

Minutes of a Regular Meeting  
of the Members of the  
Hawaii Community Development Authority,  
State of Hawaii

MEETING NO. 395  
Wednesday, March 5, 2014

**AUTHORITY BUSINESS  
KAKAAKO, KALAELOA AND HEEIA**

**I. CALL TO ORDER/ROLL CALL**

A regular meeting of the Kakaako, Kalaeloa and Heeia Members of the Hawaii Community Development Authority ("Authority"), a body corporate and public instrumentality of the State of Hawaii, was called to order by Mr. Brian Lee, Chairperson of the Authority, at 9:01 a.m. on Wednesday, March 5, 2014, at the Authority's principal executive offices at 461 Cooke Street, Honolulu, Hawaii, pursuant to Article IV, Section 1 of the Authority's Bylaws.

Members Present: Mahealani Cypher  
Mary Alice Evans (DBEDT)  
Randy Grune (DOT)  
Miles Kamimura (for Kakaako and Kalaeloa)  
Brian Lee  
Lois Mitsunaga  
Luis Salaveria (DBF)  
Brian Tamamoto

Members Absent: Linda Chinn (DHHL)  
Amy Luersen  
Dean Seki (DAGS)  
Shirley Swinney

Others Present: Anthony Ching, Executive Director  
Lori Tanigawa, Deputy Attorney General  
Shelby Hoota, Program Specialist  
Patricia Yoshino, Secretary  
Holly Hackett, Court Reporter

**MATERIALS DISTRIBUTED:**

1. Summary Minutes of Authority Regular Meeting of February 5, 2014;
2. HCDA Legislative Update; Sample Testimony of the Executive Director; and H.B. 1866, H.D. 2 (distributed at the meeting).

## II. APPROVAL OF MINUTES

### 1. Regular Meeting of February 5, 2014

Chairperson Lee asked whether there were any corrections to the minutes of the February 5, 2014 meeting. There were no comments or corrections from the Members, and the minutes were approved as presented.

## III. REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Anthony Ching provided his report via PowerPoint Presentation (see Exhibit A).

Member Tamamoto asked for a progress report on the Halekauwila Place project, specifically the opening of the project and how the rentals are going.

Mr. Ching responded that the tower crane has been removed, landscaping is under way, and they are taking rental applications. He expected a formal opening later this month. The project is on time, on schedule, and on budget.

Member Tamamoto explained that, in order to make better decisions on future project requests, it was good to know whether there is a demand or not, or possibly change what the affordable housing component should look like.

## IV. AUTHORITY BUSINESS

### 2. Discussion and Decision Making on Authority Position and Testimony for 2014 Legislation

- a. S.B. 2696, S.D.1: Relating to the Kakaako Community Development District
- b. S.B. 2697, S.D.1: Relating to the Hawaii Community Development Authority
- c. S.B. 2698, S.D.1: Relating to the Hawaii Community Development Authority
- d. H.B. 1863, H.D.1: Relating to the Hawaii Community Development Authority
- e. H.B. 1865, H.D.1: Relating to the Hawaii Community Development Authority
- f. H.B. 1866, H.D.1: Relating to the Hawaii Community Development Authority
- g. H.B. 1867, H.D.1: Relating to the Kakaako Community Development District

Member Evans asked for a legal ruling on whether S.B. 2699 could be included in the list of bills being considered since it was an HCDA bill and had some significant elements in it.

Deputy Attorney General Tanigawa advised that concepts in S.B. 2699 were also covered in the bills that are listed. The concepts in the bills in the noticed agenda can be addressed, but there should be no action taken on official testimony related to S.B. 2699 because it was not listed on the agenda.

Mr. Ching provided his report on the legislative bills listed in the agenda via a PowerPoint presentation (see Exhibit B).

Member Tamamoto stated that there were 2 different things to consider: (1) to take action or no action on the legislative bills, and (2) how the Authority would like to come across in testifying before the Legislature.

Mr. Ching added that the agenda was posted at a time when we did not know which measures were going to cross over and be alive. Subsequently, there are only 2 bills at this point, so there was no need to take action on the other bills. It might be easier to just deal with the overall topics since they could be moved to different bills.

Member Tamamoto asked if the Authority should take a position even if the bills are dead or a possibility that it would be amended in committee.

Ms. Tanigawa advised that it was a policy call if the Authority wished to take a position on a bill, or just address the concepts that may be in a bill that died, but could be moved to another bill.

Chairperson Lee stated that the legislators are not subject to the Sunshine Law, so they may not be aware of some of the limitations that the Authority faces. It is sometimes more efficient to deal with the issues themselves rather than the exact bill.

Mr. Ching stated he would just explain the current procedures and principles that HCDA operates under now, which are in compliance with statutory and constitutional requirements.

#### PUBLIC TESTIMONY:

*Ms. Shannon Wood* stated she was with the Windward Ahupua'a Alliance. She strongly approved of urban redevelopment in order to protect agricultural and conservation lands. She asked why there were so many "no" votes on H.B. 1866.

Chairperson Lee stated that the Authority would be convening an Executive Meeting pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

A motion was made by Member Cypher and seconded by Member Tamamoto to convene in Executive Meeting.

A roll call vote was conducted.

Ayes: Members Cypher, Evans, Grune, Kamimura (Kakaako), Kamimura (Kalaeloa), Lee, Mitsunaga, Salaveria and Tamamoto.

Nays: None.

The motion passed 9 to 0 with 7 excused (Members Chinn, Luersen, Seki, Swinney and 3 vacant positions).

Chairperson Lee asked Deputy Attorney General Tanigawa, Mr. Ching, Ms. Doi and Ms. Yoshino to join the meeting.

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Pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, the Authority convened in Executive Session at 10:05 a.m.

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The regular meeting was reconvened at 10:50 a.m.

Chairperson Brian Lee entertained a motion for the Authority to authorize the Executive Director to testify before the State Legislature on behalf the Authority regarding bills which affect the Authority and which involve the following concepts:

- a. Contested Case Proceedings
- b. Public engagement and notice
- c. Appeals of agency decisions
- d. Change in board composition
- e. Increased legislative oversight
- f. Elimination of HCDA's operating budget
- g. Development guidelines
- h. Affordable housing requirements.

A motion was made by Member Grune and seconded by Member Evans.

Member Tamamoto made a motion to amend the main motion such that the Authority authorizes the Executive Director and/or the Chair of the Authority to testify before the State Legislature on behalf the Authority.

The motion to amend was seconded by Member Cypher.

A roll call vote to amend the motion was conducted.

Ayes: Members Cypher, Evans, Grune, Kamimura (Kakaako), Kamimura (Kalaelo), Lee, Mitsunaga, Salaveria and Tamamoto.

Nays: None.

The motion to amend the motion passed 9 to 0 with 7 excused (Members Chinn, Luersen, Seki, Swinney and 3 vacant positions).

A roll call vote on the amended motion was conducted.

Ayes: Members Cypher, Evans, Grune, Kamimura (Kakaako), Kamimura (Kalaeloa), Lee, Mitsunaga, Salaveria and Tamamoto.

Nays: None.

The motion passed 9 to 0 with 7 excused (Members Chinn, Luersen, Seki, Swinney and 3 vacant positions).

The amended motion passed 9 to 0 with 7 excused.

## V. ADJOURNMENT

The meeting adjourned at 10:55 a.m.

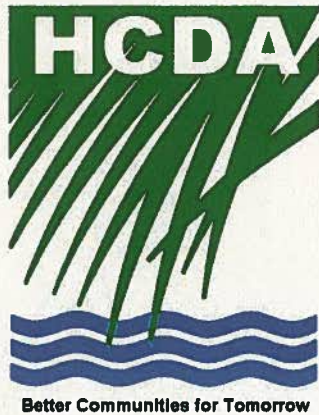
Respectfully submitted,

/s/

Miles Kamimura  
Secretary

Attachment: Exhibit A - Report of the Executive Director  
Exhibit B - Legislation Relating to HCDA

Note: The transcript of this meeting contains a verbatim record and should be consulted if additional detail is desired.



Report of the Executive Director

## ED's March 2014 Report

- Summary Agency Financial Report
- Governor's Appointments
- Next Meeting

## HCDA Financial Summary

### Current Month - January

Actual	Budget	Variance	Actual	Budget	Variance
(KA) 271,783	209,795	61,988	1,576,322	1,577,324	(1,002)
(KL) 35,530	30,778	4,752	161,098	194,439	(33,341)
Revenue	Expenditure	Net Change	Revenue	Expenditure	Net Change
(ID) - 32,864	6,443	26,421	200,477	50,170	150,307
(LM) 130,497	66,392	64,105	677,357	2,191,351	(1,513,994)
(PFD) - 688	22,160	(21,472)	4,137	310,895	(306,758)
(RH) 12	1	11	278,311	-	278,311
(CL) 2,097	(1)	2,098	19,063	658	18,405
(SDep) 500	200	300	27,731	47,158	(19,427)
(KL) - 4,494	133	4,361	53,867	2,937	50,930
(Heeia) - 4	-	4	34	7,216	(7,182)

### Fiscal Year to Date

## Summary of HCDA Revolving Funds

	Description	Amount
Cash on Hand		
	<b>HCDA Revolving Fund &amp; Kakaako District Operating Fund</b>	<b>17,358,021</b>
Outstanding Obligations		
	<b>Subtotal - Known Obligations as of 02/29/2012</b>	<b>13,633,134</b>
Cash Balance		<b>3,724,884</b>
Additional Cash		
	<b>Kewalo Basin Harbor Operations Fund (for KBH only)</b>	<b>3,053,303</b>
	<b>Kalaeloa Community Development District Revolving Fund</b>	<b>327,621</b>
	<b>Kalaeloa Community Development District Operating Fund</b>	<b>51,252</b>
	<b>Heeia Community Development District Revolving Fund</b>	<b>131</b>
	<b>Subtotal Additional Cash Balance</b>	<b>3,432,307</b>

## Governor's Appointments

- Governor's Message #502
  - Brian Tamamoto (Kakaako)
  - Confirmation Hearing to be Scheduled
- Governor's Message #558
  - H. K. Bruss Keppeler (Cultural Specialist - all boards)
  - Confirmation to be Scheduled
- Vacancies
  - Heeia - One
  - Kalaeloa - One

## Next Meeting

- Kakaako Public Hearing
  - Keauhou Lane - March 19, 2014
  - Wei Fang - April 2, 2014
- Next Regular Meeting
  - April 2, 2014
- Kakaako Public Hearing - April 30, 2014
  - Keauhou Lane
  - Block B
- Location - 461 Cooke Street

## Legislation Relating to HCDA

## HCDA Legislation

- **Current Status**
- **HB 1866 HD 2**
  - Relating to the Hawaii Community Development Authority – Passed 3<sup>rd</sup> Reading WR (2) No (14) - Received by Senate
- **HB 1865/HCR ??? Management & Fiscal Audit of the HCDA**
  - Measure to be Scheduled for Hearing
- **SB 2699 SD 1**
  - Relating to the Hawaii Community Development Authority – Ayes (24) Excused (1) Passed 3<sup>rd</sup> Reading (Received by House)

## OHA Legislation

## Contested Case Proceedings

- **HB 2554 HD 1 Relating to the Hawaii Community Development Authority**
  - Allows Residential Development in Kakaako Makai on Lands Owned by the OHA Subject to a Public Hearing
  - Did Not Cross Over to the Senate
- **SB 3122 SD 2 Relating to the Hawaii Community Development Authority**
  - Allows Residential Development on Specific Lots in Kakaako Makai After HCDA Public Hearing; Payment of Association Fees by Residents; 400 Feet Height Limit
  - Passed 3<sup>rd</sup> Reading - Ayes (23) WR (1) Noes (2)

- **Establish & Clarify Contested Case Proceedings for Development Permit Applications**
  - Notice According to Section 91 & Section 1-28.5 HRS
  - Contested Case Proceedings under Section 91 HRS
  - Public Participation in Accordance with Section 92 & Section 206E-5.6 HRS
  - Judicial Appeal in Accordance with Section 91-14 HRS
- **Public Engagement & Notice**
  - Authority or Applicant to Mail Notice to All Persons w/in 300 Feet Radius
  - Account for all those *Adversely Impacted*

## Contested Case Proceedings

## Authority Composition

- **Establish & Clarify Appeal/Reconsideration Process Before the Authority**
  - Separate from Right of Judicial Review Allowed Under Section 91-14 HRS
- **Right of Citizen to Bring Suit Against Agency**
  - w/o Deadline or Other Specification

- **Immediate Removal of Existing Board w/o Transition Plan**
- **Restructures Authority Membership**
  - New System of At-Large Appointments
  - Cultural Specialist, County Nominations, Governor's Cabinet Officials, District Residents & Small Business Lost
  - County Non-Voting Ex-Officio Member
  - Quorum to Conduct Business

## Budget , Expenditures & Oversight

- Subject to Legislative Oversight
  - Authorization/Ceiling for Operations Subject to Oversight
  - Revolving Fund Expenditures Subject to Appropriation & Allotment
  - Total Amount of Revenue Bond Authorization
- Management & Fiscal Audit to be Conducted
  - To Be Requested Via House Concurrent Resolution
- Revoke CIP Project Staff Funding

## Design & Regulatory Authority

- Height Restricted to 418 Feet
  - 400 Feet Plus Allowance for Elevator/Mechanical/Utilities and Architectural Features
- Requires Tower Buildings to be Oriented on Mauka-Makai Axis
- Tower Spacing of 300 Feet
- Limiting Density to 1.5 – 3.5 FAR
- Eliminate Density Bonus

## Reserved/Workforce Housing Rules

- Must Conform to City & County Affordable Housing Rules
- Define Reserved Housing as 80% Area Median Income [(AMI)(Low Income)] or Less
- Allow Agency Buy Back & Resale of Reserved Housing Units
  - Requires that Such Units Be Maintained in Perpetuity
- Eliminates Out of District Housing Option
- Restores Cash-in-Lieu Provision

## Other Provisions

- Repeal of the Agency
- Establish One Year Moratorium on Development Permit Application Processing
- Requires At Least 3 Members to Attend All Public Input Sessions
- Requires Comprehensive Study of District Infrastructure Requirements

## Legislative Requests

- Clarification that the Executive Director Provides Testimony on Behalf of the Agency and not as an Individual
- Request for Authority Testimony & Position

## Testimony of the Executive Director

- Previously as Approved by the Authority
- Proposed Action for Authority Approval
  - Testimony Continues to be on Agency Letterhead
  - Continues to Indicate that Statement is of the Executive Director of the HCDA
  - Remove Footer
- Revision of the Position Statement
  - "These comments represent the official position of the Agency and not that of the Authority."



## Testimony of the Authority

- Authority is Composed of Cabinet Members and Volunteers Appointed to Direct Agency Activities and Deliberate on Matters Appropriately Brought Before It
- Responsibility of the Authority is to Discharge its Duties in Accordance with Statute and Rule
- Authority Shares the Vision Given by the Legislature & Embodied in our Enabling Legislation & Rules
  - Building Community and Place
  - Providing Hope & Opportunity for our Youth Looking to a Future in our State

## Testimony of the Authority

- Generally Focused on Commenting On Matters Relating to
  - The Composition and Structure of the Authority and its Ability to Represent the Community, Stakeholders & Provide Perspective to its Deliberations
- Providing No Comment w/respect to Other Legislative Initiative
- Deferring to the AG's Office w/respect to Legal Matters
- Deferring to the Executive Director to Present the Agency Position w/respect to Structural, Procedural, Budgeting, Fiscal, Planning & Physical Design or Other Technical Matters

## Testimony of the Authority

- Reserving the Right of the Authority to Develop its Own Position on any Matter Relating to the HCDA
  - Such Testimony to be Developed at a Duly Convened Meeting of the Authority
- Delegating to the Chair, Designated Member or the Executive Director the Responsibility to Present the Authority's Position in Writing or in Person