

SUMMARY - MEETING NO. 269

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

State of Hawaii

January 8, 2003 - 9:00 a.m.

Hawaii Community Development Authority  
677 Ala Moana Boulevard, Suite 1000, Conference Room  
Honolulu, Hawaii 96813

ATTENDANCE

Members Present: Lori Ann Lum; James Kometani; Patrick Kubota; Michael Goshi; Allan Los Banos; Russ Saito; Fred Pascua

Members Absent: Christine Camp; Gary Kondo; Georgina Kawamura

Others Present: Jan Yokota; Matthew Akamu; Francine Champoux; Miko Dargitz; Gayle Ito; Annette Kawasaki; Cal Machida; Stephen Miyamoto; Melvin Nishimoto; Susan Tamura; Teney Takahashi; Marvin Uehara (also, see Meeting Attendance Record)

I. ROLL CALL

The meeting of the Hawaii Community Development Authority was called to order on January 8, 2003 by Chair Lori Ann Lum at 9:00 a.m. with the following roll call:

Member Kometani	Present
Member Kubota	Present
Member Los Banos	Present
Chair Lum	Present
Member Goshi	Present
Member Saito	Present
Member Pascua	Arrived at 9:05 a.m.

## MATERIALS DISTRIBUTED

1. Agenda for January 8, 2003 Meeting;
2. Summary Minutes of Regular Meeting of December 4, 2002;
3. Action Item: Approval to Authorize the Executive Director to Enter into an Agreement and to Expend Funds to Pursue Litigation Relating to the Odor Problem at the American Brewery Building;
4. Approval to Authorize the Executive Director to Continue the Maintenance Program and to Expend Funds for the Kakaako Waterfront and Gateway Parks

## II. APPROVAL OF MINUTES

1. Regular Meeting of December 4, 2002

Chair Lum asked if the Members had any corrections to the minutes.

There were none.

It was moved by Member Kometani and seconded by Member Goshi that the Minutes of the Regular Meeting of December 4, 2002 be approved, as written. The motion passed unanimously.

## III. REPORT OF THE EXECUTIVE DIRECTOR

Ms. Yokota noted that her report was enclosed in the packet distributed to the Authority members and said that she would be happy to answer any questions regarding her report.

With respect to the budget submitted to the Legislature, Ms. Yokota provided members with an update. The Executive Budget was still being finalized. For Kakaako, no CIP (general obligation bond) funds were included for projects, although staff had requested about \$10 million in funding for each of the two years of the biennium. However, as staffing costs are primarily funded by general obligation bond funds, monies are included in the budget for this purpose at about \$1.3 million for each year.

For Kalaeloa, there are no CIP funds in the budget, although staff had requested \$2 million in the first year and \$5 million in the second year of the biennium for planning costs and infrastructure work. The budget did include general funds of \$90,000 to cover two staff positions.

Ms. Yokota added that there are additional complications with respect to the budget. Currently, only two positions are paid out of the general fund: the Executive Director and the Authority Secretary. When former Authority secretary Aileen Fukunaga retired last year, HCDA was required to pay for her unused vacation leave from the general fund budget, which was a significant amount. As a result, it was determined that her position could not be filled until February of this year. However, in the interim, a hiring freeze was put in place, together with a proposed 5% general fund expenditure restriction. Therefore, it is unclear when her position can be filled.

Staff's primary concern is with funding for Kalaeloa. The various landowners involved with Kalaeloa have been assessed for operating costs and it appears that approximately \$120,000 can be collected from the Department of Hawaiian Home Lands and the Department of Transportation. Currently, there is only one position in place for Kalaeloa and that is a clerical position.

To summarize, the current Executive Budget only includes CIP funds for staff salaries for Kakaako, but no funding for projects, and \$90,000 in general funds for Kalaeloa for each of the years of the biennium for staffing costs.

Ms. Yokota added that two ID projects are either in progress or about to start. For the Queen Street Extension Project, a Notice to Proceed has been issued. This project extends Queen Street from Kamakee to Waimanu Street.

In addition, Ilalo Street is close to completion. Striping is in progress and the landscaping is being completed. The improvements are nearly ready for inspection and should be turned over to the City fairly soon.

Member Goshi asked for clarification on the staffing issue at Kalaeloa. He inquired as to whether a consultant could be hired to begin the work. Ms. Yokota responded that the first important step is that full-time staff be hired to work on Kalaeloa issues. She added that the CIP funds that had been requested (but were not subsequently included in the Executive Budget) included funds for consultant services. Consultant services could be useful, for example, to analyze the Kalaeloa situation as compared with other base closures on the Mainland, and advise HCDA as to alternative courses of action. Sufficient funding is essential in order to contract for consultant services.

Member Kometani inquired as to whether the current budget was prepared by the new administration or the prior administration. Ms. Yokota replied that the basic budget was initiated by the prior administration, but that the hiring freeze and proposed 5% restriction were put in place by the current administration.

Chair Lum then asked the Members if there were any other questions regarding the Executive Director's report.

Member Pascua inquired about whether funding was in place to widen and improve Ahui Street, adjacent to the fish auction. Ms. Yokota responded affirmatively and noted that the Legislature appropriated funds for this project, among others, two years ago.

Chair Lum mentioned that she had heard concerns regarding the cat problem at the Kakaako Waterfront Park. She wanted to know how the issue was being addressed. Mr. Uehara took the podium to answer Chair Lum's question. He acknowledged that there has been an ongoing problem at the Kakaako Waterfront Park with cats, although the situation has improved. He noted that HCDA's approach does not include euthanizing cats. Mr. Uehara also noted that the primary problem is that people continue to abandon their pets at the park. He said that he was working with the cat caretakers to identify these new cats, so that they can be trapped, spayed/neutered, and monitored for good health. Without the caretakers, cats start reproducing rapidly, contributing to an even greater population. The long-term goal is to gradually reduce the cat population and to move the cats to areas where people are less likely to congregate.

Chair Lum asked the members if there were any other questions regarding the Executive Director's report. There were none.

#### IV. ITEMS FOR ACTION

4. Approval to Authorize the Executive Director to Enter into an Agreement and to Expend Funds to Pursue Litigation Relating to the Odor Problem at the American Brewery.

Mr. Uehara summarized the Action Item report distributed to the Authority concerning this matter. He outlined the history of the odor problem at the Brewery Building, which was renovated in late 1995. Catholic Services for the Elderly (CSE) moved in the following year into the first three floors of the

building. Soon thereafter, in 1996, CSE reported an odor in the building.

Subsequently, there was a series of inspections, studies, and remediation attempts which actually resulted in a significant reduction of the odor. Nevertheless, the odor persisted and Catholic Services moved out in August 1998.

It was determined, during the analysis and remediation process, that Permaclear 65 was the source of the odor. Permaclear 65 is a termicide that was applied to the flooring and wood beams to prevent termite infestation. During this process, various environmental agencies that inspected the building determined that the odor was not hazardous and that EPA limits or other governmental limits were not being exceeded. Several inspectors compared the odor to having a new carpet in a house. Nevertheless, it was acknowledged that some people with heightened sensitivities could have a reaction to the odor.

By early 2001, the odor had diminished significantly and HCDA rented the third floor to Volunteer Legal Services in April 2001. For nearly a year and a half thereafter, Mr. Uehara kept in close contact with Volunteer Legal Services and did not receive reports of any reactions to the odor. However, in September of 2002, some employees began to report headaches and other symptoms.

When these reports were received, the Department of Health (DOH) was contacted and its Noise, Radiation, and Indoor Air Quality Branch investigated the odor. DOH reported that the odor was not hazardous, and noted that the beams on the third floor were likely the cause of the odor. Several employees of Volunteer Legal Services decided to move from the third floor because of the odor.

In July of 2002, David Louie, an attorney with Roeca Louie and Hiraoka, informed the Department of the Attorney General that he had been the plaintiff's attorney in a lawsuit regarding the same chemical used in the Brewery building (Permaclear 65) and that the lawsuit had been successfully concluded. The lawsuit involved the same chemical supplier and company that had applied the chemical to the wood and shipped the treated wood to Hawaii.

Mr. Louie felt that, should HCDA pursue litigation, he had a high degree of confidence that it would be

successful. After a review of the facts, staff decided to pursue litigation, and the Attorney General approved the hiring of outside counsel. Following the State's procurement process, HCDA and the Department of the Attorney General selected Roeca Louie and Hiraoka, and jointly negotiated a contract with the firm (which was attached to the Action Item).

The terms of the agreement include a contingency fee arrangement, which means that legal fees are payable only if HCDA is awarded a settlement. The legal fee would be calculated as a percentage of the award and would be different depending on whether the case is settled out of court or through a court proceeding. The proposed fee schedule was listed in the contract.

Another important part of the proposed contract related to expenses. It was proposed that HCDA and the law firm share in fronting the expenses as follows: HCDA pays the first \$25,000 of expenses; Roeca Louie and Hiraoka pays the next \$25,000; HCDA pays the next \$25,000; and Roeca Louie and Hiraoka pays any cost in excess of \$75,000. Therefore, HCDA would pay for a maximum \$50,000 in expenses.

Chair Lum then asked the Members if there were any questions. There were none.

It was moved by Member Kubota and seconded by Member Los Banos to adopt staff's recommendation to authorize the Executive Director to: (1) enter into an agreement with Roeca Louie and Hiraoka, substantially in the form attached to the Action Item; and (2) to expend a maximum of \$50,000 in revolving funds to pursue litigation relating to the odor problem at the American Brewery Building, subject to Governor's approval.

There being no other questions, Chair Lum called for a vote.

The motion passed unanimously.

5. Approval to Authorize the Executive Director to Continue the Maintenance Program and to Expend Funds for the Kakaako Waterfront and Gateway Parks.

Ms. Ito summarized the Action Item report distributed to the Authority concerning this matter. She began by presenting a brief overview of the maintenance program for the Parks and then discussed the major components

of this program (security, hardscape repairs and landscape maintenance).

Ms. Ito said that security at the Kakaako Waterfront Park is essential for safety reasons. Due to the isolated location of the park, it became clear upon the completion of the park that security was necessary. Soon after the park was opened, nearly all the bollard light fixtures were vandalized, and incidents of graffiti were common, as were car thefts and assaults. After security services were put in place, crime within Kakaako Waterfront Park dropped, and park use increased, as more people found a safe haven for picnicking, fishing, and other recreational activities.

The Wackenhut Corporation currently has a security contract with the HCDA and hires Honolulu Police Department (HPD) special duty police officers during the late night and early morning hours, while also conducting random security checks.

With respect to the hardscape of the parks, age and ocean spray have resulted in damage to furniture, fixtures and iron-supported structures. Although funds are not being requested at this time, it is evident that the need for repairs will continue and is likely to increase.

Ms. Ito indicated that the landscape maintenance is of immediate concern. Currently, under a Memorandum of Understanding with HCDA, State Parks maintains the Kakaako Waterfront Park, including paying the utilities at no cost to HCDA. Because State Parks had no additional funds to maintain the Makai Gateway Park, HCDA entered into an agreement for its services and will pay State Parks a total of \$88,000 for the fiscal year ending June 30, 2003.

About two years ago, staff began receiving complaints regarding the declining condition of the Kakaako Waterfront Park. Weeds had proliferated throughout much of the park, including noxious sandburs and sleeping grass, and barren spots had multiplied. The standards of park maintenance at the Kakaako parks, as well as at other State-maintained parks, were lower than desired. In addition, with the severe budget situation at State Parks, it was expected that near term improvements were not likely.

Recognizing the parks as an integral part of the Makai Area Plan, the Authority approved the expenditure of

\$795,000 for the restoration of the park in November 2000. With these funds, the following improvements were made: a new irrigation pumping system and pump house were installed; irrigation lines, sprinkler heads and controllers were repaired and/or replaced; and landscaping at the three pavilion areas was renovated.

Site Engineering was the general contractor for the construction. Instrumental in raising the standards for park landscaping were: Hawaiian Fertilizer, Inc., landscape consultants; and Landscape Hawaii, Inc., landscape contractor.

Ms. Ito introduced Troy Ogasawara and Logan Hamoccon of Hawaiian Fertilizer, Inc. and Derrick Makishi and Mark Takahama of Landscape Hawaii, Inc., who are directly involved in the supplemental maintenance program.

Mr. Ogasawara then presented a slide show that included "before" and "after" photographs of different parts of the parks.

The slide presentation began with an overview of the Sand Island State Park, an urban State park similar in certain ways to the Kakaako Waterfront and Gateway Parks. Mr. Ogasawara pointed out some of the problems that are currently being experienced at that park. These problems are similar to those that HCDA was experiencing with the Kakaako parks before Landscape Hawaii, Inc. began implementing an improvement program that included irrigation improvements, weed control, and repairs of the current system.

During the evaluation process, Landscape Hawaii, Inc. discovered that one of the major problems was the state of the irrigation system. Another major issue was the low water pressure at both the Makai Gateway and the Kakaako Waterfront Parks. In the case of the Gateway Park, the problem was mainly due to timers and pumps switching on and off automatically; in the case of the Waterfront Park, it was primarily due to the lack of an adequate pumping system. Operating pressure was originally designed to operate at 90 psi; the park was operating at 40 psi. Therefore, the performance of the system was very poor. The ground coverage was compromised because of the lack of system pressure and many sprinkler heads were broken. Worn and faulty valves and the lack of regular maintenance were other reasons for poor performance. Finally, over the years, the system components were replaced

arbitrarily with non-compatible components, creating yet another problem.

Mr. Ogasawara continued his presentation of "before" and "after" photographs of different areas of the park. He highlighted the water stress being exhibited in the palm trees. All of the palm trees in the parks have suffered some major stress that has caused the trees to reduce their trunk proportion as they have grown. At the time that Hawaiian Fertilizer, Inc. was hired to investigate the problems, all of the trees were affected. The trunks have normalized due to the consistent application of water during the last one and a half years.

Mr. Ogasawara went on to explain that, through their investigation, they discovered that, although sprinkler heads were present and some heads were working, the pattern was not properly adjusted or the pressure did not allow the pattern to fan out sufficiently, causing dry spots. Other photographs depicted sprinkler heads blocked with vegetation. Another photo showed a situation in which several sprinkler heads had been broken, with the water bubbling onto the ground for months, resulting in poor irrigation of the area.

As a result of the poor park maintenance in the past, many of the landscape plantings declined and became infested with weeds, primarily due to lack of irrigation. Sleeping grass and various weeds became a problem.

The issues that were addressed by the implementation of the landscape contracts were: (1) the re-establishment of the pumping system with a new pumphouse and new system which brought the operating pressure from 40 psi up to the real design pressure of 90 psi, such that there is now adequate supply to power the sprinkler heads; (2) the replacement, repair and readjustment of sprinkler heads and valves; (3) installation of new lines in areas that had no sprinkler system; and (4) implementation of an ongoing maintenance program.

Mr. Ogasawara ended his presentation with more "before" and "after" pictures of the parks, clearly documenting the substantial progress that has taken place at the Kakaako parks during the last one and a half years, resulting in fuller grass and healthier coconut trees. Mr. Ogasawara noted one problem location at which surfers congregate before entering

the ocean. The surfers turn off the sprinklers to avoid getting their gear wet, so Mr. Ogasawara suggested replacing that grassy area with hardscape or pavers.

Ms. Ito thanked Mr. Ogasawara for his presentation. She acknowledged the significant landscaping improvements by Landscape Hawaii, Inc. and Hawaiian Fertilizer, Inc. She said that staff believed that it was essential to continue these services in order to continue a high standard of maintenance and preserve the investments made in the parks.

Ms. Ito stated that continued improvements to the landscape and weed control program will be required, as the full potential has not yet been reached. At this time, however, staff recommended approval to authorize the Executive Director to: (1) extend the agreement with Landscape Hawaii, Inc. until November 30, 2003 and expend up to \$210,000 in revolving funds for this extension; and (2) procure consultant services for the landscape maintenance program, in an amount not to exceed \$15,000 in revolving funds for the first year beginning April 1, 2003, subject to the approval of the Governor.

Chair Lum asked the Members if there were any questions. There were none.

It was moved by Member Goshi and seconded by Member Kometani to adopt staff's recommendation.

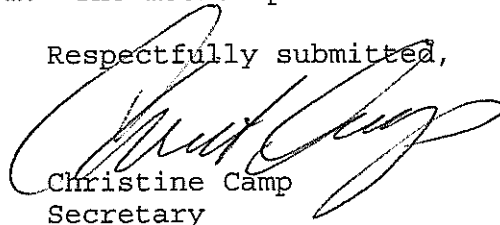
The motion passed unanimously.

VI. ADJOURNMENT

Chair Lum asked whether there were any other matters to be brought to the attention of the Authority members.

There being no other business, it was moved by Member Kubota and seconded by Member Los Banos to adjourn the meeting at 9:40 a.m. The motion passed unanimously.

Respectfully submitted,



Christine Camp  
Secretary