

SUMMARY - MEETING NO. 297  
HAWAII COMMUNITY DEVELOPMENT AUTHORITY  
State of Hawaii

September 7, 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; Barry Fukunaga (for Rodney Haraga); Michael Goshi; Paul Kimura; James Kometani; Gary Kondo; Jonathan Lai; Theodore Liu; Kay Mukaigawa; Stanley Shiraki (for Georgina Kawamura); and Katherine Thomason (for Russ Saito)

Others Present: Daniel Dinell; Melvin Nishimoto; Matthew Akamu; Miko Dargitz-Hallett; Neal Imada; Arnold Imaoka; Annette Kawasaki; Lilinoe Lindsey; Richard Kuitunen; Cal Machida; Deepak Neupane; Teney Takahashi; Susan Tamura; and Jill Sugihara; (also, see Meeting Attendance Record).

I. ROLL CALL

The meeting of the Hawaii Community Development Authority (HCDA) was called to order on September 7, 2005, by Chairperson James Kometani at 9:02 a.m. with the following roll call:

Chairperson Kometani	Present
Member Chun	Present, arrived at 9:05 a.m.
Member Fukunaga	Present
Member Goshi	Present
Member Kimura	Present
Member Kondo	Present
Member Lai	Present
Member Liu	Present, arrived at 11:10 a.m.
Member Mukaigawa	Present
Member Shiraki	Present
Member Thomason	Present

## MATERIALS DISTRIBUTED

1. Agenda for September 7, 2005 Meeting;
2. Summary Minutes of Authority Meeting of August 3, 2005;
3. Report of the Executive Director;
4. Action Item: Approval of the Amendments to the Kakaako Community Development District Makai Area Plan and Rules, Chapter 23, Title 15, Hawaii Administrative Rules, Relating to the Residential Use in the Makai Area;
5. Action Item: Approval to Authorize the Executive Director to Consent to the Communications Site License between Children's Discovery Center and Coral Wireless, LLC;
6. Action Item: Approval to Expend \$250,000 to Retain Special Counsel and Development/Financial Consultant(s) to Provide Real Estate and Legal Documentation Support for the Kakaako Waterfront Development Project; and
7. Confidential Material for Executive Session on Negotiation Team Approach for the Kakaako Waterfront Request for Proposals issued on January 12, 2005.

Chairperson Kometani called a recess at 9:02 a.m. to enter into Public Hearing on the Proposed Amendments to the Kakaako Community Development District Makai Area Plan and Rules, Chapter 23, Title 15, Hawaii Administrative Rules, Relating to Residential Use in the Kakaako Makai Area.

The meeting reconvened at 10:37 a.m.

## II. APPROVAL OF MINUTES

### 1. Minutes and Summary

Chairperson Kometani asked if there were any corrections to the minutes of the regular meeting of August 3, 2005. There were none.

It was moved by Member Mukaigawa and seconded by Member Thomason to approve the minutes as written. The motion passed 10 to 0 with 1 excused (Member Liu).

## III. REPORT OF THE EXECUTIVE DIRECTOR

Daniel Dinell noted that the full Executive Director's report was enclosed in the

packet distributed to the Authority Members, and highlighted and updated the following:

- Mr. Dinell reported that staff is continuing to review the Mauka Area Plan and Rules. Consultants have completed an assessment of the existing Mauka Area Plan and conditions. The consultant will present its findings to the Authority in October.
- The HCDA Housing Investigatory Task Force created by the Authority in August, met and is working on concepts to bring forth in conjunction with the Mauka Area Plan and Rules discussion anticipated in October.
- Staff is processing a Project Eligibility Review permit for the proposed Moana Vista Planned Development Project located on Kapiolani Boulevard on the former site of the Kapiolani Chuckwagon Restaurant. An informational presentation will be scheduled in the future.
- Staff also issued a Request for Proposals (RFP) for the Kakaako Makai parking and analysis. The proposal submittal deadline is September 16, 2005.
- On August 4, 2005, a meeting was held with the Department of Land and Natural Resources (DLNR), which expressed interest in proceeding with the transfer of the Heeia property to its Forestry Division. Staff must resolve whether HCDA will complete the Phase I environmental review recommendation to remove several abandoned vehicles, or transfer funds to DLNR to allow DLNR to do the work on its own schedule.
- Removal of the non-historic structures of the Pump Station occurred on August 20, 2005. Volunteers completed clean up, painting, paint removal, and power washing on August 27, 2005. A collage of pictures was included in the Members' packets. Landscaping and further work is anticipated in advance of a fundraising event in October.
- HCDA is scheduled to close the week of September 6 on executing a unit buyback at 1133 Waimanu for a purchase price of approximately \$226,203. This is based on the original purchase price plus 7 percent per annum return on equity. The seller will be leasing back the unit at \$1,400 per month, which is the comparable rent for a one-bedroom

unit in the building. The Asset Management section plans to sell the property on the open market after an appraisal is conducted and the property is listed. One-bedroom units in this building that have been recently refinanced have had appraisals between \$280,000 and \$305,000; staff expects a sale somewhere in this range or higher since restrictions will be lifted after the buyback. Funds for the purchase came from HCDA's Reserved Housing sub-account and net proceeds from the rental and sale of the unit will be deposited in the same sub-account. This is an example of how HCDA can use deed covenants to prevent windfall profits to accrue only to the buyer. The owner bought the unit in 1997 when it was a soft real estate market. For many years HCDA did not exercise the buyback provision because it didn't make economic sense.

- Construction plans for ID-11, Improvements to Queen Street between Kamakee Street and Ward Avenue, are in the second review by the City. Appraisals for land acquisition have been updated. Offer letters were either sent by certified mail or hand delivered. The land price of approximately \$155 per square foot offered is more than double the original appraisals completed last year. Landowners are allowed 30 days to consider offers.

Agreements have been secured for a total of 130 employee parking and approximately 30 customer parking spaces. A newsletter flyer has been produced and distributed in person to affected businesses. It was attached in the Members' packet for information and review. Staff is offering individual consultations for anyone who would like to redevelop their property. The newsletter also reiterates that all parking will be in place before roadway construction begins.

- The relocation and demolition of the City Corporation Yard is anticipated for mid-September. After 50 years, the garbage trucks will be departing the Kakaako Waterfront parcel and this area will be returned from the City to the State.
- Staff will be meeting with the University of Hawaii and Townsend Capital, LLC, the developer of the Cancer Research Center of Hawaii, to continue ongoing discussions on terms of a Development Agreement and Ground Lease.
- The Executive Director and several staff members attended the August Ala Moana/Kakaako Neighborhood Board meeting, and gave an update on various HCDA activities including the status of the Kakaako

Waterfront RFP and a presentation on the proposed amendments to the Makai Area Plan and Rules. Also at the meeting, there was a grassroots call for reviving TheBus E-route from Iwilei to Waikiki, which uses Ilalo Street to traverse the Kakaako Makai Area.

- Staff developed a new financial report format. The intent is to provide a snapshot of all administrative, revolving fund and capital improvement project (CIP) activity with any significant variances or activity noted. Detailed administrative expenditures including sources of funding and categories are shown for Kakaako and Kalaeloa. There is also a table that shows the revenue for each revolving fund. It was noted that the leasing and management column is HCDA's most active sub-account. A recap of CIP is also shown. Staff will continue to work towards a new set of reports that presents operations and activities in a more meaningful way. Mr. Dinell encouraged Members to provide input and suggestions for the report.
- Mr. Dinell reported that he has agreed to serve on the Board of Directors of the Hawaii Capital Cultural District. This is a non-profit organization whose activities center around three things: 1) to preserve, nurture and promote Hawaii's rich heritage; 2) to brand the State as a rich cultural/arts destination; and 3) to generate dynamic economic development and neighborhood vitality. The entire Kakaako Community Development District, including significant cultural assets such as the Blaisdell Center, the Children's Discovery Center, the Mission Homes Museum, and the planned Kakaako Fire Department Museum, are all part of the Hawaii Capital Cultural District. Participation in this endeavor is intended to further HCDA's vision to establish Kakaako as the most desirable and sustainable urban place in Hawaii to work, live, visit, learn and play, and would help deepen the relationship Kakaako has to the surrounding neighborhoods and areas.
- Mr. Dinell informed Members that he would be on vacation from September 23 to September 29, but would be reachable through Jill Sugihara.

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

Chairperson Kometani commented that on August 28, 2005, the Lingle Administration celebrated its 1000<sup>th</sup> day in office. It brought together different departments and administrators to a Chamber of Commerce breakfast meeting. The Administration acknowledged two of HCDA's staff members for their outstanding

work: Richard Kuitunen, Asset Manager, was recognized for his work on the Kakaako Pump Station; and Stanton Enomoto, Director of Planning and Development for Kalaeloa, was recognized for his work starting the Kalaeloa Master Plan.

Mr. Dinell added that the entire HCDA Authority was recognized as well for its tremendous efforts in moving Kakaako forward and thanked the Authority for their strong support.

#### IV. ITEMS FOR ACTION

2. Approval of the Amendments to the Kakaako Community Development District Makai Area Plan and Rules, Chapter 23, Title 15, Hawaii Administrative Rules, Relating to Residential Use in the Makai Area

Teney Takahashi summarized the Action Item distributed to the Authority concerning this matter.

Mr. Takahashi reported that staff proposes amendments to the Makai Area Plan and Rules to allow mixed-uses in the Kakaako Waterfront.

Chapter 206E-31, of the Hawaii Revised Statutes which serves as HCDA's charter, states the following:

“In coordinating community development in the Kakaako District, the Authority shall plan a mixed-use district whereby industrial, commercial, residential, and public uses may coexist compatibly within the same area.”

Consistent with this mandate, the Makai Area Plan first adopted in 1983 envisioned a mixed-use community, with industrial, commercial, residential and public uses. However, in 1990, the Makai Plan was amended to eliminate residential and industrial uses. This was replaced with a Plan that focused primarily on commercial uses including canals, amusement parks, a large amphitheater, and parks. Unfortunately, this Plan was overly ambitious and costly, with the result that only the parks were developed.

Mr. Takahashi addressed the question brought up during the public hearing of “why there was a sudden interest in changing the zoning.” Mr. Takahashi responded that preparation to restore residential and industrial uses in the Makai Area Plan began in 1994. The primary focus six years ago was to rejuvenate and revise the plan which was not working, and the need for rezoning was recognized in the Waterfront Business Plan.

On October 2, 2002, the Authority approved the Waterfront Business Plan, a contemporary pedestrian-oriented mixed-use urban village for the Kakaako Waterfront, shown in the Conceptual Site Plan. This Plan called for a purpose-designed “live-work-play-learn” community, anchored by the biotech, research and educational uses now being completed at the Medical School and the future Cancer Research Center of Hawaii.

The Makai Area Plan goals are to:

- Create a mixed-use destination and people-oriented “gathering place” to address the need for recreation, entertainment, and social exchange in an appropriate Hawaiian setting;
- Preserve and enhance the natural environment, with special attention to landscaping, the Hawaiian lifestyle, environmental sustainability, and public access to the ocean and shoreline;
- Serve as a catalyst for future growth, diversification, and stimulation of Hawaii’s economy; and
- Provide an economic balance between revenue and non-revenue projects.

Mr. Takahashi noted that these tenets not only provide the basis for a desirable urban community, but also the foundation for a strategically sound and viable business plan for the Kakaako Waterfront. In particular, the 1990 Plan lacked fiscal realism in the balance between revenues and non-revenue projects. HCDA intends to develop a community that offers places to work, play, and live, all within easy walking distance. The fact that this concept has attracted four strong and innovative development proposals for the Kakaako Waterfront indicates that experienced developers also agree on the feasibility of HCDA’s vision.

The proposed amendments to the Makai Area Plan and Rules include:

- Converting commercial zoning to mixed-use zoning, and adding residential use to the existing waterfront commercial uses. This enables mixed-uses, as was originally intended;
- Increasing the waterfront commercial zone height limit from 45 feet to 65 feet along the Ewa edge of Kewalo Basin. This

adjustment is necessary because the high water table precludes below-grade construction. It also follows tsunami guidelines, and is the only height revision being recommended; and

- Minor typographical updates to the Makai Area Plan and Rules which result from these changes are also included in the proposed amendments.

There is no proposal to revise any density or floor area ratios. The proposed height increase does not include any added density. The proposal basically calls for lifting the building up to take advantage of the density currently allowed.

Mr. Takahashi pointed out that the zoning on the Point Panic site and the rest of the existing park areas do not change. No amendments are being proposed for that area. Access to the ocean will remain the same or be enhanced.

Mr. Takahashi stated that residents provide the economic and social basis for any community. Residences together with residents would accomplish a number of necessary and desirable results, namely:

- Maintaining high standards and “eyes on the street” pride that only residents can bring, and adding vibrancy and character to the neighborhood;
- Establishing Hawaii’s first integrated urban village;
- Supporting the 36-acre waterfront development by adding to critical mass;
- Providing a mix of housing for Kakaako workers, frustrated commuters or those who simply prefer an urban lifestyle;
- Reducing commuting under the reality of rapidly rising gas costs;
- Reducing urban sprawl by making more efficient use of area infrastructure;
- Generating early cash flow to rationalize development economics and justifying the public facilities to be developed; and

- Reducing the total number of parking stalls by sharing; and sharing the parking so the residents and businesses can operate counter cyclically.

HCDA is prepared to impose sales and ownership covenants that may be necessary to help meet these goals. Sales and deed restrictions have proven to be a relatively simple and effective means of controlling the type of development undertaken. The 20 percent reserved housing requirement will be established on the Makai side just as it is for the Mauka side.

Mr. Takahashi addressed some of the points that came up during the public hearing. He provided factual responses just to clear up any misunderstandings, and not to argue the points raised.

Mr. Takahashi reiterated that public zoned lands are not being changed. The parks' zoning remains the same. The only changes proposed are the allowance for residential mixed-use and the increase in the height limit on the Ewa basin frontage.

There has been some concern that the housing will be priced out of reach for most people. The 20 percent reserved housing requirements will apply to any residential development on the Makai side. Mr. Takahashi read a statement from page one of the Waterfront Business Plan, which states, "despite the premium values inherent in oceanfront sites, the Waterfront will be a place for the working population rather than an enclave for the wealthy. This is an advantage enabled by State ownership, which fosters social as well as economic benefits." It has always been about building a working class community. As such, the RFP clearly called for moderately priced housing.

Mr. Takahashi stressed the fact that HCDA is trying to balance the capital costs and the operating expenses of public facilities with having the public sector care for them. He commented that maintaining the park costs almost a million dollars a year, without any help from the City. To pay for maintenance services, beach access and public facilities, HCDA needs to generate revenues, and HCDA is depending on the Kakaako Waterfront development for that revenue.

Another point brought up at the hearing was the definition of rooming houses and dormitories. The terms "rooming houses" and "dormitories" are the same language used for the Mauka side and are meant to be consistent on the Makai side and allow the same flexibility.

There was a question on the definition of the term “Exploratorium,” which is basically a hands-on science museum. Exploratoria are not allowed in the MUZ-Industrial zone but are allowed in the park zone.

There was a question about why setbacks are 15-feet on one side and 30-feet on another. Mr. Takahashi explained that the 30-foot setback was specifically designed to provide a view corridor along Cooke Street from Ala Moana Boulevard to Mother Waldron Park. With the cooperation of neighboring property owners, it is hopeful that kind of view corridor will be provided in the future.

Someone questioned minimum parking requirements and alternative parking proposals. Mr. Takahashi responded that HCDA just cites the minimum parking requirements, and alternative parking proposals are allowed. In hopes that HCDA will produce a better solution, the Authority has instructed staff to analyze the parking situation, and try to find ways to avoid a proliferation of stalls strewn throughout the Makai area.

A concern was raised regarding the Authority’s approval and waiver of setbacks. Mr. Takahashi stated that lesser setbacks are characteristics of urban village concepts; the Ward Entertainment Center is an example of how lesser setbacks can be an important part of the design. When activity is brought up to the sidewalk, it creates a more interesting walk and it creates a perception of a shorter distance for the walker.

Mr. Takahashi concluded with the staff recommendation to approve the proposed amendments to the Kakaako Community Development District Makai Area Plan and Rules, Chapter 23, Title 15, Hawaii Administrative Rules, Relating to Residential Use in the Makai Area. He commented that the proposed amendments are essential to the successful redevelopment of the Kakaako Waterfront.

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

Chairperson Kometani asked if there were any questions.

Member Fukunaga reiterated the Department of Transportation’s (DOT) concerns stated in the public hearing about the presence of the Punchbowl Extension in the plan because of the potential impact on harbor operations. He stated that issue creates a dilemma for DOT in terms of supporting the amendments, although DOT does not object to permitting residential

development on the Makai side. He stated that he understood and supported the concept behind that change. The testimonies received identified the importance of the amendment in creating a vibrant working plan and a viable undertaking.

Member Fukunaga stated that redevelopment of the Kakaako Waterfront can be done in a manner that allows for a cohesive mix with interactions between commercial, residential and other amenities that would be embodied in whatever development is ultimately selected. But he said, the reality is that the Punchbowl Extension presents a traffic solution that is not in the best interest of the harbors division. As such, accepting the plan in its current form is not something the DOT can endorse. In the absence of an amendment to the roadway alignment, he said that DOT would be compelled to not support this issue.

Member Goshi asked what Member Fukunaga's specific concern to the plan was. Member Goshi emphasized that the amount of density was not being changed, and inquired whether there were certain hours of operation he was most concerned about with regard to traffic.

Member Fukunaga responded that his concern is where the roadway would be located. He said the planned alignment would cut right in front of the cruise terminal that is currently undergoing construction. He expressed that the alignment would negate DOT's ability to operate that facility because there wouldn't be any space in front of the terminal. Member Fukunaga said that it creates an issue about security setbacks that would no longer be achievable. He said that it would also create some impact on the cargo operating areas, and impose a traffic problem in terms of moving into and out of the area. Member Fukunaga expressed that creating the secondary spine road needed to meet traffic requirements creates a double impediment on both Ala Moana Boulevard and Ilalo Street. He said that these are significant concerns for harbor users, and DOT must respect that. For example the Cancer Research Center would be right next to the harbor area, which may not be a good mix, although they can co-exist.

Member Goshi asked that, given that there is a certain amount of density that is already established for the area, whether one use over another creates more of a challenge.

Member Fukunaga responded that DOT doesn't have an issue with the density. It is more of the solution to address the density where there is disagreement. Alternatives that would create less impact would be the solution that DOT is looking for.

Member Goshi commented that how you deal with the density with regards to the use becomes an issue because of the adjacent harbor use.

Chairperson Kometani asked staff to respond.

Mr. Takahashi pointed out that the issue of the Punchbowl Extension is not on the agenda, but what is on the agenda that may have a link would be any attempt to increase density and pressures from whatever is being proposed, and that is not the case. The traffic engineers would attest to the fact that residential zoning actually reduces traffic by about 2.2 times. Mr. Takahashi commented that he recognized DOT-Harbors' concern and suggested that the issue should be addressed in another forum.

Member Goshi commented that it has also been his experience that residential zoning reduces congestion and the need for parking, but the issue is during what time period DOT is most concerned whether it is Monday through Friday during the daytime, or on the weekends.

Member Fukunaga responded that harbor use is a seven day a week activity, and that he didn't think timing mattered, rather it was the roadway alignment that the developers would be counting on as a condition to part of the planning process. He stated that the developers should understand that the solution doesn't work from DOT-Harbors' standpoint, and it is something that Harbors is opposed to. Member Fukunaga recognized that it is not an agenda item but that the alignment was still in the plan and that creates a problem for DOT. He agrees with the concept of the inclusion of residential zoning, but the roadway alignment is what DOT objects to.

Mr. Dinell emphasized that the existing plan includes the roadway alignment Member Fukunaga referred to, and that there is no change to that part of the plan. Mr. Dinell noted that Ala Moana Boulevard is a DOT-Highways roadway, and in past conversations with DOT-Highways they indicated that the Punchbowl Extension was necessary and important to have.

Chairperson Kometani requested that, in light of what was happening in New Orleans, and the question that was raised during the Environmental Assessment comment period and then again during the public hearing by Anne Stevens on behalf of Senator Gordon Trimble regarding the tsunami inundation zone, staff explain the process they went through.

Mr. Takahashi responded that staff met with State Civil Defense and that Civil Defense took the position that due to the scarcity of developable lands in

Hawaii, they do not police or restrict development, but advise developers on disaster protections. Civil Defense's focus is on saving lives. Thus, with the Waterfront development, the proposal is to raise the buildings within the inundation zone above expected water levels. The balance of the residential units is not expected to be an issue, because those structures will be inland, with the lower levels used for parking.

Mr. Dinell added that when staff met with Civil Defense and University of Hawaii experts, they discussed modeling techniques and the revisions to the tsunami evacuation maps that are currently underway. The process is not for the purpose of development controls, but rather for life safety. A representative from DLNR who is responsible for the flood maps was also in attendance at that meeting. Mr. Dinell stated that he thought they covered the bases in terms of recognizing the challenges to development in that area. Development is built to City and County building standards that factor in flood maps, and necessary construction such as breakaway walls and/or parking on the lower levels.

Chairperson Kometani requested that the minutes reflect that Member Liu was in attendance. There being no further comments, Chairperson Kometani reminded Members that a motion was on the table to adopt staff's recommendation. A vote was taken and the motion was approved 10 to 1 (opposed by Member Fukunaga).

3. Approval to Authorize the Executive Director to Consent to the Communications Site License between Children's Discovery Center and Coral Wireless, LLC

Chairperson Kometani noted that there was a typographical error on the date of the Action Item which should have read September 7, 2005 instead of August 3, 2005.

Richard Kuitunen summarized the Action Item distributed to the Authority concerning this matter.

Mr. Kuitunen explained this Action Item was for the approval to authorize the Executive Director to consent to the communications site license between the Children's Discovery Center (CDC) and Coral Wireless, LLC. He introduced Loretta Yajima, President of CDC and the CDC's attorney, Debra Chun, and from Coral Wireless, Eric Shatz, Director of Site Acquisition and Development, and Matthew Tobias, Site Acquisition Consultant.

Mr. Kuitunen explained the history of the property. The Children's Discovery Center was provided a 40-year lease in 1996 to operate a children's non-profit center and ancillary uses at the cost of one dollar per year. Coral Wireless approached the CDC about putting a communications site on top of its building to provide affordable services using the Nextel format.

The Authority had expressed concern with utilizing the lease format so staff asked CDC to recast it as a license agreement instead. The consideration for the license period is for \$1,000 per month, through the end of 2005, increasing to \$1,500 a month for the balance of the primary term of five years. During the two option periods of five years each, the license payment increases to \$1,650 and \$1,815 per month, respectively. As a consideration to providing its consent to CDC to enter into the agreement, HCDA requested 50 percent of the license fee which has been incorporated into the license agreement and will be paid directly to HCDA by Coral Wireless.

Since it first opened, CDC has provided an interactive learning experience for children. It is also one of the primary users of the park and facilities holding an annual carnival, kiddie swap meets, craft events, picnics and fun runs. While HCDA has provided CDC a nominal rental rate during its 40-year lease term, staff did not want to consent to a license and having them become a competitor, as HCDA also seek revenues for revolving funds to pay for the expenses of operating the parks.

Mr. Kuitunen stated the staff's recommendation to authorize the Executive Director to consent to the license agreement between the Children's Discovery Center and Coral Wireless, conditional upon payment of 50 percent of the license fee and subject to adherence to the Makai Area design guidelines.

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

Chairperson Kometani asked if there were any questions.

Member Lai asked whether Makai and Mauka rules allow for usage of licenses.

Mr. Kuitunen asked if he meant for usage of communication sites.

Member Lai clarified by asking if there were any examples on the Mauka side with similar license agreements.

Mr. Kuitunen responded that, to the best of his knowledge, there isn't any situation similar because HCDA doesn't own any of the properties that have a tenant that would be comparable.

Member Chun asked whether it would affect possible future non-profit agencies coming in and doing something similar.

Mr. Kuitunen responded that there is no other comparable non-profit lease and if there was a future non-profit lease that lease would include a similar clause.

Member Fukunaga asked whether developers who have ideas for different kinds of attractions that would include community groups on the Makai lands would have the same standards apply as a condition of their occupancy. He asked whether there would be some sort of sharing of sublease revenues.

Mr. Kuitunen responded that he is not involved in the RFP negotiations and that Mr. Takahashi may be better able to answer his question.

Mr. Dinell interrupted that the main issue was that HCDA entered into a 40-year lease with CDC for the purpose of operating a children's museum, and staff doesn't want them to have sandwich profits for something that exceeds the purpose of the use. The Authority has the discretion to review any proposed license or sublease and the terms thereof.

Member Thomason asked whether the agreement was exclusive. She questioned if someone else came along and wanted to install their equipment whether, they could negotiate the same kind of deal pending an agreement with HCDA.

Mr. Kuitunen responded that the agreement would actually be with the Children's Discovery Center and a third party. CDC would have to bring it to the Authority for its consent prior to execution. The CDC doesn't have an exclusive deal with Coral Wireless for its rooftop.

Member Kimura asked Ms. Yajima if the deal was satisfactory for her.

Ms. Yajima responded that their two main concerns that they had with Coral Wireless were the aesthetics and access. She stated that Coral Wireless satisfied her questions and conditions.

Member Thomason asked whether Coral Wireless' access would be 24 hours, 7 days a week.

Ms. Yajima responded that Coral Wireless would need access to certain parts of the building and would give her 24 hours notice when requesting such access. She stated that there is going to be a piece of equipment outside that Coral Wireless will also have access to. Coral Wireless made an agreement with CDC that CDC must give its approval and be given notice to access this equipment.

Member Thomason questioned whether CDC anticipated any other requests.

Ms. Yajima responded in the negative that they do not anticipate any other requests.

Member Thomason asked if CDC did receive such a request, how Ms. Yajima would respond.

Ms. Yajima stated that aesthetics and access was important to her and as part of the Kakaako community, she was also concerned about the way things are built and developed, so she did not anticipate any more requests of this nature.

There being no further comments, Chairperson Kometani reminded Members that a motion was on the table to adopt staff's recommendation, a vote was taken and the motion was unanimously approved 11 to 0.

4. Approval to Expend \$250,000 to Retain Special Counsel and Development/Financial Consultant(s) to Provide Real Estate and Legal Documentation Support for the Kakaako Waterfront Development Project

Deepak Neupane summarized the Action Item distributed to the Authority concerning this matter.

Mr. Neupane stated that the item is to approve the expenditure of \$250,000 to retain special counsel for the Kakaako Waterfront development project.

Mr. Neupane stated that in January 2005, the Authority issued an RFP for the Kakaako Waterfront development area. It will conclude in September with a ranking of the offerors by the Evaluation Committee. On May 4, 2005, the Authority approved the expenditure of up to \$100,000 in revolving funds to retain a Special Counsel. The Attorney General's Office is in the process of selecting a Special Counsel. The Special Counsel is needed because HCDA must execute an agreement with the master plan developer selected for the project.

The project will include multiple sites, owners, tenants and several components, including residential, commercial, public facilities and parking, all of which require permitting under the Federal Coastal Zone Management program, in addition to HCDA approvals, and City and County permits.

Once the developer is selected it will be critical to develop an agreement as soon as possible, while the real estate market is still on an upswing. A project of this magnitude will have a high level of risk associated with it because of all the special circumstances. It is important for HCDA to have legal counsel to negotiate a development agreement with the developer.

Initially, staff anticipated less involvement from the Special Counsel but going through the process, staff realized that it would require more intensive legal counsel involvement. It also became apparent that HCDA should retain a development/financial counsel to assist with the review of the agreement and developer's plan to advise the Authority on what will work and what won't and to help protect the financial interests of the State.

Therefore, the recommendation of the staff is for approval to expend general obligation bond funds to retain special outside legal counsel and development/financial consultants to provide real estate and legal documentation support for the Kakaako Waterfront project, in an amount not to exceed \$250,000, subject to approval by the Governor.

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

Chairperson Kometani asked if there were any questions.

Member Shiraki questioned which General Obligation Bond project would be used to fund this request.

Mr. Dinell responded that it would come from the Makai Area Improvements which allows for site preparation. The funds were appropriated by the 2004 Legislature with a total of \$4.2 million. He said there are sufficient moneys to fund the request with the approval of the Governor.

Member Shiraki asked how the consultants would be selected.

Mr. Neupane replied that the legal counsel is being selected by the Attorney General's Office.

Member Shiraki asked about the selection process for the financial consultant.

Mr. Neupane responded that the financial consultant would be a sub-consultant under the legal counsel.

Mr. Dinell added that the Attorney General's Office has a pre-approved outside counsel listing. A selection committee of a minimum of three State employees reviews the listing and makes a recommendation. It is ultimately the Attorney General's decision and the engagement is through the Attorney General's Office.

Member Shiraki stated that he was familiar with the legal counsel but wanted to know about the financial consultant.

Mr. Dinell responded that the financial consultant would be a sub-consultant to the legal counsel because the financial work then becomes privileged information. Staff is working with the Attorney General's Office.

Member Fukunaga asked whether there was room for participation in the selection of the financial consultant.

Member Shiraki commented that he just wanted to know what the process was because he wanted to make sure that whoever is selected doesn't have any connections to any of the developers.

Member Liu responded that he has been working with staff on the issue because the intent is to hit the ground running. The intent was to be geared up prior to making the announcement of the developer so that the team would be briefed. The RFP set forth a four month deadline to negotiate a letter of intent.

As such, Member Liu explained that the legal counsel selection process is established by the Attorney General's Office, which recommended a list of six. They were interviewed for expertise and for capacity, since staff wanted to make sure that the law firm would not be overwhelmed with another case, and that the project would get the attention it deserves. Chemistry was also important, as well as understanding that the project needs to balance public and private interests.

For the financial consultant, it was decided that it would not be somebody passive. If questions were asked of the person, a response must be provided and he or she would proactively analyze various options and understand the figures. He or she would have to figure out whether the assumptions are valid

and whether or not there are options that should be put on the table to make sure that the best deal is created for the State and it is consistent with HCDA's interest.

Member Liu stated that one criterion was lack of conflict. Given the size of the bidders, it was not surprising that quite a few of the accounting firms' consultants and advisors had existing relationships that precluded them from consideration.

The criteria for the financial consultant includes not only the ability to crunch the numbers, but to advise the Authority on what the true valuation of certain parcels of land should be, as well as proactively analyze the developer's proposals and work with those numbers to ensure that those numbers reflect true costs, and act creatively in helping the Authority to capture some of the upside while leaving enough benefit for the developer.

Member Shiraki asked who was on the interview panel.

Mr. Dinell responded that the selection committee for the outside counsel was HCDA's Deputy Attorney General, Mel Nishimoto, Sandra Ching from the Attorney General's Office and Teney Takahashi, HCDA Director of Planning and Development.

Member Liu stated that the selection committee came up with the six recommended names off of their list. He and Mr. Dinell interviewed the lawyers. For the financial consultants, Mr. Takahashi was part of that interview process as well as Mr. Dinell and himself.

Member Mukaigawa commented that if a certain counsel was selected they would have to recuse themselves especially if they were the counsel for the developer.

Member Liu stated that after interviewing the candidates, a recommendation of the top three was made to the Attorney General's Office and they will negotiate the retainer. If they are not able to negotiate a retainer for the top choice, it moves to the second choice. That is the process that has been set up and the structure of hiring the financial consultant through the attorneys is something that all the law firms recommended as being part of the process.

There being no further comments, Chairperson Kometani reminded Members that there was a motion on the table and a vote was taken. The motion was unanimously approved 11 to 0.

Before moving into the executive session, Chairperson Kometani named Member Liu to the RFP Negotiating Team on behalf of the Authority. Also on the Team will be Daniel Dinell, Teney Takahashi, Deepak Neupane, Deputy Attorney General Mel Nishimoto as well as outside legal counsel. Financial and Development Consultants will be part of the Team as needed.

VI. EXECUTIVE SESSION

Chairperson Kometani asked for a motion to enter into Executive Session to discuss the following item:

Negotiating Team Approach for the Kakaako Waterfront Request for Proposals issued on January 12, 2005, Pursuant to Sections 92-5(a)(3), Hawaii Revised Statutes, to deliberate during the conduct of negotiations for the acquisition of public property.

Chairperson Kometani requested that the following individuals join the Executive Session: Deputy Attorney General, Mel Nishimoto; Executive Director, Daniel Dinell; Director of Planning and Development, Teney Takahashi; and Project Director, Deepak Neupane.

It was moved by Member Mukaigawa and seconded by Member Kondo to enter into Executive Session. The motion carried 11 to 0.

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The Hawaii Community Development Authority entered into Executive Session at 11:45 a.m.

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It was moved by Member Goshi and seconded by Member Liu to reconvene the regular meeting. The motion was carried 11 to 0.

The meeting was reconvened at 12:50 p.m.

VI. ADJOURNMENT

There being no further business, it was moved by Member Goshi and seconded by Member Kondo to adjourn the meeting at 12:50 p.m. The motion passed 11 to 0.

Respectfully submitted,

/s/

Paul Kimura  
Secretary