

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

MEETING NO. 396
Wednesday, April 2, 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 10:01 a.m. on Wednesday, April 2, 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: Linda Chinn (DHHL)
Mahealani Cypher
Rodney Funakoshi (DBEDT)
Randy Grune (DOT)
Miles Kamimura (for Kakaako and Kalaeloa)
Brian Lee
Amy Luersen (10:10 a.m.)
Lois Mitsunaga
Shirley Swinney
Brian Tamamoto
Kalbert Young (DBF)

Members Absent: Dean Seki (DAGS)

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 March 5, 2014;
2. HCDA Legislative Update 4/1/14;

3. Information: Complaint Filed on March 7, 2014 by Close Construction, Inc.,
Civil #14-1-0599-03

II. APPROVAL OF MINUTES

1. Regular Meeting of March 5, 2014

Chairperson Lee asked whether there were any corrections to the minutes of the March 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 Swinney asked whether Kalaeloa would still have a 120-day period for processing development permit applications versus the 180-day timeline for Kakaako.

Mr. Ching stated that staff was mindful of the difference in timing. In working between the 2 staffs, they have taken the minimum 120 days as the timing for the process. Statutory requirements for waiting on motions for intervention and publications of notice have been accounted for, so there should be no impact on the Kalaeloa timeframe.

Member Luersen asked whether there was a requirement for parties to have standing in filing motions to intervene in contested case proceedings.

Mr. Ching explained that the Applicant would have automatic standing. Parties who are not otherwise represented, would not otherwise be duplicative or redundant in terms of making a presentation and other specific criteria would qualify as intervenors, per the rules of practice and procedure.

Member Luersen noted that under variances, there are certain circumstances under which a variance can be considered. She asked under what conditions would a rule modification be considered.

Mr. Ching explained that modifications are an arguable allowance of a change or alternation, considered in total with the whole application. It is consistent in general with the objectives of the plan or neighborhood zone established within which the project is located.

Member Luersen stated the explanation on rule modification was helpful. It makes sense that the whole project would be consistent with the plan.

Member Tamamoto expressed thanks for the contested case hearing clarification. He recommended including it on the HCDA website in layman's language and using the examples given so that the general public can understand the rule.

Mr. Ching replied that the information has been put on the website. He also made the presentation to the Ala Moana/Kakaako Neighborhood Board.

There were no public comments offered on the report.

IV. AUTHORITY BUSINESS

A. Information and Discussion: 2014 Legislation Affecting HCDA.

Mr. Ching updated status on 2014 Legislation affecting HCDA via a PowerPoint presentation (see Exhibit B).

There were no questions from Member or comments from the public on the agenda item.

B. Information and Discussion: Complaint Filed on March 7, 2014 by Close Construction, Inc., Civil #14-1-0599-03.

Member Mitsunaga disclosed that the firm she works for is a consultant on the project. She recused herself from any further discussions on the matter.

Member Mitsunaga exited the meeting at 10:43 a.m.

Chairperson Lee asked whether anyone in the audience wished to comment. There were none.

Chairperson Lee entertained a motion for the Authority to convene an Executive Meeting pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, to consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities.

A motion was made by Member Tamamoto and seconded by Member Swinney. By a voice vote, the motion passed unanimously.

Chairperson Lee asked Deputy Attorney General Lori Tanigawa, Mr. Ching, Mr. Neupane, Ms. Mutart, Ms. Doi and Ms. Yoshino to join the executive session.

Pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, the Authority convened in Executive Session at 10:45 a.m.

The regular meeting was reconvened at 11:35 a.m.

V. ADJOURNMENT

The meeting adjourned at 11:35 a.m.

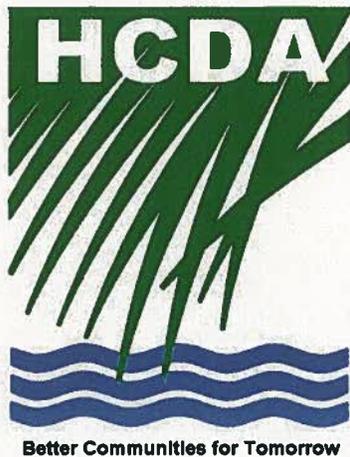
Respectfully submitted,

/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 April 2014 Report

- Summary Agency Financial Report
- Governor's Appointments
- Community Outreach Program
- Clarifying Hearing Process
- Next Meeting

HCDA Financial Summary

Current Month - February

Fiscal Year to Date

Actual	Budget	Variance	Actual	Budget	Variance
(KA) 243,594	219,495	(24,099)	1,831,970	1,755,956	(76,014)
(KL) 17,942	27,343	9,401	180,847	218,742	37,895
Revenue	Expenditure	Net Change	Revenue	Expenditure	Net Change
(ID) - 587	1,983	(1,396)	201,064	148,911	52,153
(LM) 109,207	389,616	(280,409)	786,565	2,580,968	(1,794,403)
(PFD) - 1,033	74,515	(73,482)	5,170	385,410	(380,240)
(RH) 35,318	-	35,318	313,629	-	313,629
(CL) 3,751	-	3,751	22,814	658	22,156
(SDep) 650	300	350	28,381	47,456	(19,077)
(KL) - 75	-	75	53,942	51,005	2,937
(Heela) - 4	-	4	38	7,216	(7,178)

Governor's Appointments

- Governor's Message #502
 - Brian Tamamoto (Kakaako)
 - Confirmation Hearing – March 31, 2014
- Governor's Message #558
 - H. K. Bruss Keppeler (Cultural Specialist – all boards)
 - Governor's Message Withdrawn
- Vacancies
 - Heela – One
 - Kalaeloa – One

Community Outreach Program

- Monthly Newsletter/Printed Materials
 - E Newsletter to 2,000 PAX
- Community Briefings/Community Tours & Events
 - Proposed Expansion of Monthly Forum
- Further Community Input Meetings
 - Additional Forums to Solicit Comment/Disseminate Information
 - In Conjunction w/Neighborhood Board and KIA
- PSA and Media Outreach
- Building Better Communities Conference

Clarifying HCDA Hearing Process

- Pre-Application
 - Consultation & Application Preparation
- Preliminary Comment Period
 - Solicit Community & Agency Review and Comments
- Application Deemed Complete
 - Notice Provided of Completed Application
- Publication of Notice
 - Per Statute and Rule

Clarifying HCDA Hearing Process

- **First Hearing**
 - **Presentation of Case by Applicant**
 - **Exhibits & Sworn Testimony for the Record**
 - **Cross Examination by Parties & Authority**
 - **Public Comment Solicited (Not Sworn Testimony)**
 - **Although Not Routinely Allowed, Per Section 206E-5.6 is Required**
- **Second Hearing**
 - **Findings-of-Fact, Conclusions of Law, Decision & Order Prepared by the Parties**

Clarifying HCDA Hearing Process

- **Second Hearing (continued)**
 - **Authority Adopts those FOF, COL & Order of its own**
 - **Parties Have Opportunity to File Exception**
 - **Authority Required to Hear Any Exception Filed and Adopt Final Decision & Order**
- **Any Application for Variance Must Be Considered in Advance of Development Permit Application**

Definitions

- **Contested Case Hearing/HCDA Hearing**
 - **Requirement for a Hearing**
 - **Rights, Privileges and Responsibilities Determined**
- **HCDA Meeting**
 - **Per Sunshine Law, Rules of Practice & Procedure**
- **Variance**
 - **Varying Application of Rule for a Specific Parcel**
- **Rule Modification**
 - **Arguable Allowance of Change or Alteration**
- **Plan Amendment**

Next Meeting

- **Kalaeloa Special Meeting**
 - **April 9, 2014 – Kapolei & Kalaeloa Field Trip**
- **Kakaako Public Hearing – April 30, 2014**
 - **Keauhou Lane**
 - **Block B**
- **Kakaako Regular Meeting – May 7, 2014**
 - **Location - 461 Cooke Street**

Legislation Relating to HCDA

HCDA Legislation

- **HB 1866 HD 2 SD 2 (proposed)**
 - Relating to the Hawaii Community Development Authority
 - Omnibus Measure
 - WAM Decisionmaking 4/02/14
- **HCR 97/HR 71 Infrastructure Audit of the HCDA**
 - Requesting an Audit of the HCDA's method & process for determining impact on & adequacy of infrastructure facilities for development projects in a community development district & the role of the C&C of Honolulu in that determination
 - FIN Hearing 4/02/14

HCDA Legislation

- **SB 2436 SD2 HD1**
 - Relating to the Hawaii Community Development Authority
 - Establishes TOD Advisory Committee & Places it in 206E
 - FIN Hearing – 4/2/2014
- **SB 2699 SD1**
 - Relating to the Hawaii Community Development Authority's Affordable Housing Requirement
 - Requires HCDA to implement affordable housing policies that are in greater conformity w/C&C Honolulu
 - Referred to FIN

OHA Legislation

- **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 HD 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 FIN 4/01/14

Authority Composition

- **Removal of Existing Board by Feb. 28, 2015**
 - Appointment of New Board by March 1, 2015
 - One Board w/3 District Components
- **Restructures Authority Membership**
 - Ex-Officio DOT and DB&F Members
 - Cultural Specialist, Governor's at-large
 - Senate President/House Speaker – 1 at-large each
 - 3 District Residents & Small Business Remain
 - County DPP Non-Voting Ex-Officio Member
 - DHHL Chairperson Non-Voting Ex-Officio Member for Kalaheo only

HCDA Hearing Proceedings

- **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**
 - Notice Mailed by Applicant to Surrounding Land Owners w/in 300 feet

Other Specifications

- **Allows Reserved Housing to be Bought Back & Resold**
- **Allows for Cash-in-Lieu Payments for Reserved Housing**
- **Prohibits Delegation to the Executive Director to Award Variance, Exemption or Modification of any Provision of Community Development Plan or Rules**
- **Limits Height to 400 feet plus 18 feet for Mechanical, Utility or Architectural Element**