KAKA'AKO MAKAI COMMUNITY PLANNING ADVISORY COUNCIL DRAFT MEETING SUMMARY

Meeting No. 9 January 15, 2008, 5:50 – 7:30 PM John A. Burns School of Medicine, Room 301

Facilitators: Karen Cross, Kem Lowry

Recorder: Anne Smoke

Attachments:

- A. October 25 and December 4 Final Meeting Summaries.
- B. CPAC Operations Officers Responsibilities and Nominations
- C. CPAC January 15, 2008, Speaker Profiles
- D. Video and Tape Recordings of Speakers' Presentations
- E. Hawaiian terms related to the A*hupua* 'a Presentation (posted on HCDA wed site only)
- F. Ahupua'a Map (posted on HCDA web site only)
- G. CPAC Voting Procedures
- H. Officers Nominations Procedures (PowerPoint)
- I. Sample Vision Handout, Kaka'ako Makai Stakeholder Interview List, and CPAC Participating Member Submittals
- J. CPAC January 15, 2008, Meeting Attendance List

The CPAC meeting convened at 5:30 p.m.

I. Welcome and Overview (Kem)

- Approval of Oct. 25, 2007 Draft Meeting Summary
 The CPAC moved for approval and adopted the October 25, 2007 draft Meeting
 Summary by consensus.
- Approval of December 4, 2007 Draft Meeting Summary
 The CPAC moved for approval and adopted the December 4, 2007 draft Meeting
 Summary by consensus.
- A visioning exercise was introduced (see handout "I"). The CPAC members were asked to write down their preferences for key terms in a vision statement for Kaka'ako Makai during the meeting on the 5 x 7 cards handed out with the

packets. A one-page summary of sample vision statements was distributed with the examples for CPAC participants to consider.

- Kem reviewed the objectives of the CPAC to identify guiding principles and develop a collective vision.
- Kem announced that Mark Wong will be recording the two presentations on video to capture the detail, and the video will be posted on the HCDA web site with the CPAC Meeting Summary.

II. Introductions

CPAC participating members and guests gave their name and affiliation. (See attendance list at the end of this meeting summary.)

III. Presentations and Q & A

(Also see video and voice recordings of presentations attached on HCDA web site)

- A. Overview of Kaka'ako Makai Oswald Stender
- Oz Stender noted that ceded lands have been widely misunderstood since they were designated. He presented a brief history of land ownership in Hawai'i beginning with the *mahele*, the Westernized land division of 1848, explaining that land ownership was not a part of the native Hawaiian culture because native Hawaiians used the land to benefit the land and the people. When the *mahele* was declared, one third of the land in Hawai'i was set aside for members of the Hawaiian Monarchy, one third was set aside for the Hawaiian government, and one third for the *maka'ainana* native Hawaiian ownership. At the time this totaled 1.8 million acres.
- In order to receive entitlement to Hawaiian lands, native Hawaiians had to register in Honolulu. Ultimately, of all land set aside for the *maka 'ainana* only 2 percent was signed for by native Hawaiians due to the disadvantage of language and other cultural and communication barriers.
- In 1898, when Hawai'i was annexed to the United States, some of the lands that had been designated for native Hawaiians that were not claimed were occupied by plantations and non-native Hawaiians. In addition, the former monarchy's Crown lands and the Hawaiian government lands that approximated 1.2 million acres were claimed by the U.S. federal government. During the period between 1898 to statehood in 1958, the U.S. federal government appointed a governor of the Territory of Hawaii, who managed the land assets of the territory, and the governor had the authority to transfer land between government agencies or sell these lands. Upon statehood, of the .1.8 million acres taken upon annexation, 1.2 million acres were returned to the state, and these are called the ceded lands.
- Today the U.S. federal government still occupies and controls 600,000 acres of Hawaiian land.

- When Hawai'i was granted statehood in 1959, according to the Organic Act signed by the U.S. Congress ceded lands were designated for five uses: education, public uses (harbors, airports, parks, public infrastructure, etc.), health care, government, and betterment of conditions for native Hawaiians.
- In 1978 the Constitutional Convention introduced the concept of the Office of Hawaiian Affairs (OHA). This was consistent with the Organic Act and was ratified by Hawaii voters the same year. OHA was assigned the management in trust of 20% (1/5) of the ceded land revenues to use for the betterment of native Hawaiian descendents to improve their quality of life.
- The uses of revenue from ceded lands have been a source of continuing legal debate between the State and OHA. The airport, which is on ceded land, is a good example. OHA officials believe that 20% of all airport revenues, including landing fees and Duty Free rents, should go to Hawaiians. But a state-supported federal regulation reserving airport revenue for airport operations restricts OHA access to these revenue sources. An alternative would be to substitute the Waikiki Duty Free store revenue.
- In 2006 an agreement was reached between OHA and the State to repay to the native Hawaiian trust \$15.1 million annually from ceded land revenue, which represents 20% (1/5) of the revenue the State derives from ceded public land. However, to date no agreement has been reached about OHA's claim to ceded land revenue retroactive to OHA's establishment in 1978.
- It is estimated that \$200 to \$400 million from ceded land revenue is owed to the native Hawaiian trust.
- OHA's interest in Kaka'ako is a new office building and cultural center proposed for the 'ewa side of the waterfront park. OHA has determined that this is the best piece of property available because it is close to the urban center for interaction with government on behalf on native Hawaiians, and most importantly, it is accessible to the ocean. OHA views the project as a gathering place and site for cultural practices, with lo'i and a canoe halau in addition to the OHA offices.
- If the Hawaiian Nation initiative comes about, OHA's planned offices would become the offices of the new Hawaiian nation in place of OHA.
- Oz described the importance of Akaka bill in terms of 1) recognizing that native Hawaiians are indigenous to this land, and 2) protecting the entitlements that Hawaiians receive today against current legal challenges, such as their education. He emphasized that the salvation of Hawaiians will be through increased education, as also recognized by Princess Bernice Pauahi Bishop in her will. Improving the quality of life for Hawaiians through education is one of OHA's foremost initiatives.
- In 1993, the US Congress adopted a formal apology for illegal annexation of Hawai'i in 1898, because there was never a law enacted by Congress authorizing the

- annexation. The Akaka bill will help to ensure that the rights of Hawaiians are protected. In addition, it creates a process for Hawaiian self-governance.
- With ceded land revenues OHA can play an important role in the betterment of Hawaiians and protecting native Hawaiian rights, including education from preschool to doctorates, as well drug treatment and rehabilitation.
- B. The Hawaiian *Ahupua'a* Ramsay Taum
- Ramsay, a Hawaiian cultural practitioner, began his presentation with a series of Hawaiian Cultural definitions. A contemporary understanding of the meaning of *ahupua'a* is a pie-shaped land area with boundaries that run from the mountain ridge to the shoreline. The *ahupua'a* model recognized an upstream-downstream relationship of people to place which also fits the contemporary understanding the all lands in Hawai'i can be considered coastal in nature.
- The relationship of people to place frames the discussion of *ahupua* 'a. To understand *ahupua* 'a, it is important to recognize and acknowledge the important relationship that native Hawaiians' have with their environment. The *ahupua* 'a is a spiritual collection of systems, and the divisions of land and responsibilities for land stewardship are linked. Each island, or *mokupuni*, is divided into districts, *moku*, which are divided into *ahupua* 'a, which are in turn divided into smaller areas called *ili*, *ilikupono* and *kuleana*. It was in these areas that the management of resources and distribution of work was divided.
- Within the *ahupua* 'a are areas of *kuleana*, and Hawaiian access to the rights, privileges, and benefits associated with *kuleana* requires the acceptance of responsibilities for stewardship that are linked to these rights and privileges.
- The reality is that the *ahupua* 'a is a production system, that is a "system of systems" that guides peoples' behaviors which ultimately result in proper management of the resources. In the *ahupua* 'a system the appropriateness of human uses and activities depended in part upon their location within the system and the appropriateness of use, such as growing food for survival *mauka*, and fishing *makai*.
- Applying the simple Western concept of "resource management system" to the *ahupua* 'a misses the point and only defines the outcome. Rather it is the process of management and the *kuleana* associated to living within the *ahupua* 'a that is the central point. In other words, the *ahupua* 'a is the management of lifestyle behaviors predicated on spiritual and cultural practices.
- There were three areas of an *ahupua'a* where specific practices took place: the *ma uka* (upland), *mawaena* (central), and *ma kai* (seaward). There was a place for human activity called the *wao kanaka*, and an area restricted for the gods called *wao akua*.
- The source point from which the fresh water comes is sacred, and its use for purposes not acknowledging its importance is inappropriate. Foe example, the uses of water upstream are important because they affect the quality and uses of water downstream,

and if the water is blocked or diverted upstream there are serious consequences downstream. Because the uses of water upstream are important and affect other important uses downstream, the names given to each area reflect the practices that took place there.

- Today *ahupua* 'a also can be used as metaphor for principles of resource and behavior management within contemporary business models. Vertical business structures, similar to military command and control, contrast with the *ahupua* 'a concept of everyone working together and accepting their *kuleana* within the business, which is the horizontal concept of collectively working together to realize the success of the entire *ahupua* 'a, where the individual responsibilities create success for the whole.
- In addition, the concept of *ahupua* 'a can be applied to contemporary land use practices such as carrying capacity. As we increase and develop a greater level of care for our place, or *malama* 'aina, and one another, we begin to develop practices, policies and procedures that acknowledge our *kuleana* within the *ahupua* 'a and increase and accept a greater level of care, i.e., conservation. Other islands are beginning to establish contemporary *ahupua* 'a. For example, every island is a watershed, and by applying the concept of *ahupua* 'a watershed management can be used as an example of how best management practices can come about.
- Ramsay concluded by saying that the *ahupua* 'a is more than a physical place. It is a concept, a practice, and a philosophy. He also reiterated that the *ahupua* 'a does not end at the reef or at the mountain peak it is where the responsible activity takes place within a valley system, which includes the air, winds, rains and the cultural practices, or within an ocean area as distant as where the fish are caught.

Questions and Answers:

- Q: What does *makai* represent within the *ahupua'a* metaphor?

 A: Ramsay answered that physically it is the shoreline, or the lower system where things enter or exit. Historically, according to Hawaiian values humans evolved from the sea over sixteen time periods. This was the beginning because of the notion of everything coming from the ocean, with the water being the source. We come from the *makai* and develop with time and effort to become *mauka*. To the Hawaiian culture, Mother Earth is Mother Ocean.
- Q: Explain the moving boundaries within *ahupua* 'a. A: Ramsay explained that *ahupua* 'a are acknowledged for the resources found within them, and they can move with these resources, such as fishing areas. Most *ahupua* 'a have access to the ocean but some do not, so they would work together to provide the resources. It is a matter of responsibility within each section of each *ahupua* 'a that relates to the collective effort put forth according to its resources.
- Q: Regarding plans for OHA headquarters, would it be possible for OHA and the CPAC to join together for waterfront park uses, and bridge the canal to a performing arts center for hula practiced openly and freely, and integrated within the shoreline open space?

A: Oz answered yes. Because of the tsunami zone, by fill or structure the OHA building will be raised to the same level as the waterfront park, and there are plans to bridge over the canal. A hula area with direct relationship to the ocean is planned for the OHA site, and OHA also hopes to collaborate with the Polynesian Voyaging Society to house the Hokule'a at the planned Hale Wa' a

- Q: Regarding location of the new building in the tsunami zone, how recent is OHA's data? Does it factor in global warming and sea level rise?
 A: Oz replied that architects and planners are considering green technology for buildings open to the natural environment. They are also considering climate change issues.
- Q: Who makes the *kuleana* grant within the *ahupua* 'a and monitors the behavior of the mangers of the grants? A: Ramsay described the historical Hawaiian award system for delegating responsibility for stewardship, or *kuleana*, as being the greatest benefit to the collective community where the awardee, or konohiki, were responsible for realizing the fullest potential of their portion of the ahupua'a. The kuleana was a gift of the chief for service of a space awarded until it could not be cared for. The ahupua'a included family members caring for their kuleana, and if they abandoned or abused their kuleana someone else could take over this responsibility. Ramsay pointed out that this is very different from today's eminent domain or adverse possession. .According to the concept of *kuleana*, rights and privileges were connected to the living responsibility of caring for the land. The *mahele* is referred to as a case where there was a misunderstanding of the *kuleana* for the land, and interpreting trust law of the 1870's ignores important Hawaiian concepts of privileges. Today's terminology does not apply to historical principles and vice versa, and this continues to foster challenges of title between Hawaiian law, and U.S. legislated law.
- After further clarification was requested, Ramsay stated that based on Hawaiian principles, when you sell the deed you are not selling the land but the *kuleana*, or responsibility for stewardship of the land. He suggested considering what entitlement means according to Hawaiian law versus contemporary law, while remembering that over the centuries the grant started with the island chief, then went to the Hawaiian monarchy, then was translated to U.S. legislative and constitutional law, and then to State law. Thus the meaning of ownership changed along the way.
- Q: Should we have an understanding of how Kaka'ako functioned previously, and should this be incorporated into the CPAC's decision-making?
 A: Ramsay answered yes. Appropriateness of land use is an issue that should be considered and must be acknowledged. Kaka'ako Makai is on the cusp of Nu'uanu, and that should be the *ahupua'a* that is studied. Also, the name of the area should be studied and understood. The word Kākā'āko describes something that is slow and dull, yet Ka-ka'a-ko means energetic and lively. Ramsay emphasized the importance of a name and how it can influence the activities that ensue in a place. He gave examples of certain names to demonstrate how meaning and concepts describe

activities of the area. To understand Kaka'ako completely, one must study and understand the name and its meaning, and how both have evolved over time.

- Q: Can you expand on the concept of *ahupua* 'a and community regarding delineation of classes?
 - A: Ramsay stated that with contemporary thinking we tend look at similarities, think one size fits all and that things don't change. The *ahupua* 'a principles and concepts have evolved over time. Even the concept of ali'i changed over time. In the 14th and 15th centuries there was only the *ahupua* 'a concept and the *ali* 'i structure was introduced with subsequent colonization. Also, suggesting that the *ahupua* 'a was or is a perfect system ignores some of the consequences of the land use and management over time which served the needs of that time only, such as obliteration of native forests.. Using ahupua'a as a metaphor for an ideal system has its merits but can also overlook important issues. Ahupua'a is place-based so we need to ask if we can apply place-based concepts anywhere. Best practices are place-based and culturebased as needed for conservation and preservation. Ramsay later noted that in the Hawaiian social structure, Ali'i and Ali'i 'Ai Moku have different meanings. The contemporary meaning of Ali'i is negative, as in taxation. Ali'i 'Ai Moku has a more positive nuance reflecting responsibility for an area. The maka 'ainana were responsible for caring for the land and food production, and the whole ahupua'a system was based on productivity related to the management by Ali'i 'Ai Moku.
- Q: What would OHA do with money that is owed to them if they received t it?

 A: Oz answered that the funds they have are used for the betterment of Hawaiians, with education being the highest priority. Many native Hawaiians don't know how to cope in today's society, so OHA has made it their priority to assist them with learning to cope. Charter Schools, UH and Kamehameha schools are examples where educational programs are being developed to serve Hawaiians. Oz noted that Hawaiians represent 20 percent of total population and 40 percent of student body in the public school systems; the homeless are mostly Hawaiians and incarceration is mostly of Hawaiians. Thus OHA needs resources to make positive changes regarding these issues.

IV. Voting Procedure Discussion and Consensus

(See Attachments G and H)

- A. Steering Committee's Voting Eligibility Proposal
- Karen reviewed the nomination instructions that describe the formula for eligibility
 proposed by the Steering Committee: in order to vote for officers, a CPAC member
 should have attended any four out of seven of the past CPAC meetings, including this
 meeting. The floor was opened for questions and discussion prior to voting on the
 proposal.
- Q: How many people at this meeting had attended the required number of meetings needed to vote?
 - A: A count of hands revealed that twenty-one people indicated they were eligible, and nine indicated that they had not attended enough meetings.

- A Steering Committee member commented that the Committee deliberated carefully on this, and found it important to have a formula that provides eligibility for voting, and this was determined to be those who consistently attend the CPAC working group meetings to understand the process and build the information base that will be needed. As such, these are the people who can vote knowledgeably to achieve a comprehensive and credible result based on a good understanding of what has taken place at the CPAC meetings. In addition to this key attendance factor it is also important through this process to become familiar with the people who are being nominated and are candidates for the operations officers seats, what their abilities are, and what they can contribute.
- Q: How is attendance determined and recorded?
 A: Sign-in sheets at each meeting record attendance. Meeting notes also list all names of people who attended.
- It was noted that the Steering Committee voted unanimously for this eligibility formula. One CPAC participating member attending the Committee meeting disagreed with any rule that prevents the general public from being eligible to vote, so in his view the formula was restrictive
- The proposal on the table was explained again: in order for a CPAC member to be eligible to vote for CPAC operations officers, the member would have to have attended four out of seven of the past meetings including this meeting. Karen asked for a consensus poll on the question.

Consensus was not achieved on the proposed formula for eligibility, with 22 voting in favor and 5 opposed.

The floor was opened for discussion:

- Q: One participant asked if the duties if the officers are defined in the handout packet. A: Yes. The responsibilities of the operations officers have been posted on the HCDA Web site and they are also in the handout.
- A CPAC member proposed a friendly amendment to the Steering Committee proposal: that three instead of four out of seven meetings would be required for voting eligibility.

Consensus was not achieved on the proposed amendment, with 10 voting in favor, 15 opposed, and 1 abstention (a non-vote).

• Another amendment was offered suggesting voting eligibility if any two meetings were attended.

Consensus was not achieved on the proposed amendment, with 6 voting in favor, 18 opposed, and 1 abstention.

• Karen reminded the CPAC participants that the fallback for consensus is a 2/3 majority vote for approval.

Therefore, it was agreed that the 2/3 majority threshold had been reached on the original question because 22 had voted in favor with only 5 opposed to the proposed eligibility formula, thus requiring that those participating in the vote for officers must have attended any 4 of the last 7 CPAC meetings.

B. Voting Procedure

- Facilitators recommended voting on officers before the next meeting to move the process along. Kem highlighted a proposed CPAC voting procedure: a) candidates may be nominated for more than one office, but may be elected to serve for only one office; b) in cases where there are multiple candidates, the person elected must receive over 50 percent of the votes; c) if no single candidate receives more than 50 percent of the votes, a run-off election between the two candidates receiving the highest number of votes will be held.
- New candidate biography statements will be posted for all candidates, including those who were self-nominated and those who accepted nominations during the meeting.
- Candidate biography statements and ballots will be distributed to eligible CPAC voting members by e-mail, mail or fax on February 1, and must be returned by 6 p.m. on February 8 to the facilitators. Votes received by February 8 will be counted by the facilitators and verified by the Steering Committee or others designated by CPAC.
- Q: How will ballots be turned in?
 A: Email, fax or US mail posted to HCDA.
- Q: How will it be determined that the votes the facilitators receive will 1) be from eligible CPAC voting members and 2) not be duplicate votes from CPAC voting members?.
 - A: The facilitators will handle the election ballots so the voting procedure will be confidential, and they will announce and post the procedure and accountability checkpoints.
- Q: One member expressed a concern about proxy votes.
 - A: This voting process will not include proxies.
- Q: How many CPAC voting members will comprise the electorate?
 A: Michelle indicated that approximately 32 CPAC participating members meet the eligibility requirements of having attended four meetings out of the past seven as of December's meeting, and she will provide the exact number following this meeting.
- Q: Once officers are in office, will decision-making for the group be relegated to the officers?
 - A: No. The officers are elected to coordinate CPAC operations, and the priority of achieving consensus and the fall-back of 2/3 majority rule for decision-making by

CPAC participating members will stand, unless any changes to this rule are recommended by the Steering Committee and adopted by the full CPAC.

• Confidentiality of the votes cast was a concern to one member who wanted her vote kept confidential. Other CPAC members questioned how valid votes could be accounted for and certified if there is not some form of identification or numbering system. For example, an eligible voting member could vote more than once, or a non-eligible voter could cast votes. Several options were considered, including sending out numbered ballots and having tear-off name strips similar to the Neighborhood Board voting method. The facilitators offered to develop mechanisms to insure confidentiality and fairness in the voting procedure, and it was agreed by the CPAC that this would be sufficient.

It was moved and seconded to adopt the proposed voting procedures. The motion carried unanimously by consensus with 33 voting in favor and 0 opposed.

V. Nominations Process Summary, PowerPoint, and Nominee List (See PowerPoint attachment)

- Karen reviewed the roles of each operations officer, which were presented at the December 4 meeting and posted on the HCDA Web site.
- Nominations were submitted to the facilitators prior to the January 15 CPAC meeting.
 The nominees were presented for each office and additional nominations were made from the floor
- Jonathan Scheuer was nominated for three offices by Sol Nalua'I but was not present at this meeting to accept these nominations. Consequently there was some discussion about verifying nominees who were not present; however, Jonathan was contacted via text message by OHA administration representative Enomoto, and was said to have accepted the nominations for the three officer positions.
- Several changes were made by nominees who had accepted nominations from the floor and CPAC members questioned how the acceptance of pending nominations would be confirmed. Anne responded that she would contact the nominees to confirm their acceptance.

Summary of Candidates

Chairperson Nominees:

Nancy L. Hedlund, PhD. [withdrew prior to meeting]; Michelle Spalding Matson; Solomon D.K. Nalua'i

Nominated from the floor: Mark Wong; Ron Iwami [withdrew after meeting]; Jonathan Scheuer

1st Vice Chairperson Nominees:

Mike Dang; James D. (Jim) Howe, Jr.; Ronald Iwami; Solomon D.K. Nalua'I; Mark Wong

Nominated from the floor: Jonathan Scheuer

2nd Vice Chairperson Nominees:

Amy Christie Anderson; Bob Crone; Solomon D.K. Nalua'I

Nominated from the floor: Jonathan Scheuer

Secretary Nominee:

Michelle Spalding Matson

- An updated candidate profile form will be distributed and posted along with the voting instructions and ballots.
- Two CPAC members expressed defined concerns about the public perception of conflicts of interest of two candidates running for various offices within the CPAC's community-based planning group. The two nominees, who represent the land development divisions of OHA and Kamehameha Schools at CPAC meetings, were questioned as possibly having a conflict of interest because of their commitment to the goals of their organizations expressed at CPAC meetings, where they have advocated high-level mixed use development of land in Kaka'ako Makai for their organizations' economic gain.
- One participant noted it had been assumed that all of the nominees would represent the interests of the larger group and not their personal interests.
- The nominee from Kamehameha Schools assured the CPAC that he was not interested in personal gain but in guiding the CPAC to create a vision for successful and appropriate development in Kakaʻako Makai.
- One minute was given to each candidate for self-introduction. The candidates' experience, qualifications and personal history profiles will be posted with the final list of candidates.
- A meeting participant recommended combining the offices of 1st and 2nd Vice-Chairperson for the purpose of voting, giving the first office to the majority of votes.

Kem explained that this had been considered, but some were nominated for only one of the two offices, thereby negating this option.

VI. Visioning Exercise

• Visioning terms were collected from the CPAC participants (see attachment "I")

VII. New Business – None

VIII. Next Meeting Steps (Karen)

Next CPAC meeting dates were announced: February 12, March 11 Steering Committee meets January 30, February 27

Note: Due to pressing elections business and task planning considerations the January Steering Committee meeting was changed to January 23.

- Vote or run-off on Operations Officers
- People's Plan Presentation
- **OHA Presentation**
- Visioning exercise

Meeting notes drafted by Anne Smoke 1/21/08 Reviewed, corrected and approved for posting as Draft Meeting Summary by CPAC Steering Committee 1/31/08

Attendance List

Lowry, Kem

Loy, Bob

Martindale, Mark Q. Anderson, Amy Bannick, Nancy Matson, Michelle Chant, George Morisato, Neal Ching, Randy Musick, Marla Chlebicki, Georgi Chun-Oakland, Senator Suzanne Crone, Bob Cross, Karen Dang, Mike Enomoto, Stanton Faulkner, Kiersten Feltz, William Furushima, Scott Griffin, Jaye Griffin, Keith Hedlund, Nancy Howe, Jim Iwami, Ronald T. Jaffe, Michelle Kadowaki, Jay Kaneshige, Cheryl Killeen, Kevin Lizama, David

Nalua'i, Dr. Solomon Nalua'i, Ka'ai Nalua'i, Pua Okada, Dexter Paluch, William Parkinson, John Pearson, Chuck Quinn, Richard Richmond, Bob Schnell, Tom Smoke, Anne Stender, Oz Takamine, Wayne Tamashiro, Elaine Taum, Ramsay Thorpe, John W. Jr. Wellington, Fumiko Winer, A. D. Wong, Mark

Yajima, Loretta