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ALOHA TOWER DEVELOPMENT CORPORATION

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BOARD MEETING ALOHA TOWER DEVELOPMENT CORPORATION

May 26, 2010

9:30 a.m.

**TOPA Financial Center, Bishop Street Tower
700 Bishop Street, Suite 1701
Honolulu, Hawaii 96813**

MINUTES OF MEETING

ATDC BOARD MEMBERS PRESENT: Sidney Quintal – Chairperson, C & C of Honolulu
Jason Okuhama – Vice-Chair
Russell Tsuji – DLNR
Neal Otani
Pearl Imada Iboshi – DBEDT

ATDC BOARD MEMBERS EXCUSED: Michael Formby - DOT

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

OTHERS PRESENT: Michelle Matson, Jeff Low, Sumner Howard, Wayne Higa

LEGAL COUNSEL PRESENT: Gregg Kinkley, Deputy Attorney General

A. CALL TO ORDER

Chair Quintal called the meeting to order at 9:35 a.m., and thanked everyone for their attendance.

B. APPROVAL OF MINUTES

1. Regular Meeting of April 28, 2010

Chair Quintal asked if there were any changes to the meeting minutes; there were none.

A motion was made by Director Otani and seconded by Director Okuhama to adopt the minutes from the April 28, 2010 meeting. A vote was taken and the motion passed unanimously.

C. REPORT OF THE CHIEF EXECUTIVE OFFICER

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

1. Administration and Financial Reports

Ms. Pfund reviewed the ATDC financials that were included in her Board report, and reported that they reflect a reduction in the ATDC Fund balance due to the payment for the arbitration case settlement. The payment was completed on May 6, 2010, and the case is settled and completely done. Negotiations have been completed for the AHI case which will be discussed later in today's meeting.

(Director Tsuji arrived at 9:37 a.m.)

Ms. Pfund reported that quorum was not achieved for the HMG Board, but highlights are included in the CEO report.

D. ITEMS FOR ACTION

1. Discussion and/or Action Regarding ATDC Operations for Fiscal Year 2011

Ms. Pfund reported that there are many items involved with the closing of the office that need to be addressed, and with the continuation of the Board's duties and responsibilities that remain with the intact statute. Some of the items include staff terminations or transfers, since no personnel positions are authorized.

Chair Quintal asked where the HMG staff members are going. Ms. Pfund responded that those five (5) positions are going to DOT-Harbors to a brand new program there. Chair Quintal asked if staff has bumping rights to other positions. Ms. Pfund responded in the negative; that staff are all exempt category employees. Four (4) other staff members on the ATDC side of the agency are seeking other employment.

Ms. Pfund reported that the office lease will be terminated as of June 30, 2010, as well as the telephone lines and copier. There is not much office furniture other than the conference table and chairs, since most of the furniture and cubicles were provided by TOPA. Director Iboshi commented that there is a need for a conference table and chairs by DBEDT's Energy division, since they are adding staff, and suggested the agency check with them about transferring those items. Excess inventory can be advertised to DBEDT.

Ms. Pfund reported that the files from the Waterfront project will stay with DOT-Harbors. Director Iboshi commented that DBEDT has archive space with DAGS, and Mr. Kitamura, DBEDT-ASO can be consulted about it. Mr. Kinkley commented that legal files should go to the Attorney General's (AG) office, and he will check on that. Ms. Pfund remarked that the Bays Deaver Lung Rose and Holma office may have scanned copies of the Hughes arbitration files.

Ms. Pfund reported that the agency will have to cover any staff vacation pay-offs and lagged payroll, and Mr. Vo has identified pay-offs and encumbered those funds.

Chair Quintal asked if once the agency encumbrances have all been cleared, will future funds revert to the State's general fund. Ms. Pfund responded that the ATM rent checks go to the agency's special fund.

Mr. Kinkley remarked that the AG's office needs the legal files pertaining to Aloha Tower Marketplace (ATM) and the Hughes case.

Ms. Pfund reported that there are other agency responsibilities that will need to be assumed after June 30, 2010, such as the election of officers and by-laws changes. Director Iboshi commented that Budget & Finance (B&F) suggested a DBEDT entity assumes the duties of the agency, however with reduced staffing at DBEDT it will be difficult; Director Liu is reviewing the matter. Possible changes to allow the Board more flexibility on the scheduling of meetings and other business would be good.

Mr. Kinkley remarked that the only reason the Board would hold future meetings is to conduct official business. Director Tsuji commented that there will still be issues pertaining to the Aloha Tower Marketplace. Chair Quintal commented that the Board should go paperless as much as possible.

Chair Quintal asked what will happen if any of the Directors resign. Ms. Pfund responded that there will still be ex-officio members on the Board to achieve quorum.

Ms. Pfund commented that staff members have been working with sharing notice of ATM events and promotions.

Director Tsuji asked about the budget proviso and the assumption of duties.

Director Iboshi remarked that there are concerns regarding development of the ATDC area, and what will happen to ATM; whether it will eventually be transferred to DOT. Ms. Pfund responded that the ATDC statute is still in place.

Mr. Sadayasu commented that it will be up to the next governor to review the status of ATDC; matters such as whether the statute will be abolished, and who

will advocate for the agency in the meantime. Director Iboshi responded that Director Liu has agreed to assign someone at DBEDT to oversee the agency's basic functions.

Ms. Matson inquired if the Office of Planning at DBEDT would be a viable option to oversee ATDC's basic functions.

Mr. Howard inquired if the original statute creating ATDC is still in place. Ms. Pfund responded in the affirmative.

Chair Quintal asked if the next governor can reactivate the agency by asking for funding.

Ms. Pfund remarked there are things to do in the next six (6) months, among them is PAG member, Amy Anderson's UH architectural students planning activity for the future.

Chair Quintal asked about a July meeting agenda. Director Tsuji remarked that this is probably the last meeting with ATDC staff. Ms. Pfund responded that a June meeting can be held if needed. Director Iboshi commented that there should be a June meeting.

Ms. Pfund commented that some of the duties that need to be handled for the agency include zoning permit approvals, annual reports, DOT rent, jurisdiction and oversight of the ATDC special fund. Director Iboshi remarked that no payments can be made, as there are no appropriations, so no funds.

Ms. Pfund commented that there are personnel obligations that need to be met, and that funds must be held until those are met.

Chair Quintal asked if there were any other items that need to be taken into consideration before the end of the fiscal year. Director Tsuji remarked that there is the completion of the AHI settlement.

Ms. Pfund commented that there are numerous DBEDT reports and legislative items that need to be handled as well. HMP will be replicated by DOT, and Director Formby has indicated they may have an advisory group or HHUGS working with them, but there will be no need for the HMG Board.

Chair Quintal commented that perhaps Director Liu should notify the Legislature via letter with a copy to the State Auditor of the outcome of the agency's duties and responsibilities. Ms. Pfund commented that Director Liu is reviewing the matter, but no final decisions have been made.

Ms. Pfund recommended that the Board of Directors approve the assignment of ATDC duties and responsibilities to other agencies as determined by the DBEDT Director.

A motion was made by Director Tsuji and seconded by Vice-Chair Okuhama that the Board of Directors approve the assignment of ATDC duties and responsibilities to other agencies as determined by the DBEDT Director.

Discussion followed and Director Otani asked Director Iboshi if DBEDT can handle the additional duties from ATDC. Director Iboshi responded that somehow it would be taken care of, and that options are being explored. Director Iboshi suggested possibly amending the by-laws to conduct Board meetings as needed.

A vote was taken on the measure and it passed unanimously.

Director Tsuji asked if the by-laws should be amended. Mr. Kinkley responded that it is not necessary, since if there is no business, a meeting will not be held. Director Iboshi asked if the current meeting schedule should be kept. Chair Quintal remarked that would be good.

Ms. Matson commented that the meetings have to be noticed to the public. Mr. Kinkley responded in the affirmative, and remarked that if there is no public notice, there is no meeting.

Director Tsuji suggested that Ms. Harrison provide DBEDT with the Board members contact information.

Ms. Matson inquired on the status of the Hughes and Irwin Park cases. Mr. Kinkley responded that the Hughes case is done, and the Irwin Park case is done, except for the AG's appeal of the attorney fees awarded under the private attorney general doctrine.

Chair Quintal commented that at this stage the agency will be in limbo until the next legislative session.

Mr. Otake asked to say a few words before his retirement. Mr. Otake expressed his appreciation to the staff, Board, and Ms. Pfund for their excellent work and wished everyone a fond *aloha*.

Chair Quintal thanked the public for the interest they have shown, and their attendance at the Board meetings. DBEDT will assume the duties and responsibilities of the agency, and notification will be given for future Board meetings.

Director Tsuji commented that the next legislative session will occur during the new administration's transition period.

2. Discussion and/or Action on Rule 408 Settlement Agreement with AHI Aloha Associates, LLC

Ms. Pfund reported that this item needs discussion in Executive Session. If this matter gets final approval, then staff will have completed all outstanding litigation for the agency. This is quite a success, despite what comments have been made regarding the agency.

(A recess was called at 10:20 a.m. to 10:30 a.m.)

E. EXECUTIVE SESSION

Ms. Pfund, Mr. Sadayasu, Mr. Otake, and Ms. Harrison were requested to be present for the Executive Session.

1. Pursuant to section 92-5(a)(4), HRS, to consult with ATDC's attorneys on questions and issues pertaining to ATDC's powers, duties, privileges, immunities and liabilities regarding the Mediation proceedings with AHI ALOHA ASSOCIATES, LLC.

2. Pursuant to section 92-5(a)(4), HRS, to consult with ATDC's attorneys on questions and issues pertaining to ATDC's powers, duties, privileges, immunities and liabilities regarding the Matter of the Application of Honolulu Construction and Draying Company, Limited, Land Court Application No. 787, Circuit Court of the First Circuit, State of Hawaii.

The Board entered into Executive Session at 10:30 a.m. and reconvened at 10:45 a.m.

Chair Quintal released the following statement regarding the Mediation proceedings with AHI ALOHA ASSOCIATES, LLC.:

The Board approved the proposed settlement agreement in form that was presented during Executive Session.

G. ADJOURNMENT

A motion was made by Director Otani and seconded by Director Okuhama to adjourn the meeting at 10:46 a.m. A vote was taken and the motion passed unanimously.

Respectfully submitted,

 /Sandra Pfund/
Recorder