



**LINDA LINGLE**  
Governor  
**MELISSA PAVLICEK**  
Chairperson  
**SANDRA PFUND**  
Chief Executive Officer

## **ALOHA TOWER DEVELOPMENT CORPORATION**

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### **BOARD MEETING ALOHA TOWER DEVELOPMENT CORPORATION**

**June 27, 2007**

**No. 1 Capitol District  
250 S. Hotel Street  
DBEDT Conference Room 436  
Honolulu, Hawaii 96813**

#### **MINUTES OF MEETING**

**BOARD MEMBERS PRESENT:** Melissa Pavlicek – Chairperson  
Sidney Quintal - Vice-Chairperson, C & C of Honolulu  
Barry Fukunaga - DOT  
Jason Okuhama  
Neal Otani  
Ted Liu – DBEDT

**BOARD MEMBER EXCUSED:** Allan Smith, DLNR

**ATDC STAFF PRESENT:** Sandra Pfund, Tom Otake, Deidre Harrison, Shari Ikeda

**OTHERS PRESENT:** Carol Hopkins, Mitchell Imanaka, Esq., Owen Iida, Esq., Matthew Coke, Kirt Pruyn, Paul Sheriff, Ken Marcus, Esq., Sumner Howard, Myrna Chang, Gary North

**LEGAL COUNSEL PRESENT:** Gregg Kinkley, Deputy Attorney General

#### **A. CALL TO ORDER**

Chair Pavlicek called the meeting to order at 12:01 p.m.

Chair Pavlicek presented a lei to former Director Robert Masuda, and thanked him for his service on the Board as the representative from DLNR, and wished him well upon his retirement. Chair Pavlicek presented a lei to Director Barry Fukunaga and congratulated him on his promotion to Director of Transportation for the State of Hawaii. Chair Pavlicek presented a lei to Mr. Gary North and Ms. Myrna Chang of Matson Navigation for their appearance as guest speakers for the Hawaii Harbors Users Group (“HHUGs”) PowerPoint presentation.

**B. APPROVAL OF MINUTES**

**Regular Meeting of May 30, 2007**

*Chair Pavlicek called for a motion to adopt the Meeting Minutes for the meeting held on May 30, 2007. Director Quintal moved to adopt the minutes, and was seconded by Director Otani. The motion passed unanimously.*

**C. REPORT OF THE CHIEF EXECUTIVE OFFICER**

Ms. Pfund referred to her report in the Board packet and highlighted key matters of concern.

**1. 2007 Legislature**

**House Bill 250, HD2, SD2, CD1** – Governor Lingle signed this bill into law on June 4, 2007.

**2. Media Reports** – Ms. Pfund reported that a letter signed by Director Liu was sent to former Governor Ariyoshi regarding the article he wrote in the Hawaii Business Magazine, May 2007, regarding the Pacific Quay development at Piers 5 & 6. The article erroneously stated that the area is a major cargo yard.

**3. Audit of Aloha Tower Marketplace** – An audit of the Aloha Tower Marketplace has been initiated and the firm of Nishihama & Kishida, CPA's, Inc. has been retained.

**4. Kapalama Military Reserve (KMR)** – Ms. Pfund reported that work continues on the area, with focus on the relocation of the three major tenants along the pier frontage.

Chair Pavlicek asked if there were any questions from the Board members.

(Director Liu arrived at 12:06 p.m.)

Director Otani asked if there has been any response from former Governor Ariyoshi to Director Liu's letter regarding the article. Director Liu answered that there was no reply, but that Hawaii Business Magazine asked to publish his letter. Director Liu declined the magazine's request.

## **D. ITEMS FOR INFORMATION**

### **1. Presentation by HHUGs Regarding State Commercial Harbors**

Ms. Pfund welcomed Mr. Gary North of Matson Navigation and thanked him for appearing to give the PowerPoint presentation. A hard copy of the presentation was distributed.

Director Fukunaga commented on the formation of HHUGs by Mr. North; how the group successfully formed a coalition of harbor users, identified collective concerns and needs, prepared valuable reports and presented their unified concerns to the legislature.

Chair Pavlicek commented that parts of the presentation were given to the Board in the past by Ms. Pfund and Director Fukunaga, and thanked Mr. North for the informative overview of the state's commercial harbors.

### **2. Status Report on the UC URBAN Project at Piers 5 and 6**

Mr. Tom Otake referred to the report in the Board packet and highlighted key matters of concern.

Mr. Otake reported that negotiations are continuing with the developer and our legal consultants, which will be covered during Executive Session.

The June 2007 PAG meeting was cancelled due to on-going negotiations with the developer, and no new material to present to the PAG. The next PAG meeting will be held on July 5, 2007.

R.M. Towill Corp. is preparing a scope of work and project schedule for update of the ATDC Administrative Rules (HAR) and Development Plan; the Project Manager for the work is Mr. Chester Koga.

Chair Pavlicek asked if there were any public comments, there were none.

Chair Pavlicek remarked that there are up-coming deadlines on the Pacific Quay project, with July 25, 2007 being the deadline for completion of the Development Agreement. Ms. Pfund responded that negotiations are going well between the attorneys.

Chair Pavlicek thanked Mr. Otake for his report.

**E. ITEMS FOR ACTION**

**1. Approval to Supplement the Special Legal Services Contract with Imanaka Kudo & Fujimoto, LLC, for Negotiation and Legal Documentation of the Pacific Quay Project at Piers 5 and 6.**

Ms. Pfund referred to the report in the Board packet. She stated that the original contract was issued for \$150,000 with a term of one year, and the fees are nearing the contract ceiling. Negotiations are very complex and have resulted in the hiring of sub-consultants and a facilitator, which require supplemental funds and an extension to the time of performance. Staff is requesting an additional \$150,000 and an additional one-year to be added to the contract, which would result in a total legal budget of \$300,000. She noted that the work is proceeding well and the budget of \$300,000 was reasonable given the project value of \$300 million.

Director Liu asked Mr. Kinkley if this is a reasonable amount of expenses and time. Mr. Kinkley replied that yes, this is reasonable based on the many differing issues that have arisen.

Chair Pavlicek remarked that there appears to be good movement on the negotiations, compared to previously when negotiations stalled.

Director Liu remarked that we have a good team in place, and should keep that team working on negotiations.

Chair Pavlicek thanked Mr. Imanaka for his participation in the negotiations and for putting together a good team to represent ATDC. Mr. Imanaka remarked that he will continue to be personally involved as legal counsel.

*Chair Pavlicek asked for a motion to approve a supplemental agreement to the State of Hawaii Agreement for Special Deputy Attorney General Services with Imanaka Kudo & Fujimoto, LLLC to include the following:*

- 1. Duration: Addition of twelve (12) months to the current agreement to expire on September 1, 2008.*
- 2. Cost: Additional \$150,000, total contract amount not to exceed \$300,000.*
- 3. Means of Funding: Aloha Tower Fund. Funds are available from the ATDC FY 08-09 budget.*
- 4. Any other requirements as may be determined by ATDC Chief Executive Officer.*

5. *Subject to approval of the Director of DBEDT as its Chief Procurement Officer and the Attorney General.*

*Director Liu moved and Director Okuhama seconded the motion. The motion passed unanimously.*

2. **Request for an Extension of Time to Commence Construction of the New World Divers (NWD) Project**

Chair Pavlicek reported that NWD is asking for an extension of time to complete remaining conditions and requirements in the Development Agreement to begin construction.

Mr. Sheriff commented that he has met with ATDC staff, Mr. Kinkley and Director Okuhama. Chair Pavlicek commented that ATDC staff recommends continuing the project. Mr. Sheriff commented that NWD is very close to completing their conditions and requirements.

Ms. Pfund reported that ATDC staff and Director Okuhama had a conference call with Mr. Sheriff and his financial consultant/facilitator, Mr. Bob Berg of Sports Equity Group (SEG). SEG has come on-board to facilitate obtaining the financial investor commitments to meet the conditions and requirements in the Development Agreement. ATDC staff recommends an extension of approximately six (6) months to November 28, 2007.

Director Liu asked how much funding is needed for the project. Mr. Sheriff replied that a total of \$10 million is needed for construction and start-up operations, with backers releasing funds when \$6-7 million is raised; current commitments are at \$4 million.

Director Liu asked what role SEG has in the project. Mr. Sheriff replied that SEG is a consulting group brought on-board to help organize and close financial commitments from various investors.

Chair Pavlicek asked for comments from Director Okuhama. Director Okuhama replied that SEG is a third party financing group that could help to wrap-up the project. Mr. Berg has asked for 6 months to work on the project, with monthly updates at the Board meetings. Mr. Berg estimates it will take 60-90 days to see if the project will come together. If it does not seem to be coming together at that time, the deal probably will not happen.

Chair Pavlicek commented that there is no other impending project for the area, so there are no factors that would prevent continued exploration of this option to see if the project can proceed.

Director Okuhama reported that on the operational side of the project, Ocean Concepts has reported on the viability of the project and validated profits.

*Chair Pavlicek asked for a motion to grant New World Divers (NWD) an extension of time to November 28, 2007 to complete the remaining conditions and requirements identified in the Development Agreement to begin construction. Director Quintal moved and Director Otani seconded the motion. The motion passed unanimously.*

### **3. Resolution Expressing Appreciation to Mr. Robert Masuda**

Chair Pavlicek thanked Mr. Masuda for his service and dedication to the ATDC Board and her sentiments were shared and similarly expressed by fellow Board members.

Ms. Pfund read Resolution No. 002 expressing appreciation to Mr. Robert Masuda for his service on the ATDC Board of Directors. Mr. Masuda thanked the Board for the Resolution.

*Chair Pavlicek asked for a motion to adopt Resolution No. 002 Expressing Appreciation to Mr. Robert Masuda. Director Fukunaga moved and Director Quintal seconded the motion. The motion passed unanimously.*

## **OTHER PUBLIC COMMENTS**

Chair Pavlicek asked for any public comments.

Mr. Sumner Howard reported on an initiative by his organization, Government Efficiency Teams, to provide input on the Bureau of Conveyances.

Mr. Matthew Coke asked for an update on the delay in the Pacific Quay project. Chair Pavlicek replied that we are currently negotiating the Development Agreement and have encountered many disagreements on the terms.

Mr. Coke remarked that he sees the project as a positive addition to the area and hopes to see the project move forward.

## **F. EXECUTIVE SESSION**

*Chair Pavlicek asked for a motion to move into Executive Session. Director Otani moved and Director Okuhama seconded a motion to enter into Executive Session. The motion passed unanimously.*

Mr. Kinkley, Ms. Pfund, Ms. Harrison, Mr. Otake and Ms. Ikeda were requested to be present for the Executive Session. Mr. Imanaka, Mr. Pang and former Director Masuda were also requested to be present for the Executive Session.

1. **Discussion and Deliberation Regarding ATDC’s Rights and Responsibilities Under the Development Agreement Relative to the Proposed UC Urban Project, Pursuant to Section 92-5(a)(4), Hawaii Revised Statutes**
  
2. **Discussion and Deliberation Regarding the Status of Negotiations Under the Mediation Proceedings with AHI ALOHA ASSOCIATES, LLC Pursuant to Section 92-5(a)(3) and 92-5(a)(4), Hawaii Revised Statutes**

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The Board entered into Executive Session at 1:00 p.m. and reconvened at 1:26 p.m.

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**G. ADJOURNMENT**

*There being no further business, Chair Pavlicek asked for a motion to adjourn the meeting. Director Otani moved and Director Quintal seconded the motion for adjournment. The motion passed unanimously and the meeting was adjourned at 1:27 p.m.*

Respectfully submitted,

          /Sandra Pfund/  
Recorder