that this was in the lower Wahiawā.

Public Testimony- None

Motion

Approved as submitted (Roehrig/Gon) unanimously.

Item M-2 Consent to Assignment of a Sublease from Tiare Enterprises, Inc. to BKKM Enterprise Corp., Retail Concession Agreement No. DOT-A-09-0002, DFS Group, L.P., Honolulu International Airport, Tax Map Key: (1) 1-1-03: Portion of 1.

Item M-3 Issuance of a Revocable Permit for a Preferred Hold-Room in the Main Terminal, Hawaiian Airlines, Inc., Kona International Airport at Keāhole, Tax Map Key: (3) 7-3-43: Portion of 40.

Item M-4. Issuance of a Revocable Permit for Office Space in the Main Terminal for Airline Operations, Hawaiian Airlines, Inc., Līhu‘e Airport, Tax Map Key: (4) 3-5-01: Portion of 8.

Ross Smith-DOT Airports reviewed Staff submittals.

Board Discussion

Member Roehrig parochial matter regarding Item M-3. Member Roehrig complained about Hawaiian Airlines service to East Hawai‘i, particularly the lack of morning flights. Smith responded that a “preferential holdover” was given to airlines with a minimum number of flights; it is a contractual right. Roehrig asked Smith to talk to someone about this.

Public Testimony- None

Motion

Approved M-2, M-3, M-4 as submitted (Gon, Oi) unanimously.

Continuation of D-5 (Reeds Bay & County Club)

Tsuji- Land, explained for this section, they are reporting on appraised rents for the three RP’s (Reeds Bay, County Club, & Savio). When we drafted this, we pointed out a couple of issues. Reeds Bay retains ownership of improvements and pays only for ground rent. County Club renewed at ground rent value. Savio for 2016 appraisal, ground rent came out to \$4,575/month, or if it is land and improvements then it would be a flat 3% of gross.

Board Discussion

Member Yuen did not want to take up the Pagoda until later in the day. He noted that this is just a report on the appraisals for Reed’s Bay and Country Club.

Don Inouye from Reed’s Bay was present to answer questions.

Member Yuen suggested putting an item on the agenda to change to a rent based on land and buildings for both Reed’s Bay and Country Club. He said that the primary reason for having Reed’s Bay retain ownership of the building was to not make them pay for the demolition, not to lock in the rent being always based on land only. Tsuji asked if these could be continued for the remainder of their term, four or five months, on the present basis, and Yuen agreed.

Yuen asked how percentage rent would be calculated on Country Club. He asked how Country Club is currently being run. There had been a condominium. Our permittee is the AOA. Tsuji was not sure of the status of the current permittee. Member Yuen said he is not sure who is collecting the rental for individual units. Is it the association or the former owner? Tsuji said it was the entity that resulted after the legal actions. Member Yuen said that if we are going to charge 3% we have to be sure that all income goes through one entity so that we collect from all units. Yuen said he suspected that the former condominium owners were still collecting the rents from the units they had owned. Tsuji said there would be no authority for that to happen. Tsuji repeated that the state only dealt with one entity. Yuen suggested that there was a great deal of money being made by someone at the building. He suggested that we get a professional property manager to manage the building and the state would then get the bulk of the rent. Tsuji said that his understanding was that some of the non-paying former owners have been evicted. Staff had met with the lawyer who was hired to do this.

Member Roehrig said we need to find out whether we were charging a fair amount.

Ed Bushor, representing Tower Development and Grand Naniloa, said that if this had been his building, he would have hired a property manager who would have gotten 5-7% of gross with the rest to him. He leases the building next door, and there are police cars there every day. He suggests that this be looked into to see that the State's interests are maximized.

Member Roehrig asked if we could hire a property manager. Member Yuen said perhaps we could find a property manager who would take an RP and the rent would be negotiable.

Member Roehrig asked Bushor what the problems were. Bushor said that he could not be sure the problems were coming from Country Club but there were problems with people near their driveway and along the oceanfront.

Tsuji said that the prior Governor's task force did not want the Country Club to be a residential area. They wanted it in resort. Tsuji said that the property could possibly be set aside to HHFDC as an affordable rental. This is not DLNR's role.

Member Yuen said that per the Erskine Report, this is an interim situation. He thought that the goal was to get a good return to the State at present but the building will probably have to come down in the relatively near future.

Don Inouye said that that appraisal report had an adjustment because of the short-term nature of the RP. He said that if he was charged 3% of gross, it would be about the same as his current appraised rent. He had a gross of about \$1 million last year. He discussed his efforts in the past to get a long-term lease.

Member Roehrig questioned Inouye about asbestos in the Reed's Bay building. Inouye said that he had this checked out years ago and that it passes unless if you disturb it. In response to a comment about finances he said his net was about \$70,000 last year.

Chair Case called up Peter Savio, who had returned to the meeting.

Savio thinks that Uncle Billy's could be shut in a short time because so few rooms were actually rented and visitors could switch their reservations to other hotels. Member Yuen said that he

was sorry that we had come to this point because some months prior he had suggested the three-year public auction lease, and so he cannot criticize staff for their submittal; it is what he suggested. But after looking through Uncle Billy's a few days ago he did not think that it would be responsible to continue renting it out. Member Yuen asked Savio a few questions about an orderly shut-down. Savio said the employees and management company are basically at-will. He said that he would have a public sale of the furniture. In response to a question, Savio said that the concrete from the soffits was dropping because of spalling, and the only way to fix it was to jackhammer out the concrete and replace it.

Ed Bushor of Tower Development and managing partner of the Grand Naniloa said that they wanted to close Uncle Billy's because the sooner it is closed, the sooner the people of Hilo can get a park or a new hotel if that is what the people want. He submitted a proposal that his group would take over a month-to-month permit, pay the appraised value, but get a credit to screen the property, put a mural on the street side. It would be about \$40-45,000 to screen the whole property. We would interview all employees.

Bushor reported that the Kilauea Tower was done, and the 63 rooms would be online about July 1st. They would be hiring to staff those rooms. He said that they would honor the reservations at Uncle Billy's, and free golf. His goal was a long-term lease. I am not here today to ask for that. I had offered in the past to contribute \$250,000 for a tear-down. If it is \$5 million, I do not have that. I would have my construction company do its own analysis of what it would cost. I would commit to study the cost as part of the RP. I would also see if there was any area that can be saved. Hilton said that they would support a lower-budget, "limited-service" hotel at the site. Bushor indicated that he would like to keep the general store open.

Member Yuen clarified that Bushor was talking about his company having site control over an Uncle Billy's that was shut down except for possibly the parking lot and general store. Bushor concurred. Member Yuen also commented that Bushor would not get an advantage from the RP for the long-term lease. Bushor said Hilton would make him screen the shut-down building in any case.

Member Yuen made a motion to acknowledge the after-the-fact RP up to this date, issue a new RP to Savio Development for a month or the first board meeting in July, they would not take any new reservations, and they would use the month to shut down. In the meantime, the chair would get a report from the county, and if there were any immediate or emergency safety problems, the chair would be authorized to close it at her discretion. The proposal from Mr. Bushor has some advantages for the state but is not on the agenda, so Yuen would like to see it brought to the Board before the end of the Savio RP so there is no gap. The hotel would be shut but if possible, staff could allow the continued use of the general store and parking lot. He also asked that the state and Bushor co-operate with Savio in his need to move out furniture and other necessities of the shut-down if it takes more than thirty days. The rent for the time up to the present would be at the current rent; the next month being gratis. Because the first board meeting in July was July 14, the new Savio RP would run until July 14. The new RP would be at the old rent.

Savio agreed with the recommendation. He commented that the gift shop building was in good shape. That wing can be saved. The wing going straight to the ocean, the lobby, and the restaurant were disasters.

Chair Case and Tsuji clarified that the RP would be extended to July 14 at no rent. The time would be used to shut down the operations. Member Yuen said that the new RP after July 14 could incorporate the offsets against rent that Bushor discussed but the cost of a demolition study could not be part of the offset.

Bushor asked if the Board could authorize the RP now he could get his construction crew to start on the fence. They were going to finish the current job July 1. Member Yuen responded that they could not make that decision today because it was not on the agenda. Chair Case said that they could authorize the fence with Savio if Savio wanted to work it out. Member Roehrig said that we should not complicate this now.

Tsuji clarified that the proposed rent for the RP starting July 14 would be at the land value only.

Amendment:

Opposed the portion of the submittal that sought approval to auction a short-term (3-Year) lease.

Approved the portion of the submittal authorizing Staff to issue a Request for Interest in a long-Term Disposition

Member Roehrig seconded the motion as amended. It passed unanimously.

Item D-2 Approval of 25-Year Term Extension of General Lease No. S-4575, Fran Shizuno Miyake, Norman David Thompson, and Karen Edith Thompson, Lessee, Nāwiliwili Harbor Lots, Līhu'e, Kaua'i, Tax Map Key: (4) 3-2-004:014.

Russell Tsuji, summarized the submittal. He said in response to Member Downing's questions made offline there were no sub-tenants. He made a correction to the amount of improvements. On page 3, it says \$228,035; it should be \$272,916. We have done a number of these extensions

Board Discussion-None

Public Testimony

Walton Hong, Esq., representing the tenant, said that there was a sub-tenant. The Board had approved this. They wanted to put on a new roof and it could not be justified with a lease running out in November.

Motion

Approved as submitted (Gon, Downing) unanimously.

Recess

Item D-6 continued

Member Gon mentioned we needed to finish D-6. Member Yuen said we had not discussed it yet as D-6, was related to D-5.

Bushor of Tower Development said the community was seeking a long-term process.

Member Yuen made a **motion for Item D-6, is to disapprove the public auction of a three-year lease, and to approve a request for interest in a long-term disposition of the property. Member Gon seconded the motion; it passed unanimously.**

ITEM D-11 Amend Prior Board Action dated January 11, 2013, item D-14, *Grant of Term, Non-Exclusive Easement to West Coast Roofing, Inc. for Seawall Purposes; Assess Administrative Costs of \$200, Makahā, Wai'ānae, Oahu, Tax Map Key: (1) 8-4-005: seaward of 002.*

This Amendment Pertains to Additional Easement Area and Consideration.

Tsuji, explained this amended a prior Board action, allowing a non-exclusive easement for seawall purposes in Waianae.

Board Discussion

Member Yuen said, for the record, that there was adequate evidence that this is a seawall that was legal when built, but became an encroachment because of movement of the shoreline.

Manuel Medeiros of West Coast Roofing said, that the encroachment was originally 131-square feet, but now there was an additional 190-square feet. The State now wanted an additional \$4,351. He said after looking at it yesterday there was only 106-square feet of the wall exposed. He said he was required to get a \$1 million insurance policy for the land outside the seawall, which he cannot control. He did not think it was fair and he was told he could come to the hearing and voice his concerns.

Tsuji asked if he was talking about a footing. He pointed to a portion of the report which said that during a high wave event the entire length of the seawall was exposed. Medeiros asked when should the shoreline be measured. Tsuji said that under the Supreme Court rulings, it is measured at the highest wash of the waves, except for storm or tsunami waves. Chair Case mentioned this is a challenging situation and we have legislation pending, but we have laws we have to follow. Medeiros complained that even though he bought the property with a legal wall, and the beach was not really changing in this area, he was having to pay for the encroachment.

Member Roehrig asked Medeiros if the beach changed seasonally. Medeiros said yes, sand was lost in the winter then came back in the summer. Member Roehrig said we have to treat everyone the same. Member Roehrig asked if Staff was continually checking the shoreline. Tsuji said no, normally we find out about this kind of situation when there is a shoreline setback application. Member Downing asked if they could raise the wall. Tsuji said that was a county issue. Member Yuen said they would need a shoreline setback variance. Member Downing said that if they built the wall three-feet higher they would not have water going into the yard and the shoreline would not be mauka of the wall.

Member Gon commented they feel for the landowner. Chair Case said that she felt for the landowner too, but the Department could not get a bill passed where the landowner would not have to pay in this situation. Tsuji said that they were not able to get a hearing.

Member Roehrig said that he would vote no to send a message to the Legislature that they cannot put all this stuff on the landowner. Tsuji said that the legislators thought our bill encourages shoreline wall construction. Member Roehrig said we should make a team effort with the Board Members to convince the legislature. Chair Case said that whatever the law is, we have to apply it across the board.

Motion

Approved as submitted (Gon, Downing) Roehrig opposed.

ITEM K-1 Conservation District Use Application (CDUA) OA-3784 for the Royal Hawaiian Groin Improvement Project, by the Department of Land and Natural Resources, Office of Conservation and Coastal Lands, at Waikīkī, Island of O‘ahu, Seaward of Tax Map Keys: (1) 2-6-002:005 and (1) 2-6-002:006

Tiger Mills of OCCL presented for OCCL. The matter had been deferred at the April 28, 2017 meeting. OCCL stood by its previous recommendation. The Board had asked for additional information about repairing and restoring the existing groin, the impact of T-head groins, and the potential attractive nuisance aspects of the proposed groin.

Scott Sullivan of Sea Engineering, consultants to DLNR, testified. He came to answer specific questions from the previous meeting. He showed a power point presentation. The existing groin stabilizes about 1,700 feet of Waikiki, which he called the Royal Hawaiian sector of Waikiki. The first 100' of the existing groin, starting at the seawall, is semi-intact and semi-functional.

After that it becomes submerged and progressively more broken. It becomes scattered blocks scattered on the seafloor. Submerged structures are not effective. In Kona conditions, the groin is very ineffective. Sand gets stripped away, creating sinkholes, which can be pretty big.

Member Downing asked how many sinkholes did they have. Sullivan was not certain but it happened after the sand was replaced in 2012. DLNR installed large sandbags on the Ewa side of the wall to shore it up. Downing asked if this only happened once. Sullivan said he was not sure, but because there was not much sand there now, there was not much opportunity for sinkholes. The sandbags were put in when they thought the new groin project would make faster progress.

Sullivan showed pictures of the undermining of the existing groin. If the groin collapsed, the beach would be quickly and permanently lost.

Sullivan said they contracted with a marine engineer. The design criteria would be a hurricane-type event. Member Roehrig said the existing groin has survived a number of tidal waves and it is still there. Sullivan defended the engineer's judgment and said we were lucky the existing groin was still standing. Member Roehrig asked why the engineer did not do a computer study. Sullivan said that this was a licensed engineer who did the analysis he thought necessary.

Member Roehrig said that his recommendation the last time was to get an engineer to try to design a concrete barrier that would work. Sullivan said that if the desire was a concrete wall, they would have to add five feet of concrete on either side. It would not be long enough to maintain the beach at the 2012 position. The wall would be stable, but it would not stabilize the beach.

Sullivan said that when the wall was originally built, it had rock buttresses. He repeated the reasons for a T-head design. The proposed groin is 180' long but it extends 160' from the existing seawall. It is similar to some other groins in Waikiki.

Chair Case asked Sullivan to deal specifically with the questions raised the last time. He said that the existing groin could not be repaired. Mills said that the Board had asked if the existing groin could be repaired, more information about T-head groins, and the attractive nuisance.

Regarding the "attractive nuisance", Sullivan said that he walked the shoreline at the recent high tide and south swell, along Waikiki. There were many people in the water, clambering on every structure all over the beach having fun. He thinks people will do what they want.

Member Roehrig said his concern was that this groin was where he learned how to surf and it would be right in the middle of that. Chair Case said that according to testimony, that spot was a bit to the east of the T-groin. An unidentified person said that the Baby Royals surf spot was farther out.

Member Downing asked if the existing wall could be grouted or filled. Sullivan said it was the engineer's opinion that that would not work.

In response to questions, Sullivan did not think that removing some of the older remnant concrete-filled bags, which had been done previously, made the sand erosion problem worse because he did not think they were effective. Chair Case asked about the 2012 project. Sullivan said that they monitored that for 2.5 years and about 25% of the sand had been lost.

Chair Case asked about the big picture in Waikiki. Sullivan said DLNR had contracted with his firm for a longer-term strategy for Waikiki Beach. Chair Case asked if there were other engineering solutions, rather than a T-groin. Sullivan said that DLNR had hired Dr. Kevin ??? who was asked primarily to look at the Kuhio Beach crib wall but secondarily to look at a larger area. He proposed numerous T-head groins. Dr. Franz Gerritsen had done a plan in the 1970's proposing T-head groins. Our firm stays up with current science. Sullivan described the objectives of the project.

Member Downing read from a 2012 report from Sullivan which said that the old Kuhio Beach remnant groins referred to earlier should be removed. Member Downing said that since they were removed erosion has gotten worse. The report said that the best method to pump sand was a dry sand pump. That was a failure; the pump had to be removed and the sand had to be trucked. Chris Conger and Dolan Ebersole had written in 2011 that the beach had reached a dynamic equilibrium. Downing's understanding of that was that there was only so much sand that could be retained on the beach no matter how much was put on. He referred to a prior report by Sullivan that recommended a bigger groin at the Royal Hawaiian than that proposed today.

Member Downing mentioned an earlier company that designed curved seawalls. He said that this needs to have another analysis.

Public Testimony

Peter Carlisle, former Prosecuting Attorney, and Mayor, testified that he hoped the BLNR would accept the recommendation of the Waikiki Beach Special Improvement Association and replace the existing groin to prevent failure and loss of this section of the beach. He surfs Pop's, which is right outside the Royal Hawaiian groin area. He said most people now learn to surf at Canoes. He thinks the current groin is an accident waiting to happen. He favored Option 1.

Member Roehrig asked about the rail project. Carlisle said it would be done, it would be a boon to people on the west side, and he would always support it.

Rick Egged spoke, representing the Waikiki Beach Special Improvement Association, spoke supporting the current staff recommendation. They had supported a slightly different option earlier. They are committed to providing \$750,000 in support.

Dolan Ebersole of the UH Sea Grant Program and Waikiki Beach management coordinator testified that the current groin is in poor shape, structurally and functionally. The last three winters we had to close the Royal Hawaiian public access. The sand has not returned. The Kuhio end is heavily scoured. The Royal Hawaiian end has not recovered as it normally would. Member Yuen asked him to evaluate a sloping rubble-sided T-groin vs. a vertical curving concrete wall. Ebersole said that there has been lots of research and that most structures in Waikiki were rubble T-groins. Ebersole was not a coastal engineer but that his experience was that most modern sand retaining structures were sloping rubble T-groins.

Andrew Wycklendt, Hawaii Shore and Beach Preservation Association referred to written testimony submitted yesterday, said that the current groin was in poor condition, and that standard engineering practice was used to evaluate the groin and came up with this alternative. The groin should be repaired or replaced.

Member Gon moved to accept the staff recommendation. Member Yuen seconded, proposing an amendment. He did not mean any criticism of our consultant, but some Members of the Board had expressed skepticism, so the **amendment** would be that prior to implementing the project, the chairperson would seek a second opinion that a T-head groin was an appropriate design to reduce erosion at this site, that the sloping rock configuration is superior to the vertical concrete wall, and the chair would contract with a qualified engineer to provide this second opinion. *Chair Case said that it should be whether this design meets the goals of the project, which were to maintain the 1985 beach line width and protect the hotels.* Members Gon and Yuen agreed to this wording.

If the second opinion was positive, it would not be brought back to the Board. If it was negative, the project would be reconsidered. Member Roehrig agreed and would trust the judgment of the Chair. Member Yuen again said that he meant no disrespect or suspicion of the engineer DLNR had hired; it was his expectation that it would corroborate the current engineer's opinion, but this

was an important project, and if there was a problem we should know about it. Member Gon agreed.

Amendment Clarified:

Prior to implementing the project, the Chairperson will seek a 2nd coastal engineering opinion on whether the proposed T-head groin is an appropriate design that meets the goals of the project. If the Chair upon review of the second opinion determines it is, the project shall move forward. If the Chair determines it does not, this matter shall be brought ack to the Board for reconsideration.

The objectives of the project are:

- 1. Maintain the approximate beach width of the 2012 Waikiki Beach Maintenance Project so that it can provide it is intended recreational and aesthetic benefits;***
- 2. Facilitate lateral access along the shoreline; and***
- 3. Provide a first line of defense for the backshore area by maintaining a sufficiently wide beach.***

The Board recognizes that this project is intended to be one phase of a long-term effort to stabilize the entire Waikiki Beach area, and that a planning process is underway toward that end.

Member Yuen asked whether the Chair had the budget to do it. She confirmed the State could do it. Rick Egged, Waikiki Beach Special Improvement committed to pay \$750,000 towards the study. Chair Case said they would try to do this expeditiously.

Motion

Approved as amended (Yuen, Gon) unanimously.

ITEM J-2 Authorize Public Auction of a Lease for Maritime Related Purposes, situated on Naāwiliwili Small Boat Harbor, Island of Kaua‘i, Hawai‘i, Tax Map Key: (4) 3-2-03:043 (Portion).

Dana Yoshimura of DOBOR presented the submittal to authorize the sale of a 30-year lease at public auction at Nawiliwili. This is currently leased to Nawiliwili Yacht Club. It expired, but the Board had approved a one-year holdover. This is not a subdivided lot currently, and the lessee may be required to go through county subdivision.

Board Discussion-None

Public Testimony-None

Motion

Approved as submitted (Gon, Downing) unanimously.

ITEM J-3 Issuance of a Revocable Permit to Honolulu Transpac, Ltd., for Support Areas and Mooring Sites, for the 2017 Transpacific Yacht Race from Los Angeles, California to Honolulu, Hawai'i, situated at the Ala Wai Small Boat Harbor, Tax Map Key: (1) 2-3-037:012 (portion).

Yoshimura presented the staff submittal.

Board Discussion

Member Gon asked if this was the same as the permits used in the past. The fee had changed to considerably more than they had been paying.

Public Testimony-None

Motion

Approved as submitted (Gon, Downing) unanimously.

Chair Case stepped out. Member Yuen took over for the Chair.

Kevin Moore, Land Division, was present to answer questions on Items D-3, 4, 7, 8, 9, 12 and 13.

ITEM D-3 Issuance of Right-of-Entry Permit onto Unencumbered State Beach Land to Essex House Condominium Corporation dba Kauai Marriott Resort & Beach Club for Beach Cleaning and Maintenance, Stream Mouth Maintenance, Storm Maintenance, and Leveling of Recreational Areas; Kalāpaki Beach, Kalapakī, Lihue, Kaua'i, Tax Map Key: (4) 3-5-002: seaward of 002.

ITEM D-4 Quitclaim Sale of Remnant (abandoned road right-of-way) to Dennis D. Raymond and Colleen L. Raymond; Issuance of Right-of-Entry for Access Purposes, Ka'apuna & Moloa'a Hui, Kawaihau, Kaua'i, Tax Map Key: (4) 4-9-003: Road, also designated as Tax Map Key: (4) 4-9-008:999.

Board Discussion

Acting Chair Yuen asked, for D-4, why the submittal said it had no access, but it abuts Kuhio Hwy. Was there a no-access condition on Kuhio Hwy.? Moore was not certain. Yuen said he would assume this had been thought through.

ITEM D-7 Amend Prior Board Action of December 9, 2016, Item D-10, *Issuance of License Agreements by the Board of Land and Natural Resources to the Department of Defense for Installation, Operation and Maintenance of Civil Defense Warning Sirens on Land under the Direct Management of the Department of Land and Natural Resources, Statewide, at the following TMK Nos:*

(1) 1-5-041:006, (1) 8-2-001:001, (1) 4-6-005:009, (1) 5-6-001:024, (1) 5-3-011:009, (1) 4-1-015:016, (1) 2-3-037:012, (2) 2-1-006:030, (2) 1-3-005:009, (2) 1-4-007:009, (3) 6-6-002:005, (3) 1-3-007:026, and (3) 8-9-004:008

The Purpose of the Amendment is to correct the Tax Map Key reference for the Department of Defense (DOD) siren site at Hapuna Beach Park, Siren ID No. HA404 from TMK: (3) 6-6-002:005 to TMK: (3) 6-6-002:035.

Chair Case returned to the meeting,

ITEM D-8 Issuance of a Right-of-Entry Permit to Neal B. Schneider for Landscape and Maintenance on Portion of Government Beach Reserve for Clean-up, Sand Dune Restoration, and Native Plant Propagation Purposes, Waiohuli, Kīhei, Maui, Tax Map Key: (2) 3-9-009: 011 and 034 por.

Board Discussion

Downing and Yuen commented that staff had done a good job making sure that obstructions to public access would be removed

ITEM D-9 Rescind Board Action of April 8, 1983, Item F-3, *Direct Sale of Perpetual, Non-Exclusive Easement for Revetment Purposes Covering Portion of Government Beach Reserve*, and Grant of 55-Year Term, Non-Exclusive Easement to New Owners: Robin M. Kean and Jennifer Downs Kean, Trustees of the Robin M. Kean Revocable Living Trust dated October 1, 2015, and Jennifer Downs Kean and Robin M. Kean, Trustees of the Jennifer Downs Kean Revocable Living Trust dated October 1, 2015; for Resolution of Seawall and Rock Revetment Encroachment Purposes; Issuance of Immediate Management Right-of-Entry Pending Issuance of Easement, Waiohuli-Keōkea Homesteads, Kīhei, Maui, Tax Map Key: (2) 3-9-012: seaward of 003.

ITEM D-12 Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display on Encumbered State lands off Ko Olina Beach on July 4, 2017, Hono‘uli‘uli, ‘Ewa, O‘ahu, Tax Map Key: (1) 9-1-057: seaward of 006.

Board Discussion

Member Downing said that it had to be amended because there was a second firing site; the fee had to be doubled. Member Roehrig agreed that the fee should be \$1,100.00.

Amendment:

Increase fee to \$1,100 because of the second launch site.

ITEM D-13 After-the-Fact Issuance of Right-of-Entry Permit to Hawaii Explosives & Pyrotechnics, Inc. for Aerial Fireworks Display on Encumbered State lands off Ko ‘Olina Beach on May 31, 2017, Hono‘uli‘uli, ‘Ewa, O‘ahu, Tax Map Key: (1) 9-1-057: seaward of 006.

Board Discussion

Member Downing noted that this request was after-the-fact because the request from the applicant came in late. He suggested a late fee for these. Moore said that Land Division wanted a late fee but the AG’s said we would need a rule change. Member Yuen criticized the advice,

saying that the \$500 was not in the rules either. Moore said that that was OK because it was like rent but the AG's advice was the late fee needed a rule change. Member Downing suggested an after-the-fact rental increase.

Member Roehrig moved to **approve** D-3, 4,7, 8, 9, 13, and D-12 ***with the amendment***. Member Gon **second** the motion.

Motion to adjourn (Gon, Oi) unanimous.

There being no further business, Chairperson Suzanne Case adjourned the meeting at 5:30 p.m. Recording(s) of the meeting and all written testimonies submitted at the meeting are filed in the Chairperson's Office and available for review. Certain Items on the agenda were taken out of sequence to accommodate applicants or interest parties present.

Respectfully submitted,

Darlene S. Ferreira
Land Board Secretary

Approved for submittal:

Suzanne D. Case
Chairperson
Department of Land & Natural Resources