

**MINUTES OF A REGULAR MEETING  
OF THE MEMBERS OF THE  
HAWAII COMMUNITY DEVELOPMENT AUTHORITY,  
STATE OF HAWAII**

MEETING NO. 332  
Wednesday, August 6, 2008

Members Present: Amanda Chang  
Grady Chun  
Paul Kimura  
Jonathan Lai  
Theodore Liu (9:25 a.m.)  
Brennon Morioka  
Dexter Okada  
Robert Piper  
Russ Saito

Kalaeloa Members: Stanton Enomoto (9:05 a.m.)  
Kathy Sokugawa (9:05 a.m.)  
Evelyn Souza  
Maeda Timson

Members Absent: C. Scott Bradley  
Linda Chinn  
Joseph Dwight, IV  
Christopher Kobayashi  
Kay Mukaigawa

Others Present: Anthony Ching, Executive Director  
Diane Taira, Deputy Attorney General  
Eugene Won, Deputy Attorney General  
Richard Kuitunen, Asset Manager  
Tessa Malama, Director of Planning and Development for Kalaeloa  
Craig Nakamoto, Director of Communications  
Deepak Neupane, Director of Planning and Development for Kakaako  
Patricia Yoshino, Secretary  
Loretta Ho, Secretary

## I. ROLL CALL

A regular meeting of the members of the Hawaii Community Development Authority (“Authority”), a body corporate and public instrumentality of the State of Hawaii, was called to order by Mr. Jonathan Lai, Chairperson of the Authority, at 9:03 a.m. on Wednesday, August 6, 2008, at the at the Authority’s principal executive offices at 677 Ala Moana Boulevard, Suite 1001; Honolulu, Hawaii 96813 pursuant to article IV, section 1 of the Authority’s Bylaws.

### MATERIALS DISTRIBUTED

1. Agenda for August 6, 2008 Meeting;
2. Summary Minutes of Authority Meeting of July 2, 2008;
3. Action: Resolution to Amend Minutes of Meeting No. 330 on June 4, 2008 (distributed at the meeting);
4. Report of the Executive Director;
5. Information: Report of the Executive Director PowerPoint Presentation (distributed at the meeting);
6. Kalaelo Status Report;
7. Navy Report;
8. Hawaii Public Housing Authority Report;
9. Information: Kewalo Basin Administrative Rules;
10. Action: Resolution to Amend Memoranda of Understanding with the Department of Land and Natural Resources and Increase the Expenditure of Revolving Funds for Maintenance of Kewalo Basin Park, Kakaako Waterfront Park, and Makai Gateway Park;
11. Action: Resolution for (a) Kakaako Public Facility, Infrastructure Improvements and Planning Projects - A Five Year Plan; and (b) Contract with Fidelity National Title Insurance Company, (distributed at the meeting);
12. Executive Session: Kewalo Keiko Fishing Conservancy (Confidential Material distributed at the meeting);
13. Executive Session: Development and Lease Agreement with the University of Hawaii for the Cancer Research Center of Hawaii (Confidential Material distributed at the meeting);
14. Action: Development and Lease Agreement with the University of Hawaii for the Cancer Research Center of Hawaii;
15. Action: Resolution for Development and Lease Agreement with the University of Hawaii for the Cancer Research Center of Hawaii Draft dated July 22, 2008 and Supplemental Agreement (distributed at the meeting).

## II. APPROVAL OF MINUTES

1. Minutes of the Regular Meeting of July 2, 2008

Chairperson Lai asked whether there were any corrections to the minutes of the July 2, 2008 meeting. There were no corrections offered by Members. It was

then moved by Member Saito, and seconded by Member Kimura to approve the minutes as written. By a show of hands, the motion passed.

2. Amendment of Regular Meeting of June 4, 2008

Chairperson Lai stated that the minutes of the Authority's June 4, 2008 meeting had inadvertently omitted the action of the members to form a committee to review potential memorandum of understanding ("MOU") or agreements regarding the development of lands leased by Ford Island Properties, LLC or its parent company from the U.S. government in the Kalaeloa Community Development District. Chairperson Lai proposed the following amendment to the minutes.

"Upon the reconvening of the meeting in open session and following the members discussion in open session, Chairperson Lai proposed that the members authorize the formation of a committee composed of all members representing the Kalaeloa Community Development District and the chair of the Authority. The committee was authorized to review and analyze potential MOU or agreements with the foregoing companies respecting the development of any land leased by them from the U.S. government in the Kalaeloa Community Development District. The committee would report to the members from time to time on the progress of their review and any preliminary findings for the members' consideration. That proposal was accepted without objection."

Chairperson Lai asked if there any questions or comments to Resolution 08-0806-01 to amend the minutes of the meeting of June 4, 2008. There were no questions or comments offered by Members. It was then moved by Member Morioka and seconded by Member Piper to approve the resolution. By a show of hands, the motion passed 12 to 0 with 6 excused (Members Bradley, Chinn, Dwight, Kobayashi, Liu, and Mukaigawa).

Chairperson Lai noted that Members Enomoto and Sokugawa were present.

III. REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Anthony Ching noted that the full Executive Director's report was enclosed in the packet distributed to the Authority members and presented a summary of his report via a power point presentation (Exhibit A).

Mr. Ching stated that the September 3 meeting would be held in Kalaeloa/Kapolei. The meeting would be held at the Department of Hawaiian Home Lands ("DHHL") conference center. The agenda would include a mix of Kakaako and Kalaeloa issues, and a tour of the Kalaeloa District would be conducted. The October meeting is scheduled for Kakaako, and a public hearing on the General Growth Properties ("GGP") master plan application was anticipated. Final action on the GGP master plan would take place after the October meeting.

Member Timson asked whether the subcommittee formed at the June meeting would be working on MOUs with the other landowners on the Kalaeloa. Mr. Ching responded that the subcommittee would provide its report in a future meeting.

Member Timson thanked the staff for pursuing a meeting with Congressman Abercrombie.

#### IV. ITEMS FOR INFORMATION

##### A. Kalaeloa Status Report

Tesha Malama, Director of Planning and Development for Kalaeloa, summarized her written report enclosed in the packet distributed to the Authority members. She highlighted the revitalization of the Geiger Gate entry on July 15, 2008 and stated that more information about the volunteers and the contributions, both financial and equipment, would be provided in the next month's report. Financial contributions were still being received, and she felt the total expenditure would be under the budget amount approved by the Authority.

##### B. Navy Report

Ms. Malama noted that the Navy report was in the packet provided to the Authority. She stated that the Ewa Marine Corps Air field may be eligible for the National Register of Historic Places, but parts of the air field site overlap with the property proposed to be conveyed to Hunt/Ford Island Properties and the DHHL.

Member Timson complimented Ms. Malama for organizing the beautification work on Geiger Gate.

Member Timson commented that more information was needed from the Navy on the status of the negotiations with Hunt. She stated that this message should be conveyed to Congressman Abercrombie.

Member Souza inquired about the status of \$300,000 that was released to the Department of Transportation ("DOT") for the beautification of Roosevelt Avenue.

Member Morioka clarified that the funds would be used for maintenance and not beautification. The DOT was already in discussions with one of the Kapolei developers to install a roundabout at Roosevelt and Fort Barrette Roads. He noted that a roundabout work group had already met and design work was in progress.

Member Morioka stated that the long term agreement with the Navy for roads in Kalaeloa involved the transfer of certain roads to the City and certain roads to the State. When the roads under State jurisdiction are brought up to current City

standards, the roads would be accepted by the City. An estimated \$40 million would be required to bring all the roads up to standard.

Chairperson Lai noted for the record that Member Liu was present.

C. Hawaii Public Housing Authority Report

Adam Burson, project lead for the Hawaii Public Housing Authority's ("HPHA") shelter in Kalaeloa, summarized the report from the HPHA.

Mr. Burson stated that the date for opening Building 36 as a shelter for the homeless had been pushed back due to construction issues. The Honolulu Community Action Program ("HCAP") would be running the shelter and the new start date is September 1. The shelter would serve singles and couples and can hold up to 250 people.

Transportation for the Kalaeloa shelter is an issue right now. There is a shuttle that goes around to different shelters and takes people to the Kapolei transit center. The trial period has ended, but the \$300,000 operational budget is too costly to be funded by the different shelters. HPHA has extended the trial period for another month, and Member Saito has been working with Sandra Miyoshi, HPHA administrator of homeless programs, to look for other sources of funding. Without the shuttle, shelter residents would have to find other transportation or walk a mile and a half to the transit center. They are looking at reducing the schedule or presenting the route and ridership numbers to have City bus service in Kalaeloa. The agency currently handling the shuttle service is H5, who also operates the Next Step Shelter in Kakaako.

Member Souza asked what items were included in the \$300,000 budget. She thought it was originally going to be a voluntary service with residents doing the driving.

Mr. Burson stated the budget included drivers, repair, maintenance and gas costs for an 18 passenger van and a large bus. Roughly 200 people a day are using the shuttle service, requiring the use of the bus.

Member Saito stated that it was not practical for each of the shelters to be driving vans with separate schedules. As a result, the shuttle is operating very frequently with four commercial driver's license ("CDL") drivers. During the peak periods in the morning and early evening, a Roberts tour bus is used and operates every half hour. In between, the smaller van is used during the day to run the circuit. They are trying to compile ridership information to convince the City to run City buses.

Member Souza agreed that City buses would be the more prudent way to provide the shuttle service and noted that finding \$300,000 of savings in any program would be a daunting task.

Member Timson commented that the shuttle service is something that must be provided. The community welcomed the homeless shelters and considered them as a part of the community. The residents need to get around like everyone else so that they are a part of the community. It took a year to organize the shuttle service, and she hoped that a way would be found to continue the service. Otherwise, they would have to walk on the shoulder of the roads which was what happened prior to the shuttle service.

Ms. Malama noted that a meeting is scheduled for August 11 to look at all possible ways to change the schedule. At the present time, the shuttle operates Monday through Friday from 7:00 a.m. to 8:30 p.m. on a half hour basis. On the weekends, it operates every 45 minutes to an hour. The bus takes the brunt of the ridership during the early morning to get the shelter residents out to work and then in the evenings to bring them home. For the basic route, the bus starts out where most of the shelters are located and goes to the Kapolei Transit Center so they can get to work from there. With the vans throughout the day, the drop off is at Kapolei Transit Center and then at the shopping center.

Piper stated that he would like to state for the record that the shuttle is a necessary service. However, he requested that the service be kept at a very reasonable level. Since part of the budget was being eaten up by the scheduling, he was glad to hear that efforts were being made to examine the schedule.

Member Chang asked whether one of the reasons the City bus didn't go to Kalaeloa was because there were no sidewalks installed, and sidewalks were one of the things required as a part of the infrastructure for the buses to run. She inquired as to what communications have gone on with the City to determine whether it was ridership or infrastructure that was needed for the City to operate the bus service.

Ms. Malama stated that it was the ridership because the City's decision regarding bus services was made prior to establishment of most of the shelters and the rental project. Prior to the start up of the shuttle service, they met with City transportation director Wayne Yoshioka whose direction was to get the ridership numbers and report back. She has also met with Council Member Apo to discuss the shuttle service.

Member Saito stated that H-5 currently provides the shuttle service provider at no cost to the shelters. The \$300,000 was a projected cost of operation on a yearly basis if the current frequency, routes, number of CDL drivers and vehicles were

continued. After reviewing the ability of the shelters to pay, and/or the ability of the shelter residents to buy tokens to ride, the cost was deemed too high. Even H-5 notes that it is just a temporary measure until the City is able to run bus service throughout Kalaeloa.

Member Timson stated that the State needs to take the leadership on this issue. When the shelters came out to Kalaeloa, they were part of the Governor's emergency proclamation and did not involve the City. She felt the State needed to bring this to a successful conclusion.

Member Souza agreed with Member Timson that the State had a responsibility to keep the shuttle operating, but within reason.

There being no further questions and comments, a recess break was taken at 9:48 a.m. Members Enomoto, Sokugawa, Souza and Timson exited the meeting at 9:48 a.m. The meeting reconvened at 9:49 a.m.

D. Kewalo Basin Rules

Chairperson Lai noted that the Kewalo Basin Rules were on the agenda as an information item only. Before staff's report, he invited members of the public to provide public testimony on the subject.

Mr. Gary Dill provided his testimony. He introduced himself as a commercial fisherman for 20 years in Kewalo Basin, and as a member of the Kewalo Ocean Activities ("KOA"). He asked the Authority to consider removing the following sentence from the HCDA website: "At the suggestion of the existing stakeholders, a two-tiered rate schedule is proposed by HCDA." He stated that KOA was opposed to a two tiered rate schedule.

He stated that over the past 17 years, Kewalo Basin had always operated with overages, and had been able to pay for all of its maintenance costs until the last couple of years. He stated that a two tier structure was unnecessary, and the money would be available by simply continuing with a single rate structure.

Mr. Mike DeRego provided testimony. He stated he is also a member of KOA which has about 40 or 50 active members. He provided a handout for Authority Members to read. He stated his opposition to the two tier structure.

He commented that the suggested permit form was a seven page document versus the one page document that is currently used with the DOT. He stated that KOA is opposed to any rules being accepted unless the permit has been accepted.

Mr. DeRego stated that he was opposed to the slip priority system and mixed use. The possible planned expansion of Honolulu Harbor would result in the displacement of commercial boats. Kewalo Basin was built for and operated with

the commercial fishermen. Since commercial fishermen spend a significant amount of time at sea, they are assigned temporary permits when they are in port. With mixed use, a pleasure boater might be assigned the slip, and the commercial fisherman may never get it back. He felt something was needed in the rules to state how the slips would be assigned to prevent them from being assigned to pleasure boaters.

Mr. DeRego stated that Section 15-212-29, was contradictory to the section regarding transfer fees which stated that no premium fee would be assessed. He requested that the language regarding transfer fees be further defined and clarified.

Mr. DeRego questioned the rules regarding the description of crafts. The rules define small craft as a vessel under 65 feet; however, there was no definition of craft over 65 feet. Clarification was needed on application of the rules to vessels over 65 feet.

In closing, Mr. Derego stated that in order for the “charm” of the harbor to be restored in Kakaako Makai, commercial fishing and charter fishing need to be kept. KOA feels that the rules are too ambiguous.

Mr. Reg White provided his testimony. He stated he has been a licensed merchant marine officer for 54 years and worked for Paradise Cruise out of Kewalo Basin for about 30 years. Kewalo Basin has been the home of Paradise Cruise for just over 50 years. The run down conditions have occurred during HCDA’s watch. According to the State Auditor’s budget, the Basin produced about a \$350,000 - \$370,000 surplus over its operating expenses that could have been used for maintenance every year. There should be about \$4.5 million, which is about what is said to be needed now to fix the piers. He questioned why rates needed to be raised to pay for the repairs when they had already paid for them. Representative Tom Brower issued a newsletter to the Waikiki residents’ association of which Mr. White is a board member which stated that Act 158 on June 10 of this year provided \$4.5 million in funding for improvements to Kewalo Basin. There is no justification for raising the fees.

Mr. White stated that his company’s boats have worked for 50 years with a one page permit. During that time, his company has contributed millions of dollars into the coffers of Kewalo Basin at 1.85% of its gross revenue. The proposed permit is seven pages.

Mr. White stated that the rules were written by people who know nothing about harbors. There were six meetings with the stakeholders, and changes were made. However, the rules do not effectively allow proper administration of a harbor. The rules define a small craft as being under 65 feet and have rules pertaining to the small craft. Boats that are over 65 feet are not addressed, although seventeen of the long liners and cruise boats are over 65 feet. A cruise boat is defined as a

passenger carrying boat that's not fit for open ocean transit. However, his own particular boat came from Rhode Island through the Panama Canal on its own power, so it is ocean capable. The rules prohibit small craft from anchoring in the middle of the channel, but don't prohibit anything that's not under 65 feet from anchoring in the middle of the channel and disrupting traffic. Any vessel that's over 65 feet has to get cleared with the harbor master before they're allowed to move, but a vessel under 65 feet would be able to move whenever it needs to. The harbor master traditionally works Monday through Friday, 8:00 a.m. to 4:30 p.m. That would mean that a vessel could not move at 2:00 a.m. in the morning to go fishing.

Mr. White stated that the mix of commercial boats and pleasure boats would not work. At the Ala Wai boat harbor hearings, hundreds of people came down to protest that that it was unsafe to mix commercial vessels with pleasure boats. The same thing would apply to Kewalo Basin. The training level of pleasure boaters does not mix, and the entrance to Kewalo Basin is not nearly as safe or user friendly as the entrance to Ala Wai Boat Harbor. It is not something that can be considered from a pure safety standpoint if for no other reason.

Chairperson Lai asked if there was any other person who wished to comment on this item for information. There being none, Mr. Ching was asked to provide staff's report on the Kewalo Basin Administration Rules.

Mr. Ching noted that a copy of the presentation made to the Small Business Regulatory Review Board ("SBRRB") regarding the existing version of administrative rules being proposed for approval was included in the packet distributed to Authority members.

Mr. Ching stated that since the judgment had been entered in the lawsuit affirming HCDA jurisdiction, he felt that HCDA needed to be prepared to take over the management of the harbor from the DOT, and in order to do so, rules would have to be in place to ensure transition. Rules would be necessary to provide HCDA the legal authority to carry out its responsibilities.

Regarding the question raised on HCDA's qualification to manage Kewalo Basin, Mr. Ching noted that throughout the competitive bid process, HCDA looked to secure a qualified and experienced harbor agent. The agency will work with DOT to effect a smooth transition. The current estimate is that the service will not exceed equivalent costs being incurred by DOT. The mandate is to plan and effect redevelopment, with the requirement to work with communities to effect change. Concern had been raised that arbitrary, capricious, or perhaps retaliatory treatment would be given to tenants due to their opposition to the transfer of jurisdiction. However, he noted that would not be the case since HCDA is a public, government agency.

With respect to the rule making process and timeframe, Mr. Ching stated that any additional stakeholder concerns regarding the proposed rules would be addressed. He noted that Mr. DeRego had called him by phone, indicated a few issues and offered to provide information. Upon receipt of that information, Mr. Ching would provide clarification to him. He noted that the SBRRB had unanimously approved a recommendation to adopt the proposed rules that would be forwarded to the Governor. After rules are adopted, HCDA had already asked stakeholders to submit nominations for an advisory group to assist with project design, operational issues and how it relates to management of Kewalo Basin. Interested parties, such as Save Kewalo Basin Park, would be included in the group since management of Kewalo Basin is linked. He stated responses would be made to requests for clarification and information, such as rates and public testimony as to whether there was a \$4.5 million dollar appropriation from DOT. Preliminary information from DOT was that authorization to expend up to \$4.5 million from the DOT Harbors special fund was indeed given, but it was not an appropriation.

Mr. Ching stated that HCDA would work with stakeholders on the form of the revocable permit. The length of the final permit would be determined by what needed to be contained on the permit. He noted that concern had been raised that the rules would allow the Executive Director to cause Tier 1 permittee fees to rise to Tier 2 levels. He clarified a Tier 1 permit meant that the slip being occupied was not in need of renovation, and therefore there is no prerogative to effect a change in the fee even if a simple repair was conducted at that particular slip.

Regarding transfer fees, Mr. Ching noted that there is a section on transfer fees, and the levels were set at zero dollars. Notwithstanding the mention of transfer fees, rules have the force of law and cannot be changed arbitrarily; therefore, unless HCDA went through the arduous task of amending the rules, the fee schedule will remain at zero dollars and would not be changed on a discretionary basis. He noted that certain issues affecting boaters and the operation of the harbor were outside the control of HCDA, the boaters or industry, such as the slowdown in the tourist market, rising costs of operations and regulatory environment in which fishermen operate. HCDA could, however, coordinate changes in the marketing and in the activity generators which are located adjacent to the harbor and how the harbor is presented. The burden of land-based improvements would not be placed on boaters, because they are not related to the harbor operations. The plan is to work with DOT on transition, secure appropriate review by the Governor's office, seek final approval of rules by the Authority, publish the rules, and work with the permittees and stakeholders to effect the repairs and necessary improvements to the Basin that have been identified thus far.

Chairperson Lai asked whether Members had any questions for Mr. Ching.

Member Okada asked whether there was a good pool of potential applicants for the harbor master position and whether stakeholders would have any input in the selection.

Mr. Ching replied that a competitive procurement process was underway, and certain qualifications were published that applicants would have to meet in order to be considered. He noted that HCDA is required to observe procurement law with respect to advertisement, bid, and the fair competition. Public comment in the procurement process is not usual.

Member Okada suggested that a harbor master with experience in harbor management should be in place to help with the rule making process.

Mr. Ching noted that it would be a possibility since the intention was to secure a harbor agent before the final transition takes place and allow for orientation to be given by DOT personnel.

Member Okada commented that there appeared to a misunderstanding among the stakeholders on the definition of the tiers.

Mr. Ching stated that there was a clear distinction between front row where certain improvements have been made historically. The herringbone and B, C docks clearly have issues and have been identified as in need of renovation such as replacement of the pier itself as well as the establishment of new utility connections and were subject to the Tier 2 fee schedule.

Mr. Ching stated that Tier 2 slips were clearly demarcated and separate from those that would be subject to Tier 1 rates. Unless currently earmarked or designated for Tier 2, a front row slip would remain Tier 1, notwithstanding the fact that repair and maintenance might take place.

Member Saito asked whether the issues that were raised by the public in the public hearings could be incorporated into the proposed rules as modifications and whether the modified rules had been run by the Attorney General's office to determine that they were not significant changes.

Mr. Kuitunen, HCDA Asset Manager, stated that there had been two rule changes, one was to bring the transfer fee down to zero, and the other was to reduce the berth fee from \$250 to \$125. The changes had been brought up by stake holders at the public hearings. The Attorney General was consulted and determined that they were not substantial changes.

Mr. Ching stated that the SBRRB would forward their recommendation to the Governor's office, and those same rules are with the Governor's office for review. Given favorable review, the rules would be presented to the Authority for final

approval. There would be an additional step after that to effect publication to file with the Lt. Governor's office.

Member Kimura asked whether there were rules regarding boats over 65 feet.

Mr. Kuitunen stated that this was the first time the issue had been brought up and the rules would be checked. He noted that the rules were based on DOT rules.

Member Kimura asked whether there was \$4.5 million available for harbor improvements.

Mr. Ching stated that his understanding that it was only authorization. The existing harbor agent had estimated that up to \$50 million would be needed to fix the existing harbor.

Member Saito stated that appropriation could mean one of two things. When the Legislature appropriates money, it can actually appropriate funding or it can establish a ceiling for expenditure. So in this case, the Legislature established a ceiling out of a special fund of up to \$4.5 million. It means you have authority to spend that amount, but you don't necessarily have the money to spend.

Member Piper asked for assurance that HCDA was reaching out to all the stakeholders as best as possible. He asked Mr. DeRego to clarify the number of commercial users who were represented by KOA.

Mr. DeRego responded that there were 53 active permits in the harbor, and 15-18 temporary permits.

Member Piper stated that it seemed as though the target for dealing with stakeholders keeps moving, and reiterated that he wanted to be sure we know what everyone's concerns are, that we are working with them and would continue to do so within the confines of the process that had already taken place.

Mr. Ching responded that the most recent meetings were conducted and notices, invitations, and materials were circulated amongst 82 people or entities which had been identified as existing permittees, whether permanent, annual or temporary within the harbor. In addition, there have been discussions with Kewalo Basin park people, who should be ultimately drawn into the greater discussion because they are related areas. At the June 18 meeting, HCDA solicited the group to offer on their own anyone else who should be represented in the group.

Member Saito asked when the proposed rules were expected to come before the Authority for approval.

Mr. Ching stated that it may be at the next meeting or subsequent to that.

Member Saito noted that there was discussion on whether vessels more than 65 feet were addressed in the rules. He felt it was a key issue because it involved commercial fishermen. If the rules did not reflect all of the stakeholder requirements, he questioned whether the Authority would want to vote on a set of rules that did not cover a portion of the users of the harbor.

Mr. Ching stated that he would be checking on that item as well as any specific provision for vessels over 65 feet and would report back on whether the rules needed to be changed.

Chairperson Lai asked if there were any other questions for Mr. Ching. There being none, Chairperson Lai introduced the next agenda item.

## V. ITEMS FOR ACTION

3. Shall the Authority Authorize the Executive Director to Amend the Memoranda of Understanding with the Department of Land and Natural Resources and Increase the Expenditure of Revolving Funds for Maintenance of Kewalo Basin Park, Kakaako Waterfront Park, and Makai Gateway Park?

Chairperson Lai solicited public testimony on this subject. There was no response from members of the audience.

Mr. Ching summarized staff's report which was included in the packet distributed to Members of the Authority.

Member Piper commented that while he supported having green parks, he also supported saving water and money. He inquired whether the watering schedule was being reviewed.

Mr. Kuitunen stated that a review is done on a weekly basis to adjust the schedule depending on the areas that were drying out or getting too much water. Rain sensors have been installed, so if there is more than 1/8 inch of rain, the sprinklers will not go on. There are 4 different zones, and they try to do all the watering at night. Not every spot is watered every day, and it is watered on different cycles. All 4 zones are not watered at the same time. Watering is done every night, but not every place in every park.

Member Saito questioned why the third park was not on the cost sheet.

Mr. Ching explained that one MOUs would be for Kewalo Basin Park and Waterfront Park, with a separate MOU for Gateway Park.

There being no further questions from the Members, Chairperson Lai entertained a motion to approve Resolution No. 08-0806-02 to amend the memoranda of understanding with the Department of Land and Natural Resources and increase

the expenditure of revolving funds for maintenance of Kewalo Basin Park, Kakaako Waterfront Park and Makai Gateway Park. Chairperson Lai amended the Resolution to specify the amount of the expenditure not to exceed \$188,000 per fiscal year plus utility costs estimated at \$198,297 per annum. Chairperson Lai asked if Members had any questions as to the amended Resolution. There being none, it was moved by Member Piper and seconded by Member Chun.

A roll call vote was conducted.

Ayes: Members Chang, Chun, Morioka, Kimura, Liu, Okada, Piper, Saito and Chairperson Lai.

Nays: None

The motion carried 9 to 0 with 4 excused (Members Bradley, Dwight, Kobayashi, and Mukaigawa) and excluding the Kalaeloa Members.

Chairperson Lai stated that Agenda Item for Action 4 regarding the Kakaako Public Facilities, Infrastructure Improvements and Planning Projects 5 Year Work Plan would be deferred and taken up after the Executive Session. Chairperson Lai asked for a motion to enter into Executive Session to discuss the following items:

5. Kewalo Keiki Fishing Conservancy

The Authority anticipates convening in Executive Meeting on the above item pursuant to Section 92-5(a)(3) and 92-5(a)(4), Hawaii Revised Statutes, to deliberate regarding the authority of persons designated by the Authority to conduct negotiations involving the acquisition of public property, and/or to consult with the Authority's attorney on questions and issues pertaining to the Authority's powers, duties, privileges, immunities, and liabilities in relation to these agenda items.

6. Development and Lease Agreement with the University of Hawaii for the Cancer Research Center of Hawaii

The Authority anticipates convening in Executive Meeting on the above item pursuant to Section 92-5(a)(3) and 92-5(a)(4), Hawaii Revised Statutes, to deliberate regarding the authority of persons designated by the Authority to conduct negotiations involving the acquisition of public property, and/or to consult with the Authority's attorney on questions and issues pertaining to the Authority's powers, duties, privileges, immunities, and liabilities in relation to these agenda items.

Chairperson Lai noted for the public that they would be asked to vacate the conference room while the Authority conducted their deliberations on the above matters. He estimated that the discussions would take approximately 45 minutes at which time the

Authority would reconvene. There were no questions regarding the procedures. Member Morioka moved to have the Authority enter into Executive Session. The motion was seconded by Member Saito. The motion carried 9 to 0 with 9 excused (Members Bradley, Chinn, Dwight, Enomoto, Kobayashi, Mukaigawa, Sokugawa, Souza and Timson).

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The Hawaii Community Development Authority entered in Executive Session at 10:54 a.m.

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Member Chang exited the Executive Session at 12:47 p.m.

It was moved by Member Kimura and seconded by Member Morioka to return to the regular meeting. The motion was carried 8 to 0 with 10 excused (Members Bradley, Chang, Chinn, Dwight, Kobayashi, Mukaigawa, Enomoto, Sokugawa, Souza, and Timson).

The regular meeting was reconvened at 12:51 p.m.

## VII. ITEMS FOR ACTION – CONTINUED

7. Shall the Authority Authorize the Executive Director to Enter into a Development Lease Agreement with the University of Hawaii for the 5.511-Acre Land Parcel Immediately Ewa of the John A. Burns School of Medicine for the Development of the Cancer Research Center of Hawaii?

Chairperson Lai solicited public testimony on this subject. There was no response from the audience.

Chairperson Lai introduced Dr. Gary Ostrander, Vice Chancellor and Dr. Carl-Wilhelm Vogel, Director of the Cancer Research Center of Hawaii (“CRCH”) who would provide a presentation on behalf of the University of Hawaii (“UH”).

Dr. Vogel provided an overview of the vision for a comprehensive cancer center. He came to UH in 1999 to take leadership of the. In order for CRCH to remain in the top league and be competitive, two major changes were required: (1) to increase its size and, (2) to become involved in clinical care. Clinical care is important not only for the research mission of the UH, but foremost for the quality of care for cancer patients. Cancer patients would not otherwise have access to the academic, comprehensive care of the cancer center. With this mission, the size of the medical school was increased with the development of the Kakaako campus. The initial phase at the medical school was the educational one, followed by research.

Dr. Vogel stated that in addition to standard space for a cancer center, there would be an outpatient cancer care facility that was endorsed by a blue ribbon panel formed by Governor Cayetano in 1999. In 2002, recommendations were made to the Governor that the state needed a comprehensive cancer center with an outpatient care facility and research center under one roof. It was recommended that the cancer center should be located at a neutral site away from any particular hospital to prevent competitive issues. As a consequence, then UH President Dobbelle asked HCDA to set aside the parcel ewa to the medical school for a cancer center.

President Dobbelle had promised to raise \$150 million, but those funds never materialized. By working with the legislature and government, a stream of money from an increased cigarette tax was identified. This funding will allow CRCH to build the facility with the potential to make a big difference in the quality of care for all patients in Hawaii. The demographics of our State are such that we are aging faster than the rest of the country; so the percentage of individuals in our state over 55 is increasing more rapidly. That means we are facing more cancer patients because cancer is predominantly a case of increases in age.

Dr. Ostrander stated that the UH is a land grant university with a mission of teaching, research and service. The CRCH would exemplify how the UH was able to conduct all of those missions simultaneously. The big winners in the long run will be the citizens of Hawaii. It is a reality that one in three persons will have to deal with cancer in our lives personally. The UH administration, president, and chancellor are committed to this project. They have been working on parallel processes to not only try to get the lease agreement in place, but to work with the developer and partners in the community.

Member Piper asked for clarification on whether funding was in place to develop the CRCH.

Dr. Vogel stated that the cigarette tax was increased, and collections are currently \$1.4 million a month. In October, that amount will more likely rise to \$1.8 million a month, or approximately \$20 million a year. Their business plan calls for using this funding stream to basically pay the lease rent to the developer for the construction of the building. A portion of that money will be available to increase faculty and be used toward the operation, equipment and other things needed to maintain a competitive academic and research center. When questioned by Member Piper, Dr. Vogel stated that CRCH would be 100% funded.

Member Liu stated that there was a high level of concern by the Authority of how the lease agreement had been negotiated. He noted that it had been represented to the board that the cancer center's accreditation by the National Cancer Institute ("NCI") would be at risk if it did not have the new facility. He asked Dr. Vogel if that could be confirmed for the Authority.

Dr. Vogel stated their NCI designation was not in jeopardy whether they had this building going on or not, and having the facility would not guarantee accreditation. However, not having the facility would make the competitive renewal process much more difficult and problematic.

Member Liu stated that certain issues had been discussed for several years which needed to be resolved together with the CRCH lease. These issues included the UH Pacific Biosciences Research Center (“PBRC”) site, common area maintenance (“CAM”), and parking. He stated that parking would have to be addressed in order to make Kakaako a vibrant location not only for life sciences, but for the other uses envisioned. He asked why none of the issues were included in the form of the lease agreement submitted by the UH.

Dr. Ostrander stated that it was mostly a matter of urgency to get the lease agreement done. In conversations with Mr. Ching and others, UH had agreed to vacate PBRC and has already advised their faculty that PBRC will be vacated. Their attorneys will work on a separate agreement to handle it. Regarding the issue on parking, UH could not sign off without knowing what the price would be. In the course of negotiations with HCDA, UH reached a compromise and accepted responsibility for at least \$20,000 a space. Also, UH would be willing to pick up the CAM fees. The urgency is for UH to have this agreement executed immediately. They are working a business plan that needs to get back to their Board of Regents.

Member Liu noted that, as the UH has agreed to vacate PBRC in 5 years and has agreed on certain parameters to address parking, whether those agreements could be embodied in a side agreement that could be put in place concurrent with the signing of the lease agreement.

Dr. Ostrander stated that he would have to take the side agreement to the Board of Regents for approval and the earliest date would be the September board meeting. Since there are 20-23 years left on the PBRC lease, he was advised he would have to go before the Board and explain why the lease was being vacated. Likewise the board would have to approve the parking agreement if a significant expenditure is committed.

Member Liu asked whether what financial commitment level was within the discretion of the administration.

Dr. Ostrander stated that up to a million dollars was within discretion of the UH administration. He noted that he had directed his attorneys last week that as soon as the lease agreement was completed, they would need to get the parking and PBRC portions of the agreement done.

Member Morioka asked for clarification on what required CRCH to have a signed lease agreement in two weeks.

Dr. Ostrander stated that their grant was a five year term. An external site visit team comes out and reviews CRCH every 3-5 years depending on the cycle. At the last cycle, the site team was promised that there would be a building, so UH needs to be building by 15 or 18 months from now when the site team returns. The site visit team that visited in February was very clear in their oral communication and summary document that President Dobelle and President McClain for five years had promised certain things, and those things have not happened yet. If those things are not in place or very obviously far along by the time the site team returns in 15 months, the NCI designation would not be renewed and the cancer center would not be funded.

Dr. Vogel clarified that having the building was not the only factor in the review criteria, but also whether the University has followed through on other commitments. The commitment to develop the center was made in 2004, but as of 2008, there is still no building. What was important was to follow through on commitments made to the review body of the NCI from which UH receives money.

Member Morioka questioned whether there would be harm in waiting until the next Regents board meeting to have a document that would be palatable to everybody. It would provide more time to work the issues out instead of trying to cram five years of effort into two weeks. He noted that the DOT is in the construction industry, and from his experience he did not think CRCH would be ready to get into the ground in just 15 months. Whether the lease agreement was signed in two weeks or four weeks, the UH would still not be in the ground in one year.

Dr. Ostrander stated that they may or may not be since the UH had brought developers in a couple of years ago and had already done some preliminary programming.

Member Liu asked at what point would a change become material enough or substantial enough that it would have to go back to the Board of Regents.

Dr. Ostrander stated that the lease agreement was eighty pages long, and the major terms sheet that he presented to the Board of Regents was two pages single spaced. He felt he could only speculate on which points would be substantial enough changes and that would need to go back to the Board.

Chairperson Lai reiterated Member Morioka's question about the need for more time, because the Authority understood that the initial lease document had only been received four weeks ago.

Mr. Ching noted that HCDA had received the final copy on August 4, but it had been transmitted on Sunday, August 3.

Dr. Ostrander stated that review of the lease document with HCDA had been ongoing for about a month and a half. There were three minor points that were very much in favor of HCDA that UH had put into the document, but in terms of substantive changes there had not been changes for some period of time.

Member Saito noted that Dr. Ostrander had summarized the eighty page lease document into two pages for the Board of Regents. Member Saito stated that the Authority had gone through the document and outlined those areas of concern that they wished to have addressed, or possibly changed. He asked whether a determination could be made as to which ones of these changes were significant enough that Dr. Ostrander or President McClain could not sign without going back to the Board of Regents.

Dr. Ostrander stated that all he would need to know is what the changes are, and hopefully they could start looking at it over the weekend and provide a response pretty quickly.

Member Liu stated that the Authority was in a position to authorize Mr. Ching to sign a side agreement that satisfactorily incorporated those issues and not have to wait until the next Authority meeting. Certain other important issues, if not resolved to Mr. Ching's satisfaction, would cause the lease to not be signed and would have to wait until the next Authority meeting. There were certain issues in the lease agreement, because they believed it was received late, that the Authority had some concerns over. Mr. Ching had been advised by the Attorney General's office to try to figure out how these issues could be incorporated into the lease agreement. If it could not be incorporated into the body of the lease itself, the Authority was open to having a side agreement that could be put into place concurrently with the lease agreement. Member Liu agreed that a commitment for tens of millions of dollars in parking costs would have to go the Board of Regents, but stated that the Authority was not asking for that commitment at this time. However, there would need to be an acknowledgement by the UH that the parking solution was an issue that has to be resolved. He stated his hope that the issues could be worked out at a level that would not require either the Board of Regents or the Authority to get involved. And then within a set period of time, there would be a lease agreement that Mr. Ching could execute and move forward with.

Chairperson Lai asked for a motion that would authorize the Executive Director to enter into a lease agreement with the University of Hawaii and/or a supplemental or side agreement, to the extent that it could be embodied with the lease agreement.

Member Liu stated that Mr. Ching would be authorized to negotiate, along with the Attorney General's office, to resolve the issues that had been discussed by the

Authority, and to execute the agreement and/or agreements without having to come back to the Authority.

Member Saito added that the changes the Authority wanted to see in the lease agreement would be made available to the UH and be part of the discussions between Mr. Ching and the UH in determining whether or not to accept the lease.

Member Liu noted that the changes would come primarily from the Authority's counsel.

It was moved by Member Liu and seconded by Member Saito to approve Resolution 08-08060-05.

A roll call vote was conducted.

Ayes: Members Chun, Liu, Kimura, Morioka, Okada, Piper, Saito and Chairperson Lai.

Nays: None

The motion carried 8 to 0 with 5 excused (Members Bradley, Chang, Dwight, Kobayashi and Mukaigawa) and excluding the Kalaeloa Members.

Member Saito stated for the record that he would expect to have the lease agreement signed. If not, any unresolved issues would have to be presented at the next Authority meeting on September 3 to decide what action to take relative to this matter.

Chairperson Lai stated that due to time constraints, Agenda Item for Action 4 regarding the Kakaako Public Facilities, Infrastructure Improvements and Planning Projects 5 Year Work Plan would be deferred until the next Authority meeting.

## VIII. ADJOURNMENT

There being no further business, it was moved by Member Liu and seconded by Member Saito to adjourn the meeting. The motion passed by a show of hands vote 8 to 0, with 10 excused (Members Bradley, Chang, Chinn, Dwight, Kobayashi, Mukaigawa, Enomoto, Sokugawa, Souza, and Timson). The meeting adjourned at 1:30 p.m.

Respectfully submitted,

/s/

Amanda Chang  
Secretary