

**STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
KALAELOA MEETING**

Wednesday, February 3, 2021

MINUTES

I. CALL TO ORDER/ROLL CALL

The Hawaii Community Development Authority (“Authority” or “Board”), a body corporate and a public instrumentality of the State of Hawaii met virtually (utilizing the state-supported Zoom Meeting platform) for a regular meeting on February 3, 2021.

Board Chairperson, John Whalen, called the meeting to order at 11:09am.
Those present were as follows:

Members Present:

John Whalen, Chairperson
Maeda Timson
Shirley Swinney
Mitchell Tynanes
Daniel Ikaika Ito
Lynn Araki-Regan (DOT)
Craig Hirai (B&F)
Dean Uchida (DPP non-voting)
Wei Fang
Chason Ishii

Members Excused:

Department of Hawaiian Homelands

Legal Counsel:

Kelly Suzuka, Deputy Attorney General

Staff Present:

Deepak Neupane, Executive Director
Tessa Malama, Director of Planning and Development -
Kalaeloa
Carson Schultz, Director of Planning and Development -
Kakaako
Garet Sasaki, Administrative Services Officer
Lindsey Doi, Asset Manager
Francine Murray, Program Specialist
Tommilyn Soares, Secretary to Executive Director

A quorum was present.

Acknowledgement that the Meeting is Being Convened Virtually

Chair Whalen reiterated the wording contained in the Meeting Agenda regarding the state’s response to the COVID-19 pandemic, the state’s efforts to slow the community spread of the

virus and Governor David Y. Ige's issuance of Supplementary Emergency Proclamations which suspended Chapter 92 of the Hawaii Revised Statutes to the extent necessary to enable public boards and commissions to conduct business without holding meetings open to the public.

With regard to the foregoing, Chair Whalen reiterated wording contained in the Meeting Agenda noting that HCDA welcomes public attendance via the Zoom link, HCDA's Facebook Page and its YouTube channel contained in the meeting agenda. HCDA also welcomes public comment and public participation via submission of written and or verbal testimony (consistent with the social distancing guidelines and Emergency Proclamation directives in effect).

Chair Whalen stated that individuals from the public who have requested to provide testimony are on standby and will be permitted to speak during the public testimony session of the specific agenda item.

II. APPROVAL OF MINUTES

1. Meeting Minutes of December 09, 2020

Chair Whalen asked if there were any comments or corrections to the minutes.

There were no comments or corrections.

The Minutes of the December 09, 2020 Kalaeloa Authority meeting were approved as presented.

III. INFORMATION & DISCUSSION

2. FY' 2020-2021 and FY' 2021-2022 Kalaeloa Landowner Assessments

Chair Whalen called Mr. Deepak Neupane, Executive Director to present the staff report.

Mr. Neupane presented the report and described the total expenditures incurred in FY20 as well as the deficit, which was covered by the HCDA revolving funds. He highlighted the FY21 and FY22 estimated total expenditures. Mr. Neupane explained the changes that were made to the assessments as outlined in the staff report.

Mr. Neupane noted the Statute has broad language regarding the allowable expenditures and asked for board member's feedback on how to allocate assessments to the landowners. All landowners except for the federal government can be assessed for 100% of the expenses incurred by HCDA in the Kalaeloa Community Development District, however, HCDA has never assessed the landowners 100% of the cost to manage the district.

Mr. Neupane provided a brief overview of the current and past projects in Kalaeloa including electrical infrastructure projects, boundary surveys, and the contract with Torti Gallas, LLP to update the Kalaeloa Community Development District Plan and Rules. He explained that some of the projects are funded by the Capital Improvement Project ("CIP") fund. Mr. Neupane noted that the Statute do not say that HCDA is unable to recoup CIP's expenses in Kalaeloa by passing those costs along to the landowners.

[Note: the discussion below is related to the pending assessment payment included in the Report of the Executive Director]

Member Timson asked if all landowners were current on their assessment payments.

Mr. Neupane said Hunt's FY19 assessment is pending receipt. He explained Hunt sent a written request to the previous ED and Interim ED asking for their assessment to be paid by their current Master Plan credits. However, the previous ED responded and denied Hunt's request explaining such credits cannot be applied to the landowner assessments. He added that he will address Hunt's current request and follow up.

Member Timson asked if there were any other landowners that have not paid and stated it is unacceptable that Hunt has been allowed to be behind.

Mr. Neupane stated that he believes all other landowners are current.

Members Timson and Swinney both stated that they would like to see action taken, to collect any balances owed.

Ms. Tesha Malama, Director of Planning and Development for Kalaeloa explained that the current payment is what is pending from Hunt. However, Hunt is waiting for an explanation or response to its current request. She added that after Hunt received the last response letter from HCDA's previous ED, Hunt paid that year's assessment.

Member Swinney stated for clarification, the previous ED responded to Hunt's FY19 question about payment? Hunt then paid its 2018 balance. In 2019, Hunt again sent a similar request to the Interim ED. However, due to HCDA changing EDs and COVID, that response letter is pending?

Mr. Neupane affirmed that clarification and stated he is preparing to respond to Hunt's most recent inquiry.

[End of the discussion related to the pending assessment payment included in the Report of the Executive Director]

Chair Whalen asked if funds received from landowner assessments could be at risk of being transferred into the State's general fund? He suggested having the AG's look into possible challenges that might arise due to the State's financial deficit caused by the pandemic.

Mr. Neupane explained that the Deputy Attorney Generals can review and confirm, however he understands all money received from the Kalaeloa assessments goes to the Kalaeloa revolving fund and can only be used for Kalaeloa.

Member Swinney asked where the funds come from to cover the deficits when the landowner assessments do not fully cover Kalaeloa expenditures. Using FY'2019-2020 as an example, when the total expenditures were twice as much as the assessments, Member Swinney asked if the difference came out of the revolving funds.

Mr. Neupane responded yes, according to records the difference seems to have come from the Leasing and Management Revolving Fund and the Improvement District Revolving Fund. Member Swinney then asked if the Authority was carrying the financial burden in previous years to cover the difference between expenditures and income. Mr. Neupane affirmed that question and added that because of the deficit that HCDA had to cover in the past, he would like feedback on how HCDA goes forward with the Kalaeloa landowner assessments.

Member Swinney for clarification asked Mr. Neupane to confirm that the Statute allow for HCDA to recover CIP costs; however, it is not required. Mr. Neupane confirmed.

Member Swinney then asked if the CIP expenditures were removed from the report, would the total expenditures then be reduced by almost \$200,000 a year. Mr. Neupane agreed with her question. He further explained that direction from the Board on how to assess the landowners is necessary. Member Swinney questioned whether the CIP expenditures should be charged to the landowners and should be discussed as an option.

Member Hirai asked if HCDA assesses other State agencies. Mr. Neupane responded, yes State agencies and City and County of Honolulu landowners are both assessed.

Member Timson stated that she does not believe that a true discussion can be made until more information is gathered. She would like to know what the increase would be based on the multiple scenarios and asked what the breakeven amount would be.

Member Swinney explained that she believes the information Member Timson is asking for is in Table 4 of the staff report. The assessed amounts are outlined for FY' 2021-2022 and noted a 30% increase.

Mr. Neupane stated that looking at the percentage column is not an increase but a land ownership amount that is used to calculate the assessment amounts. Further, he stated that the breakeven amount would be a 100% assessment and that it is something that could be explored as well as passing on a percentage of the cost. One approach he suggested would be to pass on 50% of HCDA's cost of managing Kalaeloa, based on the previous year, to the landowners. Another approach would be not to assess CIP costs and staff salary funded through general funds but assess 100% of remaining operational costs. In both approaches, he suggested reconciling the budget at the end of the year and either passing along the expenses or savings from HCDA to the landowners. He stated that he is asking the board for an approach that they would like to take.

Member Hirai stated that if HCDA is paying for infrastructure that will benefit and increase the value of a private owner's property, HCDA may want to think about recovering some of those costs. Mr. Neupane agreed with Member Hirai stating that HCDA can look at many ways to structure the assessments and that he is seeking Authority guidance on an appropriate assessment plan. He stated that since assessments from last year have not gone out, any plan would be retroactive to cover FY21 as well as FY22 going forward.

Member Hirai stated that HCDA will need to justify how various State agencies are going to pay Kalaeloa Landowner assessments from the same "pot."

Member Uchida asked for clarification on why the two CIP projects were included in the assessments as he believed the assessments were to cover Kalaeloa's operating costs. Mr. Neupane explained that he believes CIP projects are part of managing Kalaeloa. Member Uchida stated CIP's are one-time costs and not an annual operating expense. Mr. Neupane stated that since it is not a fixed cost, that approach can be taken by not passing on the costs to all landowners, but only passing on costs to landowners that specifically benefit from the projects. Member Uchida stated this way it would allow the assessments to reflect the true operating expenses of Kalaeloa more accurately.

Member Swinney wanted clarification about which landowners are exempt from assessments. Mr. Neupane stated that only federal landowners are not assessed. Member Swinney stated that DOT-A is a State landowner. Even if they receive federal funds, DOT-A would not be exempt from assessment.

Mr. Neupane stated that DOT-A sent a letter citing an FAA regulation preventing airport revenue from being used for anything other than the operation of the airport. Due to this regulation, they are unable to pay using its revenue. DOT-A further explained they do not have legislative appropriation to pay the landowner assessment. Mr. Neupane noted that DOT-A's argument was not made until FY' 2008-2009, however prior to that DOT-A paid its assessments.

Member Uchida explained that previously, DOT-A paid land rent revenue to OHA and so their argument is invalid.

Mr. Neupane explained he believes that DOT-A has other sources of money to pay the assessment and that it does not need to use its airport revenue. He further stated that since DOT-A is a sister agency, he would like to discuss payment options with them. Member Araki-Regan asked to set up a meeting with Mr. Neupane and DOT-A leadership to further discuss this. Mr. Neupane agreed.

Member Timson asked what happens if a landowner is federal government, but its tenant is private. Is the tenant still exempt from assessment? Mr. Neupane stated that he would need to check with the AG, however he understands, if the federal landowner leases the land to a private entity, HCDA has a right to assess the land user. Member Hirai explained that both the federal landowners and lessees can voluntarily pay if they want to.

Chair Whalen asked if there were any other questions and for public testimony. Mr. Neupane confirmed there was no public testimony received.

Mr. Neupane asked for further clarification on the Authority's direction on drafting the new assessments.

Chair Whalen reminded the board that this discussion is for information only. He reprised some of the previous comments stating that there might be a way of establishing which costs could be covered for operations by general funds. He is unsure which portion of staff is covered by general funds and that planning contract costs should be considered as well as infrastructure analysis. These are beneficial to all Kalaeloa landowners as it contributes to the

redevelopment of Kalaeloa as a whole. He further stated that Mr. Neupane's direction would be based on the comments made today by the Authority.

Mr. Neupane stated that based on the board discussion a draft proposal will be brought forth, for a decision, at the Kalaeloa Authority's March meeting.

Chair Whalen agreed that it would be a good idea to have a formula for the assessments, as the assessments are established each year, and to bring it before the Authority.

IV. REPORT OF THE EXECUTIVE DIRECTOR

3. Monthly Reports and Other Status Reports

a. Monthly Report of January 2020 for the Kalaeloa Heritage & Legacy Foundation

Mr. Neupane explained that a building permit has been issued for the Hale by DPP. He believes a DPP inspector is going to inspect the structure. Member Timson asked if the KHLF inventory is completed. Member Swinney asked specifically about the burial site.

Mr. Neupane explained that the burial site is still in discussion. KHLF is seeking guidance from OHA and SHPD and the Burial Council to come up with a plan to address the site.

Member Swinney asked if the burial site will be a temporary or permanent structure.

Mr. Neupane explained that based on the feedback from KHFL and DPP, DPP does not issue permits for burial crypts. Chair Whalen explained that under state Statutes, traditional structures are not considered habitable spaces. Mr. Neupane explained that unless it is moved, it would be a permanent structure. KHLF will decide if it needs to be moved.

Member Swinney asked if they are seeking approval and permits. Mr. Neupane explained that KHLF is working to get approvals and not permits as DPP will not issue a permit for the burial site. He stated that he should be able to get more information in the next few weeks.

Chair Whalen asked for any additional questions and comments from the Authority members.

There were no additional comments and no public testimony on the report.

V. ADJOURNMENT

Chair Whalen thanked those who joined the meeting on Zoom and adjourned the meeting at 12:08pm.

John Whalen, Chairperson

Date