

SUMMARY - MEETING NO. 293  
HAWAII COMMUNITY DEVELOPMENT AUTHORITY  
State of Hawaii

May 4, 2005 – 9:00 a.m.

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

ATTENDANCE

Members Present: Grady Chun; Paul Kimura; James Kometani; Jonathan Lai; Theodore Liu; Allan Los Banos, Jr.; Bruce Matsui (for Rodney Haraga); Stanley Shiraki (for Georgina Kawamura); Katherine Thomason (for Russ Saito); William Aila Jr.; Linda Chinn (for Micah Kane); Henry Eng; and Evelyn Souza.

Members Absent: Michael Goshi; Gary Kondo; and Maeda Timson.

Others Present: Daniel Dinell; Melvin Nishimoto; Matthew Akamu; Kelfred Chang; Miko Dargitz-Hallett; Stanton Enomoto; Neal Imada; Richard Kuitunen; Cal Machida; Deepak Neupane; Teney Takahashi; Susan Tamura; and Francine Champoux; (also, see Meeting Attendance Record).

I. ROLL CALL

The meeting of the Hawaii Community Development Authority (HCDA) was called to order on May 4, 2005, by Chairperson James Kometani at 9:00 a.m. with the following roll call:

Chairperson Kometani	Present
Member Chun	Present
Member Kimura	Present
Member Lai	Present, left at 9:45 a.m.
Member Liu	Present, arrived at 9:40 a.m.
Member Los Banos	Present
Member Matsui	Present
Member Shiraki	Present, arrived at 9:15 a.m.

Member Thomason	Present
Member Aila	Present, left at 9:20 a.m.
Member Chinn	Present, arrived at 9:05 a.m., left at 9:20 a.m.
Member Eng	Present, left at 9:20 a.m.
Member Souza	Present, left at 9:20 a.m.

## MATERIALS DISTRIBUTED

1. Agenda for May 4, 2005 Meeting;
2. Summary Minutes of Regular Meeting of April 6, 2005;
3. Report of the Executive Director;
4. Kalaeloa Status Report;
5. Action Item: Adoption of the Kalaeloa Strategic Plan;
6. Action Item: Approval of Modification of View Corridor and Front Yard Provisions and Authorization for the Executive Director to Approve an Amendment to the Development Permit for the Moana Pacific Project (PD 1-03);
7. Action Item: Approval of Priority List Offerors Proposed by Task Force in Response to HCDA's January 12, 2005, Request for Proposals;
8. Action Item: Adoption of Chapter 15-210, Hawaii Administrative Rules Pertaining to the Rules, Regulations, Charges and Fees for Public Parks Within the Kakaako Community Development District; and
9. Action Item: Approval to Expend Up to \$100,000 to Retain Special Legal Counsel to Provide Real Estate Advice and Documents for the Kakaako Waterfront Development.

## II. APPROVAL OF MINUTES

### 1. Minutes and Summary

Chairperson Kometani asked if Members had any corrections to the minutes of the April 6, 2005 meeting. There were none and it was moved by Member Thomason and seconded by Member Los Banos to approve the minutes. The motion passed 10 to 0 with 3 excused (Members Chinn, Liu, and Shiraki).

### III. REPORT OF THE EXECUTIVE DIRECTOR

Mr. Dinell noted that the full Executive Director's report was enclosed in the packet distributed to the Authority Members but highlighted and updated the following:

- Mr. Dinell reported that Kelfred Chang, the new Asset Management Specialist started his position on May 3. Mr. Chang was a property management coordinator with the Housing and Community Development Corporation of Hawaii. He has extensive experience in real estate and property management.
- Staff has started negotiating lease terms with the University of Hawaii on the 5.5-acre site for the Cancer Research Center, just Ewa of the medical school.
- Mr. Dinell reported on the outcome of legislation that affects HCDA. The Concurrent Resolution necessary to allow the Department of Land and Natural Resources (DLNR) to lease submerged lands at Keehi small boat harbor has passed. This step is necessary to allow Honolulu Marine to relocate from Kewalo Basin.

Senate Bill 1721, mandating a cultural public market in Kakaako Makai, has passed in an amended form intended not to impact the Request for Proposals (RFP) process that is currently underway. A related Senate Resolution passed as well.

Another mandate from the Legislature transfers Piers 1 and 2 from HCDA jurisdiction and places the active maritime area under the jurisdiction of the Department of Transportation (DOT), something HCDA feels precludes holistic planning of the area. HCDA and DOT both testified strongly against the bill. Related to harbor issues, a Senate Resolution calling for the State DOT to update its Commercial Harbors 2020 Master Plan passed and stressed the need to improve harbor efficiency and effectiveness.

- HCDA received \$1 million in General Obligation Bond funds for Fiscal Year 2006 for the demolition and site preparation of the dolphin lab between Kewalo Basin and Ala Moana Beach Parks. This is an opportunity to connect the two parks and create activity and interest in that area.

In the second year of the biennium, HCDA secured \$1 million in General Obligation Bond funds for Makai Area improvements including site preparation and relocation expenses. Funding for staff costs were provided in the form of General Obligation Bond funds for Fiscal Years 2006 and 2007. Two new and extremely essential Kakaako positions were funded as requested: an Asset Management Specialist position and a Fiscal Officer

position. Both of these positions are imperative to HCDA's continued ability to manage the Kakaako Community Development District.

Mr. Dinell noted that while not part of the Administration's executive budget request, \$500,000 was allocated for a regional traffic study. Staff will work with the sponsoring legislator, the State DOT and the City Department of Transportation Services to define the scope of this project as this can be a useful mechanism to help study the cumulative impact of development in and around Kakaako.

The General Obligation Bond funding request for Kalaeloa was not provided; however, the Legislature did provide funding for a long-vacant position that will allow HCDA to enlist immediate "on the ground" help for the Kalaeloa Community Development District.

- Mr. Dinell clarified that in last month's Information Item regarding the management audit follow-up actions and status of Honuakaha and Na Lei Hulu Kupuna Housing Complexes, staff responded to a question from Member Thomason regarding an open item on collection procedures by responding that the policy was e-mailed subsequent to the March 29, 2005, Authority meeting. In fact, the e-mail received dealt with another open item. Prudential Locations Hawaii has advised staff that it is finalizing its policies on collection practices.
- Staff surveyed property owners and businesses between the Queen Street Extension (from Kamakee Street to Waimanu Street) to Piikoi Street regarding a proposed street name change from "Waimanu Street" to "Queen Street." The majority of those responding to the survey did not favor the change. Results of the survey will be forwarded to the City Department of Planning and Permitting (DPP).
- The Governor signed the Improvement District 11 Administrative Rules for Queen Street Improvements (Kamakee Street to Ward Avenue). The construction contractor has been issued the final award of the contract. Appraisals for land acquisition are being updated including acquisition of a permanent public parking area on Queen Street on lands currently owned by Victoria Ward. Staff is also negotiating a contract with the selected construction management consultant. As a follow-up to meeting with the Governor, a meeting will be scheduled with the City and HCDA engineers to discuss the project design; interested business owners will be invited to attend. Design modifications are limited, as HCDA's intent is to build this road to County standards and then dedicate the road to the City and County.

- The Financial Audit for year ended June 30, 2004, has been distributed to Members and a copy is posted on the website.
- Lastly, Mr. Dinell reminded Members that he would be on vacation from May 13 to May 30, during which time, Director of Planning and Development Teney Takahashi will be in charge of the office.

Chairperson Kometani asked if there were any questions for the Executive Director. There were none.

Chairperson Kometani thanked Mr. Dinell and staff for their efforts and job well done during the busy Legislative Session.

Chairperson Kometani requested that the minutes reflect that Member Chinn was in attendance.

#### IV. ITEM FOR INFORMATION

##### A. Kalaeloa Status Report

Stanton Enomoto summarized the Information Item distributed to the Authority concerning this matter.

Mr. Enomoto reported that there are two ongoing projects tied to the Economic Development Administration grant. One is the strategic plan, which is before the Authority for adoption. The second project is the preparation of a master plan. HCDA has contracted Belt Collins Hawaii to carry out the master plan project. Staff and the Kalaeloa Subcommittee will be meeting with Belt Collins Hawaii to discuss the project status and future efforts.

Regarding legislative matters, staff was tracking two bills regarding the proposed motor sports complex in Kalaeloa. Neither bill passed out of the money committees in the respective houses.

Staff provided an update on the marketing and sale of the rental housing in Kalaeloa and noted a story in the April 27, Honolulu Advertiser about the 547 units being sold. The prospective buyer is a California company, Carmel Properties, which is now going through the closing process.

On April 22, HCDA staff met with the City DPP Director and his staff to discuss coordination efforts and planning of Kalaeloa between the City and

HCDA. Specifically discussed were HCDA's revisions to the existing redevelopment plan. The master plan contract includes revision of the existing redevelopment plan and integration of those revisions with the City's 5-year review of the Ewa Development Plan. Also discussed was the coordination of zoning and infrastructure improvements.

A letter was sent to the Department of Transportation (DOT) in mid-April requesting DOT reconsider extending the Fort Barrette Road widening project into Kalaeloa. Thus far, DOT has maintained its position that the project will terminate on the mauka side of Kalaeloa, at the railroad crossing. Staff will continue to work with DOT on this issue.

Mr. Enomoto reported fielding calls on the use of facilities in Kalaeloa. Most recently a number of people were interested in leasing or purchasing the Navy chapel as well as determining availability of rental housing. He has been referring such callers to the Navy and the property management company, respectively.

Chairperson Kometani asked a question regarding the Fort Barrette entrance. He commented that it is abandoned and looks awful. The property is owned by DOT. He asked what is the process or mechanism to get community support to demolish abandoned structures at that entrance.

Mr. Enomoto responded that HCDA could partner with DOT or possibly with the National Guard, if the National Guard was willing to participate in a project similar to the previous demolition of the guard shack at the same intersection. He commented that the remaining structures, themselves, aren't historic so there aren't historic preservation requirements. He stated that it would appear to be a straightforward demolition project.

Mr. Dinell added that the Fort Barrette Road widening project is 80 percent federally-funded and ends just short of the busy intersection of Roosevelt Avenue and Fort Barrette Road. If the project were to be carried through with work on the interchange itself that would help to demolish the abandoned structure and make it a proper intersection. Staff will keep pushing for it but right now DOT's position is that it is out of scope.

Member Eng inquired about the length of roadway between the end of the DOT project and the Roosevelt Avenue and Fort Barrette Road intersection.

Mr. Enomoto replied that it was very short. He estimated between 150 and 200 feet.

Member Souza commented that it should be pursued because it is not sensible to widen the road leading up to the intersection and then return to one lane at the intersection itself.

Chairperson Kometani asked if Members had any further questions. There were none.

Chairperson Kometani requested that the minutes reflect that Member Shiraki was in attendance.

## V. ITEMS FOR ACTION

### 2. Adoption of Kalaeloa Strategic Plan

Stanton Enomoto summarized the Action Item distributed to the Authority concerning this matter and reported the Subcommittee's recommendation.

Mr. Enomoto stated that this Action Item is a follow-up to the April 27 meeting where the revisions to the draft strategic plan were discussed with the Authority. He summarized by saying that it was an involved process that the staff along with consultant Townscape, Inc. and the Kalaeloa Subcommittee Members went through in drafting the document. In March, authorization was received to solicit public review and comment. Since then several meetings were held with government officials and the community. In total, approximately 100 people participated in the process of contributing to the draft plan.

Revisions to the draft plan were discussed at the April 27 Authority meeting. At the meeting, there was further discussion that resulted in several more revisions to the plan, including amending the vision statement to reference the "Ewa district" as opposed to the Kapolei region. There was also clarification on some of the near-term priority actions to make more specific reference to the HCDA's statutes as well as coordination with Federal, State and County agencies.

Mr. Enomoto acknowledged that there were points raised on the homeless situation. However, as the issue was discussed, it appeared to be a broader issue than just Kalaeloa and that it would be considered in future planning efforts instead of incorporating it into the strategic plan.

Mr. Enomoto thanked Bruce Tsuchida from Townscape, Inc. for facilitating the planning process.

Mr. Enomoto stated that the Subcommittee believed that the document was ready for adoption and will serve as a policy document for the next five years. The Subcommittee recommended that HCDA adopt the Kalaeloa strategic plan and authorize the Executive Director to implement the mission statement and near-term actions in furtherance of the vision and in accordance with the core values and guiding principles.

Chairperson Kometani requested, for discussion purposes, a motion to adopt the Subcommittee's recommendation. It was moved by Member Aila and seconded by Member Souza to adopt the Subcommittee's recommendation. There being no comments, a vote was taken and the motion was approved 12 to 0 with 1 excused (Member Liu).

Chairperson Kometani thanked the Kalaeloa Authority Members and Bruce Tsuchida as well as the Subcommittee Members for a worthy document.

Chairperson Kometani called a recess at 9:20 a.m. to enter into Public Hearing and to allow the Kalaeloa Members (Members Aila, Chinn, Eng, and Souza) to depart as the rest of the agenda was related to Kakaako issues.

The meeting reconvened at 9:40 a.m.

Chairperson Kometani requested that the minutes reflect that Member Liu was in attendance.

3. Approval of Modification of View Corridor and Front Yard Provisions and Authorization for the Executive Director to Approve an Amendment to the Development Permit for the Moana Pacific Project (PD 1-03)

Matthew Akamu summarized the Action Item distributed to the Authority concerning this matter and made the staff recommendation.

A Public Hearing on this Action Item was held during the recess. Thus, Mr. Akamu summarized that the request was for modifications for Phase III of the Moana Pacific project to allow encroachments into the front yards and view corridors along Kapiolani Boulevard, Pensacola and Piikoi Streets as generally proposed.

The front yards would be reshaped while maintaining the original area. There would be a variety of setbacks at key locations along the Kapiolani frontage to create greater pedestrian interaction and to hide the service area and transformer boxes.

Mr. Akamu stated that, for approval of a request for modification of the rules, the applicant must demonstrate that: 1) the modification provides flexibility that would not ordinarily be accomplished under the strict application of the rules; 2) the modification would not adversely affect adjacent properties and developments; and 3) the modification would be consistent with the intent of the Mauka Area Plan.

Mr. Akamu explained that with the modifications, storefronts would be closer to the public sidewalk and include the use of existing shade trees, providing more interesting spaces for people to walk through. The proposal is consistent with the land use and urban design objectives of the Mauka Area Plan. Therefore, the applicant appears to have satisfied the criteria for approval of modifications and staff recommends approval of the request.

Staff recommends approval of modification of view corridor and front yard provisions, as generally proposed, whereby yards will be reshaped while maintaining the original yard area and authorization for the Executive Director to approve an amendment to the permit for the project pursuant to the approved modifications.

Chairperson Kometani requested, for discussion purposes, a motion to adopt the staff's recommendation. It was moved by Member Lai and seconded by Member Los Banos to adopt staff's recommendation.

Member Shiraki questioned whether the project being a block away from the 909 Kapiolani project would have a consistent look.

Mr. Akamu responded that the Moana Pacific project is an entire city block, 500 feet long. In comparison, the 909 Kapiolani project is just a portion of a block. The 909 Kapiolani project is constrained due to a smaller lot size, which is about 70,000 square feet compared to 200,000 square feet for the Moana Pacific project. Due to the constraints of the lot size, the 909 Kapiolani design could only be built in a square shape. That resulted in an attempt to maximize the pedestrian experience around Kapiolani by having meandering sidewalks into the Kapiolani frontage supplemented by the commercial spaces inside the parking structure.

Mr. Akamu went on to explain that, in the case of Moana Pacific, it is a large block, which gives the developers an opportunity to integrate the whole block design. There may be five or six different tenants that would be a part of this one block of development with opportunities to create spaces along the block. Also the developer can only build 80,000 square feet of floor area on a very

large footprint so the developer is trying to create a building mass that is spread out along the entire frontage.

Member Matsui observed that if HCDA is trying to make it more pedestrian-friendly, he didn't understand why HCDA requires industrial uses in the first place.

Mr. Akamu responded that what had happened in this project was that the developer used HCDA rules to maximize residential use in the project and they put 100 percent of the allowable floor area into residential. The industrial portion of the project was a bonus, or an optional phase. Theoretically, under the rules, the developer doesn't need to include any industrial or commercial use in the project. HCDA was trying to promote mixed use activities especially to provide pedestrian-friendly activities along Kapiolani Boulevard.

Chairperson Kometani added that he remembered that the developer had strong concerns about whether commercial activities would work on this site because of its proximity to Ala Moana Shopping Center, so, the developer was more seriously considering industrial use.

Mr. Akamu replied that the project was first presented in December 2003, at which time the Authority gave a very strong opinion as to the appropriateness of the design of the street frontages both on Kamaile Street and on Kapiolani Boulevard. Due to the sterile design, past Member Crispin offered suggestions on improving the design of the Kamaile Street frontage. Also, having a potential industrial use along Kapiolani Boulevard, a busy commercial street frontage, seemed to be somewhat of an encumbrance. Both of those issues were raised during the approval of the project. The developer returned to the Authority in June 2004, to address those concerns and presented its proposal to revise the "wedding cake design" for the industrial portion of the project along Kapiolani Boulevard. This proposal for a more interesting Kapiolani frontage design was prepared in response to comments from the Authority that it preferred a more pedestrian-friendly environment. HCDA staff will continue to work with the developer to determine the appropriate land uses for Phase III that will complement the more pedestrian-friendly design.

There being no further comments, Chairperson Kometani reminded the Members that a motion was on the floor. A vote was taken and staff's recommendation was approved 7 to 0, with 2 excused (Members Lai and Shiraki) excluding Kalaeloa Members.

4. Approval of Priority List Offerors Proposed by Task Force in Response to HCDA's January 12, 2005, Request for Proposals (RFP)

Teney Takahashi summarized the Action Item distributed to the Authority concerning this matter and made the Task Force recommendation.

Mr. Takahashi on behalf of the RFP Task Force, explained the evaluation process, and presented the recommendation of the Task Force for the priority list. As an overview, Mr. Takahashi provided a brief synopsis of the evaluation process. The RFP was designed in two phases to eliminate considerable expenses in preparing the "best and final offers" for the offerors not proceeding past the initial phase. As indicated in the RFP, the objective was to select the most experienced and financially-capable teams. The project design will continue to evolve with input from the community and HCDA.

The evaluation process included: 15 letters of intent received by deadline of February 2, 2005; and 6 proposals received by the March 11, 2005 deadline.

The Task Force engaged financial, appraisal, and development consultants. As the Authority required, the consultant's first task was to determine that the financing information in the proposals was adequate. Offerors provided clarification on their respective proposals on April 9, 2005. All Task Force evaluations were received by April 21, 2005, and the evaluations resulted in numeric scoring and ranking.

The evaluation factors are consistent with the objectives. Financial factors, qualifications, and experience represent 60 percent of the total score, with project concept weighing 20 percent, and property management capability weighing 10 percent. Whether the proposed timeline was reasonable and realistic was valued at 5 percent, and anticipated ability to work with community and public agencies another 5 percent. Among other things, procurement rules required that there must be selection of a minimum of three priority list offerors, and also required that the proposal contents remain confidential to ensure impartiality. Scores and relative rankings also remain confidential in accordance with procurement requirements.

The Task Force recommends approval of the following teams as "priority list offerors" who will be asked to submit "best and final offers." In alphabetical order: 1) A&B Properties, Inc.; 2) Kewalo Nui Partners, LLC; 3) SCD Kakaako Waterfront, LLC; and 4) Victoria Ward, Ltd. The Task Force also recommends that all offerors be notified of these results as soon as possible.

Chairperson Kometani requested a motion to adopt the Task Force's recommendation for approval. Member Chun moved and Member Liu seconded the motion.

Member Liu asked for clarification regarding whether the reason any renderings or descriptions of the proposals cannot be presented is due to the conditions of the procurement rules.

Mr. Takahashi responded in the affirmative.

There being no further questions, a vote was taken and the motion was approved 8 to 0, with 1 excused (Member Lai) and excluding Kalaeloa Members.

5. Adoption of Amendments to Chapter 22, Title 15, Hawaii Administrative Rules Relating to Flexibility in the Development of Public Facilities for the Mauka Area of the Kakaako Community Development District

Matthew Akamu summarized the Action Item distributed to the Authority concerning this matter and made the staff recommendation.

Mr. Akamu explained that this Action Item was for adoption of amendments to the Mauka Area Plan and Rules to provide flexibility under the provision of public facilities. The objectives of the amendments are to provide flexibility for HCDA to give incentives in joint developments with the private sector, and to provide public facilities in a timely manner to address the needs of the businesses impacted by HCDA's Improvement Districts.

The proposed amendments are split into two parts. The first part is to designate a new site on the Open Space and Recreation Plan as a Park and Parking Garage (P/PG) facility. The new site is located in the central Kakaako Mauka Area between Kapiolani Boulevard, Queen Street, Kamakee Street and Ward Avenue. The site, itself, is located along Waimanu and Kawaiahao Streets, between Cummins and Kamakee Streets. This portion of Queen Street is conveniently located in proximity to the ID-11 project. The lot is approximately 30,000 square feet in land area and is vacant. This will enable temporary parking on a surface parking lot in the near-term and construction of a low-rise parking structure as a permanent solution.

The second part of the proposed amendments would be to amend Section 81 of the Mauka Area Rules to allow a flexible transfer of uses between sites where one of the sites is designated as a public facility.

A Public Hearing was held on April 27, 2005, on this matter. Thus, Mr. Akamu gave a brief overview of the comparison between joint development and transfer of uses. Both are zoning instruments for approving new developments. Both joint development and transfer of uses provide options for development involving two or more parcels but have different objectives and different criteria for approval.

Mr. Akamu explained that a joint development is an instrument that allows two or more parcels to be treated as one parcel to create a project that is better than if the separate parcels were developed individually. Examples of joint development that HCDA has recently approved are: 909 Kapiolani and the Ward Village Shops.

The current rule for transfer of uses allow for some uses, such as industrial or reserved housing units, to be transferred into a designated lot. Such developments with that kind of transfer may have better functionality or feasibility when designed separately from other uses. When such uses are transferred, the developments can be separated as opposed to integrated as a joint development. However, in the transfer of uses the separate developments must co-exist and cannot be demolished one before the other. Also a developer cannot build only the portion of what is transferred, everything has to be built.

Under the current rule, the lots must be adjoining and must be under the same ownership. Also, only the use is transferred and not the floor area. This means that, for two different sites where uses are being transferred, each individual site's allowable floor area will not be increased; only the use can be transferred to another site, not the density. Other criteria intended to control the developments that are being incorporated in the transfer of uses are that: transferred uses must be permitted; development timing is required; demolition cannot be phased; and all transferred uses must be developed.

More flexible criteria are being proposed when the proposed transfer of uses involves a public facility site and, in that context, a transfer of uses can be made between lots that are anywhere in the Mauka Area. Under the proposed rule, other criteria include: lots will still need the same ownership requirement; uses can be transferred but not floor area; and transfer of uses must be permitted.

The main difference is that under the current rule lots must be adjoining but under the proposed rule, when transferring uses between one lot and a public facility such as a P/PG site, the lots do not have to be adjoining. The proposed

rule does not require development timing, allows demolition to be phased, and does not require all uses to be developed.

Mr. Akamu explained that at the Public Hearing held on April 27, there was one testimony presented in favor from KC Rainbow Development Property, LLC. If today's decision is affirmative, staff will ask the Small Business Regulatory Review Board (SBRRB) for its recommendations. It is hoped that the Governor will approve the proposal by the end of May.

Staff recommends amending the Mauka Area Plan to designate a new P/PG site identified as TMK: 2-3-3 parcel 40, on the Open Space and Recreation Plan as shown in Exhibit A of the Action Item. Secondly, staff recommends amending Section 81 of the Mauka Area Rules to allow greater flexibility of transfer of uses, including reserved housing units, between public sites in the Mauka Area and any other sites in the Mauka Area under the same ownership as described in Exhibit B.

Chairperson Kometani requested a motion to adopt staff's recommendation for approval. Member Thomason moved to adopt staff's recommendation. Member Chun seconded the motion. Discussion ensued.

Mr. Dinell passed out a clean copy of the rules. The rules that were provided in the Members' packets were in Ramseyer format, which underscores the proposed new language.

Member Chun asked for clarification that one of the changes to the rules was that development of transferred uses can be phased.

Mr. Akamu replied in the affirmative. The developments could be built without some kind of timing requirement if it involves a public facilities site.

Member Chun then asked if the development were phased, what was the likelihood that the public facility wouldn't be built.

Mr. Akamu responded that providing flexibility allows for implementation in conjunction with joint development with HCDA and to not be locked in to particular constraints. HCDA can impose development timing or unilateral demolition if it is desired but it shouldn't be in the rules.

Mr. Dinell added that the proposed rule is about creating a public facility. One of the key steps to achieving that is amending the Mauka Area Plan by designating the public facility and then executing a development agreement

between HCDA and the developer in which a number of HCDA requirements could be incorporated.

Member Chun clarified that HCDA can still impose certain requirements.

Mr. Dinell responded that requirements could be imposed through the development agreement as opposed to the rule, but only in the case when a public facility is involved.

Member Matsui asked if there was a connection between the two amendments.

Mr. Akamu replied in the affirmative. The map amendment is needed to designate Parcel 40 on Waimanu Street as a public facility site, and the rule amendment provides flexibility for a development agreement with a private sector developer to provide temporary parking for affected businesses along the ID-11 route.

There being no further questions, a vote was taken and the motion was approved 8 to 0, with 1 excused (Member Lai) and excluding Kalaeloa Members.

6. Adoption of Chapter 15-210, Hawaii Administrative Rules Pertaining to the Rules, Regulations, Charges and Fees for Public Parks Within the Kakaako Community Development District

Richard Kuitunen summarized the Action Item distributed to the Authority concerning this matter and made the staff recommendation.

Since a Public Hearing on this matter was held on April 27, 2005, Mr. Kuitunen reiterated that the proposed rules and regulations were to be used as guidelines for park use. It would provide a mechanism for enforcement of the rules, standardize the permit process, allow commercial permits, and ensure that public parks remain available for the use and enjoyment of those attending the parks without obstructing the rights of others.

The proposed rules were presented to the SBRRB on February 8, 2005, which submitted its report to the Governor, who approved the Public Hearing on March 8, 2005. A Public Hearing took place on April 27, 2005, at which time no testimony was received. Staff is scheduled to appear before the SBRRB on May 10 for a follow-up and with the Authority's adoption, the rules will be sent to the Governor for her approval.

Mr. Kuitunen stated that the staff recommends that the Authority adopt Chapter 15-210, Hawaii Administrative Rules for regulations, charges, and fees for public parks within the Kakaako Community Development District.

Chairperson Kometani requested a motion to adopt staff's recommendation for approval. Member Liu moved to adopt staff's recommendation. Member Chun seconded the motion. Discussion ensued.

Member Shiraki asked if the rules were approved today, whether it was still necessary to go before the SBRRB.

Mr. Kuitunen responded that the SBRRB requires a follow-up after a Public Hearing is held. Its next meeting is scheduled for May 10, 2005. There is no impact on small business.

There being no further questions, a vote was taken and the motion was approved 8 to 0, with 1 excused (Member Lai) and excluding Kalaeloa Members.

7. Approval to Expend Up to \$100,000 to Retain Special Legal Counsel to Provide Real Estate Advice and Documents for the Kakaako Waterfront Development

Teney Takahashi summarized the Action Item distributed to the Authority concerning this matter and made the staff recommendation.

Mr. Takahashi explained that this was a request to expend up to \$100,000 to retain special outside legal counsel to provide real estate advice and to assist with the completion of documents for the Kakaako Waterfront redevelopment.

With the selection of a master developer for the Kakaako Waterfront anticipated in September, complete legal documents will be needed for development rights, fee simple sales and land leases. Documentation will be complicated and multiple documents may be required due to the size of the project and the possibility of several lessees and phased components.

Mr. Takahashi explained that since more than 36 acres of State land is involved, safeguarding these assets in the course of the development will be a key responsibility. Because of these circumstances, staff recommends the retention of outside counsel, who specializes in large real estate transactions. Staff requests the Authority's approval to expend up to \$100,000 of General

Obligation Bond or revolving funds, if necessary, to retain such counsel, subject to the approval of the Attorney General and the Governor.

Chairperson Kometani requested a motion to adopt staff's recommendation for approval. Member Chun moved to adopt staff's recommendation. Member Los Banos seconded the motion. Discussion ensued.

Member Shiraki inquired about the source of the funding.

Mr. Takahashi responded that the primary option would be from General Obligation Bond funds since the appropriation has already been approved.

Mr. Dinell stated that the recommendation is for either General Obligation (GO) Bond or revolving funds. There is a GO Bond fund appropriation for Makai Area improvements which includes site preparation and documentation. Staff feels that this request fits those criteria and will submit a request for release of funds for that purpose. However, if funding is not provided through GO Bonds, then use of revolving funds can be pursued. Both require the concurrence of the Governor and, in the case of retaining outside special counsel, requires the concurrence of the Attorney General as well.

Member Chun asked how the \$100,000 figure was derived.

Mr. Takahashi replied that the work was estimated at about 300 hours at a rate of \$300 - \$325 an hour. He stressed that at this early stage, he did not know how complex the documentation would be and as such the \$100,000 is an estimate.

There being no further questions, a vote was taken and the motion was approved 8 to 0, with 1 excused (Member Lai) and excluding Kalaeloa Members.

VI. ADJOURNMENT

There being no further business, it was moved by Member Thomason and seconded by Member Liu to adjourn the meeting at 10:25 a.m. The motion passed 8 to 0, with 1 excused (Member Lai) and excluding Kalaeloa Members.

Respectfully submitted,

/s/

Paul Kimura  
Secretary