



## WAIALAE-KAHALA NEIGHBORHOOD BOARD NO. 3

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### REGULAR MEETING MINUTES THURSDAY, OCTOBER 15, 2009 WESLEY UNITED METHODIST CHURCH

**CALL TO ORDER:** Chair Scotty Anderson called the meeting to order at 7:02 p.m. with **seven (7) members present**. Note – This nine-member Board requires five (5) members for a quorum and to take official Board action.

**Members Present** – Scotty Anderson, Linda Fulton, Sylvia Himeda, Kelley Roberson, Paul Saito, Richard Turbin (arrived at 7:25 p.m.), Chris Williams.

**Members Absent** – None.

**Vacancies** – There is one (1) vacancy in each of Sub-districts 1 and 4, for a total of two (2) vacancies. Boards are now able to fill vacant seats due to the recent amendment to the Neighborhood Plan Section 2-14-104(a).

**Guests** – Captain Mike Tosaki (Honolulu Fire Department – Kaimuki Fire Station); Sergeant A. Rivers, Lieutenant C. Tong, Officer M. Mitchell (Honolulu Police Department – District 7, East Honolulu); Lorna Heller (Board of Water Supply); Kainoa Kaumeheuiwa-Rego (Councilmember Charles Djou's Office); Representative Lyla Berg; Senator Sam Slom; Craig Nishimura (Mayor Mufi Hannemann's Office); Gran Kao (KCA); Scott Ezer (Helber Haster and Fee); Steve Camara (Neighborhood Board No. 2/ WIRCA); Sybil Saito; G. Koealer; Deborah Pope (Shangri La); Walter Davis; Debra Balfour; Stanley Chang; Phillip Rockwell; Theona Kapoi (Neighborhood Commission Office Staff).

**INTRODUCTION OF BOARD MEMBERS AND GUESTS:** Those present introduced themselves.

**FILLING OF VACANT BOARD SEATS:** No candidates interested at this time.

#### CITY MONTHLY REPORTS:

**Honolulu Fire Department (HFD)** – Captain Mike Tosaki reported the following:

- September 2009 statistics: 3 wild fires, 79 medical, 2 search/rescue and 17 miscellaneous emergencies.
- **Halloween Costumes** – Select a Halloween costume that is flame-resistant, made of lightweight fabric, brightly colored, and clearly visible. Decorate costumes and bags with reflective tape. Keep the length of costumes short. A natural cosmetic mask is better than a mask that may restrict breathing or obscure vision. Children should carry flashlights to light their way.
- **Hurricane Season** – Hurricane season extends through November. Families should take the necessary steps to ensure they are prepared in the event of a hurricane. Be sure to have a survival kit prepared and know the location of the nearest hurricane shelter. Additional information can be found on the Department of Emergency Management (DEM) website at [www.honolulu.gov/dem](http://www.honolulu.gov/dem).

Questions, comments and concerns:

- **Area Shelters** – The list of shelters are located on the City DEM website. The shelters are usually located at schools, such as Wilson Elementary, Kahala Elementary and Waikiki Elementary.

**Honolulu Police Department (HPD)** – Lieutenant C. Tong, Sergeant A. Rivers and Officer M. Mitchell circulated the report indicating the report was for the past 30 days September 14 through October 14, 2009. The report includes the Halloween safety tip and necessary contact information.

Questions, comments and concerns:



- 4200 Waialae Avenue Area – The addresses in the report are rounded-up for privacy reasons and that particular area has been having more problems.
- Kahala Mall Halloween – There are safety tips in the handout provided. All candies should be checked before eaten and if there are any suspicious candies or activities please call 911.
- Prior Accident – HPD did not see a highlight of an accident that may have happened at midnight three days prior to the meeting. Having not seen a highlight could indicate the accident was not too serious and there were no major injuries.

Mayor Mufi Hannemann's Representative – Craig Nishimura reported the following:

- Heminer Property – 4837 Kahala Avenue received Building Permit No. 647064 issued on September 18, 2009 for the demolition of the property.
- Operation Red Wings Medal of Honor Park (Triangle Park) – The maintenance is improving for the park. There are needed irrigation improvements necessary for localized areas. Staff is providing additional attention for improvements to these areas. A resident commented that there were still gravel patches and there doesn't seem to be maintenance.
- 1901 Halekoa Drive – The private property view planes are not protected under the Land Use Ordinance (LUO). Each property can develop to the full extent allowed. The LUO does not allow rentals of less than 30 days in residential zoning districts. The LUO also limits the number of unrelated people living in a home. If you feel there is a violation, the Department of Planning and Permitting (DPP) will follow up with an investigation. Discriminating against renters would be a fair housing violation as there is no distinction between property owners living in a home or renters as both are afforded the right to live in a residential dwelling.
- Department of Planning and Permitting (DPP) Increasing Fines – DPP appreciates the concerns reflected by the Kahala residents regarding cases where property owners do not properly maintain their property, thereby creating a nuisance and/or health hazard. Regarding the deteriorating conditions of these types of properties within our enforcement ordinances, when the condition of a property is determined to be in violation of one or more of the City's codes, a Notice of Violation (NOV) is issued. The NOV affords the owner "due process" time to correct the violation. If corrective action is not completed during the time allowed, the NOV is referred for the issuance of a Notice of Order (NOO). As part of the NOO, a civil fine is assessed. The civil fine includes an initial fine, assessed immediately, and daily fines, which are assessed until the date of correction. The civil fine schedule for violations ranges from \$50 to \$1,000. The amount of the fine assessed generally starts at the lower end of the schedule. If one or more of the following exist, the civil fine may be assessed at an increased rate: 1. recurring violation; 2. egregious in nature; 3. a threat to health and safety; or 4. a source of financial gains for the violator.

To single out and target any specific property owner, such as Mr. Kawamoto, by increasing the amount of assessed civil fines up to the \$1,000 maximum as was suggested by one Board member, without justification similar to the items listed above, would be an abuse of our enforcement powers. Each property is treated independently. As such, to increase an assessed civil fine because an owner has the same violation on different properties is not justified.

It should also be noted that in addition to County enforcement action against code violations of this nature, the State Department of Health (DOH) also has an enforcement responsibility, which is exercised when property owners create a situation which is perceived as a threat to the health and safety.

- Aukai Avenue/Hunakai Street Intersection Street Light – The Department of Design and Construction (DDC) investigated the area and will send a request to the Department of Facilities and Maintenance (DFM) to install a new street light as requested. The work should be completed within the next eight weeks with an additional undetermined time for the Hawaiian Electric Company to make their service connection. If there are further questions, please contact Gerald Hamada.

Turbin arrived at 7:25 p.m. **(seven (7) members present)**.

Questions, comments, and concerns:

- 1901 Halekoa Drive – Chair Anderson and Turbin met with David Tanoue, Director of DPP and the staff. The 1901 Halekoa Drive neighbor's roof issue is difficult to determine because slope lots are a problem. There is a specific footage allowed. Neighbors are the best form of information to DPP.
- DPP Increasing Fines – Chair Anderson and Turbin were also told as with the Kawamoto properties, once a property owner has acquired fines in a certain dollar amount, DPP can place the property in lien or foreclosure. The lien or foreclosure is a statue. If \$20,000 in unpaid fines are accrued over a few months escalating every day and it will be referred to Corporation Council to demand payment and if it is not made, the property can be placed on lien or foreclosure. Turbin suggested an amendment be made to the current rules to increase the fines for poor property maintenance from \$50 a day to \$500 a day. The violation of concrete debris on water front properties does reach up to \$1000 a day for violators.
- Hawaii Government Employees Association (HGEA) – A resident commented that the State settlement was 24 furlough days. Nishimura commented that the City's 2010 fiscal year is okay and has no comment on any other negotiations.

Board of Water Supply (BWS) – Lorna Heller reported the following information:

- Wildfire Prevention and Watershed Protection – In the event of a wildfire, the BWS works closely with the HFD to ensure they have efficient and reliable water service to save lives and property. The BWS fully supports HFD's efforts to prevent wildfires on Oahu because each wildfire takes a toll on our drinking water supply and threatens our island's watersheds areas. Watersheds are fragile mountain ecosystems that collect rainwater. If our watershed's ability to collect rainwater is compromised, less rainwater will filter down to replenish our ground water supplies. Nature does an excellent job in providing us with an abundant supply of drinking water, but nature needs our active participation to create a sustainable future on Oahu, in which there's enough water for many years to come.
- Water Conservation Tips – 1) Participate and support projects that remove invasive plants, join community watershed partnerships and educate others of the importance of watersheds. 2) Conserve water everyday. Conservation reduces the need to ground water that is essential for healthy watershed forests and stream ecosystems.

Councilmember Charles Djou – Kainoa Kaumeheiwa-Rego distributed the report and highlighted the following:

- Bill 67 – Relating to shark tour ban has been deferred.
- Bill 69 – Relating to the sidewalk sleeping ban has been deferred.
- Bill 68 – Relating to raising property tax exemptions from \$80,000 to \$100,000 has been deferred.
- Bill 58 – Relating to a real property tax exemption of all alternative energy items is before Mayor Hannemann for signature.

Questions, comments and concerns:

- Differentiating Property Taxes – A resident is concerned if the city is going to propose a law that would segregate property taxes in different categories (residential homeowners and non-residential homeowners would have a different property tax rate. Councilmember Djou feels the property taxes should be equal across the board and this issue will be going to full council.
- Renters Receiving Tax Credit – A resident commented on a proposal of renters receiving tax credit for paying property taxes. Councilmember Djou has not commented on this issue.

RESIDENTS'/COMMUNITY CONCERNS: No new concerns brought forth at the meeting.

APPROVAL OF MINUTES:

Approval of the September 17, 2009 Regular Meeting Minutes – The September 17, 2009 regular meeting minutes were UNANIMOUSLY APPROVED AS CIRCULATED, 7-0-0 (AYE: Anderson, Fulton, Himeda, Roberson, Saito, Turbin, Williams).

BOARD BUSINESS:

Shangri La's Application Update – Scott Ezer and Debra Pope updated the Board acknowledging that DPP has accepted the application for the new two-story maintenance building for the Doris Duke Estate Foundation (Foundation). The two-story building will match the surrounding buildings and will be approximately 1,400 square feet. This will also replace the existing maintenance shed. Pope indicated an Environmental Assessment (EA) has been finalized and has been accepted by DPP. With the application and EA accepted, the Foundation applied for a Special Management Area Major Use Permit (Permit). The Permit has been accepted by DPP, which has set a hearing date on November 17, 2009, 10:30 a.m. at Paki Hale, and have also sent out a notice to surrounding properties within 300 feet of the Foundation. After the hearing, DPP will have 10 days to report to City Council who will then have 60 days to decide on the request of the application. There will be two readings passed by resolution that will have to go to full council and back to the zoning committee.

Questions, comments and concerns:

- Shangri La (Doris Duke) Foundation Background – Doris Duke passed away in 1993 and requested to establish a foundation at her five acre residence (zoned as a residential 5). Ms. Duke requested this for two reasons; 1) Her collection of Islamic Art; and 2) It was a means to promote Islamic culture. In 2000, DPP granted a conditional use permit as a meeting facility and as a result of a conditional use permit they were allowed to regulate the amount of people that frequented the Estate at any given time throughout the day.
- Use of the New Two-Story Building – A concerned neighbor to Shangri La commented that the building was not just for maintenance storage but to also be used for storing of artifacts. Pope assured the resident that a requirement has to been met for storing artifacts which include environmental control and a high level of security. Stored artifacts are currently in a rental unit off-site. The maintenance staff will have space for their belongings while working at Shangri La. Pope assured that the maintenance equipment and schedule will remain the same as it has since 2000 and having the proper maintenance building will move noise away from the property line of where the cottage is sitting.
- Use of Existing Three (3) Garage Bays – A concerned neighbor to Shangri La questioned the use of the Estate's garage bays. Pope stated one bay is used for Mrs. Duke's personal vehicle, the other two bays are used for the vehicles used by the groundskeepers or staff. Staff members will use the vehicle to transport collection items to various locations. A resident questioned if there is adequate parking on the estate and maintenance is able to use the garage bays to make repairs, why not renovate the existing bays for maintenance use? Pope stated there would be plans in the future that would call for that space maybe turning into a unit where the off-site stored items can be brought back to the house, as renting of site storage is expensive.
- Special Management Area – Is established by the City Council. The permit is a requirement based on the statutory defined limit of \$125,000 to move from a minor category to a major category which requires a permit and asks for an EA and public hearing. The Estate is not subject to any shoreline setback.
- Opposition to Constructing Two-Story Building – Debra Balfour and Walter Davis are concerned neighbors and are opposed to the construction of the new two-story maintenance building. Balfour feels there is no need for a two-story maintenance building and they would like to conserve the property as it stands. There have been modifications to the conditional use permit (CUP) when it was first issued and both Balfour and Davis opposed the changes. The CUP should not be amended and the changes should not be allowed. Himeda would like to honor the original conditional use property that the board had supported and does not agree with the construction of the two-story building.
- Original Conditional Use Permit(CUP) – This permit was specific for the original footprint of the Estate. Any changes made to this would require an amendment to the CUP. The existing maintenance shed is not functioning as it should which is why the new Permit is being requested. Balfour does not feel the answer to fixing the maintenance shed is building a completely different structure.

Western Pacific Regional Fishery Management Council (WESTPAC) – No representative present.

Other Business – None.

OTHER REPORTS:

Chair Reports/Correspondence – No report.

Treasurer's Report (September 2009) – Treasurer Himeda reported the following: (a) the Operating account expended \$26.04 for printing and postage, leaving a balance of \$1,432.63; (b) the Publicity account had no expenses, leaving the balance at \$936. The current balance is \$2488.63, however the Board was appropriated \$2,456. Himeda requested Kapoi find out why the amount appropriated is less than the balance amount.

Committees –

- Oahu Metropolitan Planning Organization (OMPO) Traffic: Chair Anderson asked Kapoi to have mail forwarded to his home address.
- Land Use & Zoning – City Council Actions or Pending Hearings: There is one pending hearing.

Permitted Interaction Group (PIG) – No announcements to report.

#### STATE ELECTED OFFICIALS:

Governor Linda Lingle's Representative – No representative present.

Representative Barbara Marumoto – No representative present. Newsletter has been circulated.

Representative Lyla Berg – Representative Berg circulated a newsletter and highlighted that residents have to be patient with the State's budget issue. Representative Berg commented that schools and community center based programs should look for grants when possible and stay strong. Representative Berg also commented on having worked with the Partnership for America's Economic Success (PAES) to learn from other states' models of economic investment about how Hawaii can take advantage of these challenging economic times to clarify priorities, refine fiscal processes, and truly support the development of human capital.

Questions, comments and concerns:

- Overweight Children Entering School – Representative Berg's newsletter noted that 1/3 of the children entering Hawaii public schools are either overweight or at risk of becoming overweight. It was clarified that the children entering the Hawaii public schools are age 6, or the kindergarten level.
- Public School Furlough Days – A resident commented that parents of Kahala Elementary plan to rally to get the Department of Education (DOE) to plan education programs on furlough Fridays. Parents feel the DOE needs to go back to negotiations because the furlough Friday option is not acceptable. State Attorney General Mark Bennett and Attorney Eric Seitz are trying to negotiate outside the courtroom for public schools to remain open.
- State Libraries – A resident commented reading a letter to a newspaper editor questioning where students are supposed to go if schools will be closed on Friday's as well as Libraries. Representative Berg commented the Libraries fall under the Board of Education, which is why they are affected as well. There will be no special session for further discussion of this issue.
- Capital Improvement Projects (CIP) – The old CIP's are already in the budget. The funds are in the DOE budget and it is at their determination as to when the funds will be released.

Senator Sam Slom – Senator Slom circulated a newsletter and highlighted the following:

- Future Furloughs – The State mayors indicated there is no budget problem this 2010 fiscal year, however there may be a problem in fiscal year 2011, and the reason why the mayors may be asking for so many furlough days. The HGEA will vote October 15<sup>th</sup>, 16<sup>th</sup>, and 19<sup>th</sup> and the union leaders will give the results on the night of the 19<sup>th</sup>. There was no recommendation made to the University of Hawaii Professors Association as to how its members should vote on furlough days. The legislature is not involved in the union process with furlough days and there is no involvement for collective bargaining act. There will be a rally on Friday, October 23, 2009 at the State Capitol. An option of raising taxes instead of furloughs has been made.

- At the State Capitol – The senate will have one more special session before the end of the year because there is one vacant seat left in circuit court which will need to be filled. There will be a small business summit at the state capital on Tuesday, October 20, 2009 from 2:00 p.m. to 4:00 p.m. in Room 329; the public is invited. The state was not only short in its budgeting situation, the first quarter, July to September, the state tax revenue was down 9.7 %. There is to be an increase in taxes in January, however there will be a difficult time seeing meaningful recovery in job creations.
- Future Budget Improvements – The budgetary process does give opportunity for changes and improvements. This includes the way Hawaii's youth is educated about the present budget situation.

Questions, comments and concerns:

- Increase in Taxes – Increasing the state general excise tax will be a topic in January. Keep in mind Hawaii does not have a sales tax. The general excise tax is 4% and 4.5% on Oahu. If the state were to switch to a strict sales tax it would amount between 16% and 18%. The sales tax actually affects the buyer, not the seller where the buyer would pay tax on top of tax on almost every item and few exceptions can be made. Another suggestion has been made to add a new, separate sales tax. Senator Slom is opposed to any type of tax increase.
- Department of Education – The Hawaii State Teachers Association (HSTA) has agreed to an 8% pay cut. However, the DOE does not have to answer to the Executive Cabinet, although the Governor is able to withhold funds forcing the DOE to make decisions and budget cuts elsewhere.

ANNOUNCEMENTS:

Next Board Meeting – Will be on Thursday, November 19, 2009, at 7:00 p.m. at the Wesley United Methodist Church on 1350 Hunakai Street.

Other Announcements – The Board would like for State Elected Officials to report at the beginning of the meeting when more residents are present. The Board will take the agenda out of order if there are not objections at the night of the meeting.

ADJOURNMENT: The meeting adjourned at 8:35 p.m.

Submitted by: Theona Kapoi, Neighborhood Assistant

Reviewed by: Scotty Anderson, Chair