

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

MEETING NO. 397
Wednesday, May 7, 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 9:12 a.m. on Wednesday, May 7, 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: Mary Alice Evans (DBEDT) (arrive 9:26 a.m.)
Randy Grune (DOT)
Miles Kamimura (for Kakaako and Kalaeloa)
Brian Lee
Amy Luersen (10:10 a.m.)
Lois Mitsunaga
Luis Salaveria (DBF)
Dean Seki (DAGS)

Members Absent: Linda Chinn (DHHL)
Mahealani Cypher
Shirley Swinney
Brian Tamamoto

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. HCDA Summary Financial Report for the Month of March 2014;

2. Summary Minutes of Authority Regular Meeting of April 2, 2014;
3. Information: 2014 Legislation Affecting HCDA;
4. Decision Making: Shall the Authority Initiate Hawaii Community Development Authority Rule Making for: a. Amendment of Chapter 210 of Title 15, Hawaii Administrative Rules, Entitled “Rules, Regulations, Charges, and Fees for Public Parks”; b. Amendment of Chapters 211-214 of Title 15, Hawaii Administrative Rules, Relating to “Kewalo Basin Rules”; c. Amendment of Chapter 217 of Title 15, Hawaii Administrative Rules, Entitled “Mauka Area Rules”; d. Amendment of Chapter 218 of Title 15, Hawaii Administrative Rules, Entitled “Kakaako Reserved Housing Rules”; e. New Chapter of Title 15, Hawaii Administrative Rules, Relating to Use of Hawaii Community Development Authority Facilities.

Chairperson Lee announced that although quorum was not present, the Authority could receive presentations and public testimony, per HRS 92-2.5(d).

II. APPROVAL OF MINUTES

1. Regular Meeting of March 5, 2014

Approval of meeting minutes was deferred.

III. REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Anthony Ching summarized the HCDA financial report in the packet distributed to Members.

There were no public comments offered on the report.

IV. AUTHORITY BUSINESS

A. Information and Discussion: 2014 Legislation Affecting HCDA.

Mr. Ching provided a legislative update on approved bills affecting the HCDA. H.B.1866 H.D.2 S.D.1 Relating to the HCDA was signed into law on April 30, 2014. H.R.71 H.D.1 Requesting a Financial and Management Audit of the HCDA was adopted by the House on April 3, 2014. G.M.502 regarding Gubernatorial Nominee Brian Tamamoto was confirmed by the Senate on April 29, 2014. CIP Budget for 2015 included \$7 million for the Kalaeloa Energy Corridor to bring Hawaiian Electric Co. power into the district.

He provided the following highlights of H.B.1866, Act 61:

- Section 1: All powers of the executive director are delegated; and the executive director has no power to approve any variance, exemption or modification of a development plan or rule.

- Section 2: Provisions of Chapter 171 relation to the sale of public land, does not apply to reserved housing and allows the sale of reserved housing without legislative review.
- Section 3: Recomposes the Authority. Members include the Director of Finance and Director of Transportation as the only 2 ex-officio members; a Cultural Specialist and At-Large member are appointed by the Governor; At-Large member nominated by the Senate President; At-Large member nominated by the Speaker of the House; and 3 Community members nominated by the county council of whom 2 are residents and 1 is an owner of a small business or director of a nonprofit organization in the district. The chair of the Department of Hawaiian Home Lands and the director of planning and permitting serve in an ex officio, nonvoting capacity. The terms of currently appointed members shall terminate at the end of February 2015. Section 3 also permits cash payments in lieu of providing reserved housing.
- Section 6: Regarding public notice. Interested party(s) within 20 days of the publication of the hearing notice can file to intervene; members of the public not intervening are not considered parties to the proceeding; a separate hearing is required for review of a developer's proposal for variance or modification; provides decision making criteria when considering a developer's proposal.
- Section 7: Development rights under a master plan permit are vested under 2005 rules.
- Section 8: repeals the section allowing public lands to be set aside by the Governor.
- Section 9: Allows for the sale of reserved housing in Kakaako.
- Section 10: Limits height of building(s) in Kakaako Mauka to 418 feet.
- Section 11: Regarding bonds issued.
- Section 13: Term of office. There will be no holdover Members; with the exception of the ex officio members from the Department of Budget and Finance and Department of Transportation.
- Section 16: The Act is effective July 1, 2014.

Member Evans arrived at 9:26 a.m. (quorum now present).

Member Salaveria asked how the cash-in-lieu would work in a practical application.

Mr. Ching explained that a private developer of a lot greater than 20,000 square feet must provide 20% of space or units for reserved housing. The developer may now petition for cash-in-lieu instead of providing units to meet the reserved housing requirement. It does not have to be a blanket acceptance of cash-in-lieu, and the Authority can establish criteria in its reserved housing rules.

Chairperson Lee remarked that the Authority should proceed cautiously in allowing developers to buy their way out of reserved housing requirements. He also noted that 3 public hearings would be required if a developer requested a variance of modification.

Member Salaveria asked when was the last time HCDA issued revenue bonds.

Mr. Ching replied that previous improvement district projects had bonds that ran for 20 years, but currently, there are no bonds.

Member Luersen asked what is done with the cash-in-lieu payments.

Mr. Ching explained that there is a reserved housing sub-account listed in the HCDA financial summary. Use of the funds are restricted. An example of the use would be participation in the Halekauwila Place project.

Member Luersen asked if there would be any ability to have a variance regarding the new height limit.

Mr. Ching explained that height is not a variance item.

Chairperson Lee noted that the height limit applies only to Kakaako, so other districts would follow City rules.

Mr. Ching stated that the City height limit is 450 feet.

There were no public comments offered on the agenda item.

2. Decision Making: Shall the Authority Initiate Hawaii Community Development Authority Rule Making for:
 - a. Amendment of Chapter 210 of Title 15, Hawaii Administrative Rules, Entitled “Rules, Regulations, Charges, and Fees for Public Parks”.
 - b. Amendment of Chapters 211-214 of Title 15, Hawaii Administrative Rules, Relating to “Kewalo Basin Rules”.
 - c. Amendment of Chapter 217 of Title 15, Hawaii Administrative Rules, Entitled “Mauka Area Rules”.
 - d. Amendment of Chapter 218 of Title 15, Hawaii Administrative Rules, Entitled “Kakaako Reserved Housing Rules”.
 - e. New Chapter of Title 15, Hawaii Administrative Rules, Relating to Use of Hawaii Community Development Authority Facilities.

Mr. Ching stated that the rules should be updated on an appropriate basis. For example, with a new partnership for Kewalo Basin Harbor, rule amendments may be needed for insurance liability for vehicles in the harbor. Mauka Area Rules and

Reserved Housing Rules will need amendments due to the statutory changes. A new chapter would be needed regarding use of HCDA facilities at the new American Brewery Building community room. Staff would undertake a study of appropriate rule amendments to bring back to the Authority for consideration.

Member Salaveria asked for an explanation of the rule making process.

Mr. Ching explained that it is a protracted process that includes public discourse, preliminary discussion on what is needed, and compilation of proposed rules in an informal format, and initiation of the public hearing process. Proposed rules would be reviewed by the Attorney General, Small Business Regulatory Review Board and the Authority, then forwarded to the Lieutenant Governor and Governor.

Chairperson Lee noted that the process could take 12 months to 2 years. He asked if developers could ask for cash-in-lieu prior to adopting rule amendments.

Mr. Ching stated replied that it was debatable.

Chairperson Lee entertained a motion for the Authority to Initiate Hawaii Community Development Authority Rule Making for: a. Amendment of Chapter 210 of Title 15, Hawaii Administrative Rules, Entitled “Rules, Regulations, Charges, and Fees for Public Parks”; b. Amendment of Chapters 211-214 of Title 15, Hawaii Administrative Rules, Relating to “Kewalo Basin Rules”; c. Amendment of Chapter 217 of Title 15, Hawaii Administrative Rules, Entitled “Mauka Area Rules”; d. Amendment of Chapter 218 of Title 15, Hawaii Administrative Rules, Entitled “Kakaako Reserved Housing Rules”; e. New Chapter of Title 15, Hawaii Administrative Rules, Relating to Use of Hawaii Community Development Authority Facilities.

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

A roll call vote was conducted.

Ayes: Members Evans, Grune, Kamimura (for Kakaako), Kamimura (for Kalaeloa), Lee, Luersen, Mitsunaga, Salaveria and Seki.

Nays: None

The motion carried 9 to 0 with 7 excused (Members Chinn, Cypher, Swinney, Tamamoto and 3 vacant positions).

V. ADJOURNMENT

The meeting adjourned at 10:00 a.m.

Respectfully submitted,

/s/

Miles Kamimura
Secretary

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