



**LINDA LINGLE**  
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**MELISSA PAVLICEK**  
Chairperson  
**SANDRA PFUND**  
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## **ALOHA TOWER DEVELOPMENT CORPORATION**

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

**May 28, 2008**

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

#### **MINUTES OF MEETING**

**BOARD MEMBERS PRESENT:** Sidney Quintal - Vice-Chairperson, C & C of Honolulu  
Neal Otani  
Russell Tsuji – DLNR  
Jason Okuhama  
Ted Liu – DBEDT (arrived at 12:07 p.m.)

**BOARD MEMBERS EXCUSED:** Melissa Pavlicek – Chairperson  
Michael Formby - DOT

**ATDC STAFF PRESENT:** Sandra Pfund, Tom Otake, Deidre Harrison, Chris  
Sadayasu, Dana Yoshimura

**OTHERS PRESENT:** Karin Holma, Esq. and Michael Carroll, Esq.

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

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

Vice-Chair Quintal called the meeting to order at 12:00 p.m.

#### **AGENDA ITEM OUT-OF-ORDER**

Vice-Chair Quintal asked to move agenda items and hold the Executive Session immediately.

**F. EXECUTIVE SESSION**

*A motion to move into Executive Session was made by Vice-Chair Quintal, and seconded by Director Okuhama. A vote was taken and the motion passed unanimously.*

Mr. Kinkley, Ms. Pfund, Mr. Otake, Mr. Sadayasu, Mr. Yoshimura, Ms. Harrison and Ms. Holma and Mr. Carroll were 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 12:01 p.m. and reconvened at 12:50 p.m.

(Director Liu arrived at 12:07 p.m.)

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**RETURN TO AGENDA ITEMS**

**B. APPROVAL OF MINUTES**

**Regular Meeting of April 30, 2008**

Vice-Chair Quintal asked if there were any comments or changes to the minutes, there were none.

*Director Okuhama made a motion to adopt the Meeting Minutes for the meeting held on April 30, 2008, and Director Tsuji seconded the motion. A vote was taken and 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. Legislative Update

#### a. **SB3227 – Harbors Modernization Bill**

Ms. Pfund reported that the Harbors Modernization Bill passed and is currently being reviewed by the Governor’s office, along with other legislation that passed during this session. The Governor’s office would like to schedule a ceremonial signing of the bill. Director Liu suggested a site near the waterfront for the signing.

#### b. **HCR245 – Audit of ATDC**

Ms. Pfund reported that staff has received official transmittal of the passage of the audit bill from the legislature.

### 2. Media Reports

Ms. Pfund distributed the following media articles concerning ATDC: “2008 Legislative Accomplishments (Part II) by Senator Will Espero in the Hawaii Filipino Chronicle, and “Maui harbor plans pared as ships leave” in the Pacific Business News (PBN), May 23, 2008 edition.

Ms. Pfund reported that in the PBN article, proposed improvements at Kahului Harbor as part of the HMP project have been reduced due to the reduction in cruise ships that will be using the harbor.

(Director Liu departed at 12:55 p.m.)

There will no longer be a cruise ship terminal built at Kahului, along with other additions to that side of the harbor, therefore possibly lessening public opposition to proposed changes impacting recreational activities. There appears to be more support for container ship modifications versus passenger ship modifications.

Director Otani asked if Young Brothers less-than-container-load handling has to go through the PUC for rate changes. Ms. Pfund responded yes it does. Director Otani remarked that those changes can greatly impact farmers in a negative way, possibly even putting some out of business.

3. Administrative and Financial Reports

**a. Personnel – New ATDC Hire**

Ms. Pfund introduce new hire, Mr. Chris Sadayasu, ATDC Development Manager/Special Assistant. Ms. Pfund re-introduced Mr. Dana Yoshimura, HHP Project Manager. Mr. Yoshimura has been at ATDC for a few years, mainly working on harbors projects. Mr. Yoshimura is currently working on acquiring new office space as part of changes that ATDC will undergo with the passage of the HMP bill.

**b. Harbors Modernization Group Set-Up**

Ms. Pfund reported that she will be meeting with DOT on fund delegation for the HMP project. Vice-Chair Quintal asked about the July 1, 2008 start date. Ms. Pfund responded that staff are currently creating position descriptions and will begin advertising for the new positions.

4. Project Reports

**a. Aloha Tower Complex**

Ms. Pfund reported that the Aloha Tower Complex Project Area Rules Update is progressing, with R.M. Towill contracted to do the work. The investigative committee led by Chair Pavlicek and Vice-Chair Quintal will meet with R.M. Towill regarding opportunities in the area. R.M. Towill will do a full analysis of present conditions and present to the Board at the June 2008 board meeting on what the current status is, before proceeding to the next stage and exploring where to go next.

Ms. Pfund concluded her report and asked if there were any questions, there were none.

**D. ITEMS FOR ACTION**

**1. Approval to Supplement the Special Legal Services Contract with Bays Deaver Lung Rose & Holma for Continued Legal Services with Respect to the Arbitration Proceedings for the Pacific Quay Project at Piers 5 & 6**

Mr. Otake reported that staff proposes to increase the amount of the contract by \$150,000 due to the extensive number of depositions and witnesses for arbitration, as well as the hiring of expert witnesses. Staff also proposes

extending the length of the contract by an additional (6) six months, as a precautionary measure in case of delays.

Director Otani asked how much has been spent already on the contract. Mr. Otake replied that about \$80,000 has already been spent. Director Tsuji remarked that costs appear reasonable.

*A motion was made by Director Okuhama and seconded by Director Otani to approve a supplemental agreement to the State of Hawaii Agreement for Special Deputy Attorney General Services with Bays Deaver Lung Rose and Holma to include the following:*

- 1. Duration: Extension of the agreement for an additional six (6) months to expire on June 1, 2009.*
- 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.*

Vice-Chair Quintal asked for any discussion, there was none.

*A vote was taken and the motion passed unanimously.*

## **2. Approval to Lease Office Space for the Relocation of the Aloha Tower Development Corporation Offices**

Mr. Yoshimura reported that with the passing of SB3227 there will be funding for an additional (18) eighteen staff members, as well as office spaces and rent. Staff has been researching DAGS space needs based on proposed new hires, and has been researching locations that meet those needs, as well as availability for immediate occupancy, proximity to DOT-Harbors and Aloha Tower, and minimal additional site improvements. Allocations of staff are as follows: ATDC at about 14% and HMP at about 86%. Staff recommends approval to relocate ATDC offices.

Director Otani asked if the new location will be the site of the July ATDC Board meeting. Mr. Yoshimura replied hopefully yes. Vice-Chair Quintal asked if there are any prospective locations identified, and Mr. Yoshimura replied yes, contingent to DAGS lease negotiations.

Vice-Chair Quintal asked if the Aloha Tower Marketplace (ATM) is a possible new location. Mr. Yoshimura replied that due to the cost of retail versus office space, it is not. Ms. Pfund remarked that staff had asked Mr. Buckley about office space possibilities at ATM, and he had responded favorably, however there has been no response from ATM to further inquiries. Mr. Yoshimura remarked that possible locations have been identified at the TOPA Towers, across the street from ATDC's present location.

Director Tsuji asked if staff has been in communication with DAGS regarding the lease and possible landlord discounts with the state. Mr. Yoshimura replied yes, staff is in contact with DAGS. Ms. Pfund commented that the price at TOPA Towers is in the "ballpark" for current lease rates according to preliminary discussion with DAGS.

Director Okuhama asked if improvements are included in the lease. Mr. Yoshimura replied yes, they are included.

Director Tsuji asked about parking, which can be quite expensive in the downtown area. Ms. Pfund replied that staff will be able to keep their present parking at DOT-Harbors, and that some additional staff maybe accommodated at DOT-Harbors, with the rest able to purchase parking at TOPA Towers for \$210/stall per month as its available.

Vice-Chair Quintal asked if the allocation for staff time between ATDC and HMP will be constant during the project. Mr. Yoshimura replied that once HMP is activated, staff will review timesheets to verify the allocation. Ms. Pfund remarked that the Department of Personnel will review the HMP staffing, if there are any changes staff will adjust accordingly and proceed with the maximum allowed.

Vice-Chair Quintal asked if Mr. Otake and Mr. Sadayasu will remain on the ATDC side, and Ms. Pfund replied that yes they will.

***A motion was made by Director Tsuji and seconded by Director Otani for the following:***

- 1. Approval to lease office space for relocation of the Aloha Tower Development Corporation offices.***
- 2. Subject to:***
  - a. Approval of the Director of the Department of Business, Economic Development and Tourism,***
  - b. Approval of DOT-H, and***
  - c. DAGS negotiation and approval of the new office space.***

Vice-Chair Quintal asked for discussion, there was none.

*A vote was taken and the motion passed unanimously.*

**E. ITEMS FOR INFORMATION**

**1. Recommendation of the Investigative Committee on the Format and Criteria for Evaluation of the CEO**

Ms. Pfund reported that at the suggestion of the Chair, an investigative committee was formed consisting of Directors Otani and Okuhama to gather information on the format and criteria for an annual review of the ATDC CEO.

Director Okuhama reported that the committee met and gathered information on various formats for evaluations, and settled on a scoring type of form. The evaluation is based on the CEO's job description and performance type rating. Director Okuhama then reviewed the proposed evaluation form included in the Board packet.

Director Okuhama suggested that the review begin with this upcoming fiscal year, as it would be unfair to evaluate the fiscal year that is ending since no notice was given to the CEO, although if the Board determines to they could do so.

Director Okuhama reported that there is a section on the evaluation for performance goals.

Vice-Chair Quintal remarked that the committee did a good job on the evaluation form. Director Okuhama asked if there were any comments from the Board. Vice-Chair Quintal asked who will conduct the evaluation. Director Okuhama replied that perhaps the committee would, he was not sure.

Ms. Pfund commented that the procedure was for an investigative committee to set the format, and a standing committee to conduct the yearly reviews. Mr. Kinkley commented that the standing committee is subject to Sunshine Laws and meeting agendas must be publicized in advance.

Mr. Kinkley commented that the standing committee could decide who conducts the review.

Vice-Chair Quintal asked if the ASO is involved, who is the liaison to the Personnel Department, for the new personnel. Director Tsuji asked who has historically done evaluations at ATDC. Ms. Pfund replied that there are set forms for employees, and the CEO evaluates the staff, which falls under DBEDT. Evaluations have not been done in the past for the CEO.

Vice-Chair Quintal remarked that it is prudent to establish an evaluation system for staff, which may create a checks-and-balances system which can lessen criticism from others outside the corporation.

Director Otani asked if it is the Board's duty to evaluate the CEO. Director Otani asked Director Tsuji who evaluates him at his position at DLNR. Director Tsuji replied that probably the chair evaluates him at DLNR. Mr. Kinkley commented that there is no statutory mandate to evaluate. Director Tsuji commented that the ATDC CEO serves at the pleasure of the Board, as the Board hires the CEO. Mr. Kinkley agreed.

Vice-Chair Quintal asked if the rest of the staff are civil service positions. Ms. Pfund responded that the positions are exempt. Director Tsuji commented that they are not true civil service positions, but staff are state employees. Ms. Pfund responded that positions are renewed during each budget cycle. Vice-Chair Quintal commented it would again be creditable to implement a review and oversight process for staff, to continue in a prudent manner as staff grows.

Mr. Kinkley commented that as a corporation, the Board has a fiduciary duty to maintain oversight of the CEO, and that can be documented as the Board is currently doing through the evaluation process.

Director Otani asked if this evaluation was sufficient. Mr. Kinkley replied that it is up to the Board, but the evaluation format looks comparable to others being used.

Director Tsuji commended the investigative committee on the creation of the evaluation form, and asked Ms. Pfund if she thought the form was sufficient. Ms. Pfund replied that yes, she is fine with the evaluation form. Mr. Kinkley commented that this form meets the Board's criteria for accountability.

Director Tsuji asked about the Board's further involvement, and Ms. Pfund replied that they should review the item and that perhaps it should be an action item at the next Board meeting.

Director Okuhama asked for any comments from the Board. Vice-Chair Quintal suggested that Board members submit comments within a week.

Mr. Kinkley then suggested that the investigative committee can make their recommendation to proceed with this form, and the Board can make comments at the next meeting.

Vice-Chair Quintal commented that the item can be presented as an action item, and if the Board desires they can make amendments to it.

Ms. Pfund reiterated that changes should be brought to the next Board meeting, and that the item be added to the agenda as an Action Item at the recommendation of the committee.

**AGENDA ITEM OUT-OF-ORDER**

See notes above for section F, Executive Session.

**G. ADJOURNMENT**

*There being no further business, Vice-Chair Quintal asked for a motion to adjourn the meeting. Director Otani moved and Director Okuhama seconded the motion for adjournment. The motion passed unanimously and the meeting was adjourned at 1:33 p.m.*

Respectfully submitted,

          /Sandra Pfund/  
Recorder