

STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
KAKAAKO
Honolulu, Hawaii, 96813

November 6, 2019

Chairperson and Members
Hawaii Community Development Authority
State of Hawaii
Honolulu, Hawaii

HCDA Board Members:

SUBJECT: Shall the Authority Approve a Limited Meeting for a Site Visit and Inspection of Kewalo Basin Harbor Improvements by Water, Pursuant to Hawaii Revised Statutes § 92-3.1?

SUMMARY:

Kewalo Harbor, LLC has extended to the Members of the Hawaii Community Development Authority (HCDA), a tour and inspection of its recent \$23 million improvements made to Kewalo Basin Harbor. As the land owner and leasor of the property, both staff and Kewalo Harbor, LLC believe that making a proper tour and inspection would be appropriate. Due to the nature of the improvements a tour by boat would be the best way to inspect and experience the functionality of the improvements. However, a tour by boat would also make public attendance impracticable and a limited meeting necessary.

AUTHORITY:

Provisions for conducting a limited meeting are provided for under Hawaii Revised Statutes (HRS) § 92-3.1 and cited in relevant part below:

(a) If a board determines that it is necessary to meet at a location that is dangerous to health or safety, or if a board determines that it is necessary to conduct an on-site inspection of a location that is related to the board's business at which public attendance is not practicable, and the director of the office of information practices concurs, the board may hold a limited meeting at that location that shall not be open to the public; provided that at a regular meeting of the board prior to the limited meeting:

(1) The board determines, after sufficient public deliberation, that it is necessary to hold the limited meeting and specifies that the location is dangerous to health or safety or that the on-site inspection is necessary and public attendance is impracticable;

(2) Two-thirds of all members to which the board is entitled vote to adopt the determinations required by paragraph (1); and

(3) Notice of the limited meeting is provided in accordance with section 92-7 (written public notice).

(c) At all limited meetings, the board shall:

(1) Videotape the meeting, unless the requirement is waived by the director of the office of information practices, and comply with all requirements of section 92-9 (minutes);

(2) Make the videotape available at the next regular meeting; and

(3) Make no decisions at the meeting.

BACKGROUND:

The Kewalo Basin Harbor is about 22 acres. It consists of the wharf/loading dock on the Ewa-side, the bulkhead on the mauka-side (Ala Moana Boulevard), the bulkhead on the Diamond Head-side, a third Bulkhead on the makai-side, and the piers. Construction of the Wharf and piers began in the 1920s, with expansion of the Harbor continuing intermittently until the mid-1980s.

Pursuant to Act 89, Session Laws of Hawaii 1990, the HCDA became the owner of Kewalo Basin Harbor (Harbor).

Effective March 1, 2009, HCDA assumed management of the Harbor from the Department of Transportation. At the time of transfer, the piers, docks and other facilities within the harbor needed significant repairs and upgrades. With the transfer, HCDA became the owner, operator, and administrator for the site. Relative to its role as administrator, HCDA is also responsible for administering Hawaii Administrative Rules Chapters 211-214 which regulates Kewalo Basin.

In 2009, HCDA issued a property management contract with Almar Management, Inc. to manage the Harbor. Almar managed the Harbor until August 31, 2014.

Due to the projected costs to complete the needed Harbor repairs and improvements, the HCDA issued a P3 solicitation for the Kewalo Basin Harbor redevelopment to design, build, operate, and maintain improvements to the Harbor which required substantial repair, maintenance, and upgrades, in 2014. Later that same year, the HCDA awarded the solicitation to Kewalo Harbor, LLC, a wholly-owned subsidiary of the Howard Hughes Corporation.

On September 1, 2014, the HCDA approved a thirty-five (35) year-lease with Kewalo Harbor, LLC for the development and management of the Harbor. In 2016, the HCDA approved the develop permit for the harbor improvements which commenced in 2017.

The harbor improvements included two phases.

The First phase involved demolition and replacement of decking and pile caps on the Diamond Head side of the Herring Bone Dock, and Piers A, B, C and D. Finger docks were added to Pier C as well. The second phase of the project added an extension to the Makai Loading Dock and Pier C.

The full build out redevelopment concept for Kewalo Basin increases moorage within the harbor, provides modernized amenities to boaters, improves operational efficiencies within the basin, and better integrates the berthing and mooring facilities with shore-side utilities and infrastructure.

According to the development permit application the improvements include:

- Security – Fob activated gates at Front Row (Ewa of Herring Bone Dock), Herring Bone Dock, Piers A, B, C and D. Facility wide CC security cameras.
- Utilities - Modernization of the water and electric utilities at all slips
- Septic handling systems at Makai Loading Dock for the disposal of onboard septic waste directly into the municipal sanitary system. This may include a dock-based, mechanical pump-out station.
- Provide required fire-fighting capabilities at the improved facility.
- Provide a dedicated marine-specified fueling facility at the Makai Loading Dock and installation of associated above-ground fuel tanks and environmental protection equipment.
- Front Row (Diamond Head side of Herring Bone Dock) - Repair/replace pile caps and replace the existing deck structure with aluminum decking, new cleats and fenders.
- Front Row (Ewa of Herring Bone Dock) and Herring Bone Dock – Repair cracks, spalling at concrete docks and apply epoxy deck coating. Repair and replace as necessary damaged cleats and fenders
- Piers A and B – Repair/replace pile caps and replace the existing deck structure with aluminum decking with new cleats and fenders.
- Pier C – Repair/replace pile caps and replace the existing deck structure and add finger piers to the entire structure with aluminum decking and new cleats, fenders.
- Pier D – Repair/replace pile caps and replace the existing deck structure with precast concrete decking with new cleats and fenders.
- Pier C – Extend pier from Phase 1 and install new fixed aluminum finger docks with new cleats, fenders.
- Construction of an extension 'ewa of the existing Makai loading dock.

As reported at the last board meeting, Kewalo Harbor, LLC indicated that it expected to complete all major renovations to the harbor in November. Kewalo Harbor, LLC would like to proceed with the installation of a new fender system and otherwise expects to finalize the capital improvements in February of 2020.

ANALYSIS:

The HCDA has contacted the Office of Information Practices (OIP), which provided additional guidance regarding the conduct of a limited meeting as follows:

The board must deliberate on the need for the limited meeting at a prior open meeting of the board, and two-thirds of all members to which the board is entitled must agree that it is necessary to hold the limited meeting at the specified location.

Public notice of a limited meeting must still be provided, and a videotape of the meeting must be made available at the next regular board meeting, unless the OIP Director waives the videotape requirement. No decision-making can occur during the limited meeting.

HCDA will then submit a request form to OIP to get concurrence for a limited meeting.

Victoria Ward Limited has acknowledged its willingness to charter a suitable boat for the purposes of this tour. Alternatively, staff will also reach out to the City and County of Honolulu Ocean Safety to utilize the boat HCDA acquired and currently leases to them.

Otherwise as owner, leasor, and administrator of Kewalo Basin Harbor, a tour and inspection of the harbor improvements would provide a valuable opportunity to gain further perspective of the harbor asset and harbor operations.

Staff also notes that it currently has outstanding two development agreements with Kewalo Harbor, LLC, for the redevelopment of fast lands surrounding the harbor. The tour would also provide some prospective on the integration of these sites relative to the anticipated future decisions of the board relative to environmental assessment and development lease.

RECOMMENDATION:

Staff recommends that the Authority approve a limited meeting pursuant to the provisions of HRS § 92-3.1 for the purpose of a site visit and inspections by boat of improvements made to Kewalo Basin Harbor.