

HAWAII PUBLIC HOUSING AUTHORITY  
MINUTES OF THE REGULAR MEETING  
HELD AT 1002 NORTH SCHOOL STREET, BUILDING E,  
HONOLULU, HAWAII 96817  
ON THURSDAY, OCTOBER 20, 2011  
IN THE COUNTY OF HONOLULU, STATE OF HAWAII

The Board of Directors of the Hawaii Public Housing Authority met for their Regular Board Meeting at 1002 North School Street, on Thursday, October 20, 2011 at 9:01 a.m.

The meeting was called to order by Chairperson David Gierlach and on roll call, those present and excused were as follows:

**PRESENT:** Director David Gierlach, Chairperson  
Director Matilda Yoshioka, Vice-Chair  
Director Jason Espero, Secretary  
Director Debbie Shimizu  
Director Travis O. Thompson  
Director Trevor Tokishi  
Director George Yokoyama

Acting Executive Director, Barbara E. Arashiro  
Deputy Attorney General, Jennifer Sugita  
Deputy Attorney General Nalani Wilson-Ku  
Deputy Attorney General John Wong

**EXCUSED:** Director Roger K. Godfrey  
Director Desiree Kihano  
Director Patricia McManaman

**STAFF PRESENT:** Clarence Allen, Fiscal Officer  
Nicholas Birck, Housing Planner  
Rick Sogawa, Contracts and Procurement Officer  
Stephanie Fo, Property Management & Maintenance Services  
Branch Chief  
Becky Choi, State Housing Development Administrator  
Kiriko Oishi, Housing Compliance and Evaluation Specialist  
Shirley Befitel, Personnel Supervisor  
Renee Blondin-Nip, Hearings Officer  
Deidra Ahakuelo-Kepa, Recording Secretary

**OTHERS:** Fetu Kolio, Mayor Wright Homes Tenant  
Pius Casiano, Puahala Homes Tenant  
David Moakley, Ameresco

Ryan Okahara, U.S. Department of Housing and Urban Development  
Michael Flores, U.S. Department of Housing and Urban Development  
Marie Miguel-Cortez, U.S. Department of Housing and Urban  
Development

### **Proceedings:**

Chairperson Gierlach declared a quorum present.

The business of the Board proceeded with approval of the Regular Meeting Minutes of September 22, 2011. Director Yoshioka moved and Director Thompson seconded to approve the minutes.

**The minutes were unanimously approved.**

The approval of the Executive Session Minutes of September 22, 2011 and October 6, 2011 were deferred until later in the meeting.

### **Public Testimony**

Mr. Fetu Kolio, Mayor Wright Homes tenant testified that residents continue to drink in common areas, make loud noises, and park in other tenants' stalls even with the 10:00 p.m. "quiet time" rule recently put in place. He explained that he witnessed this activity near his unit and also while doing community security patrol. He alleged that security guards allow unauthorized vehicles to enter the premises. He alleged that a security guard (withheld name due to privacy rules) congregates with troubled residents during his off-duty hours and has favoritism towards his friends. He stated that he brought his concerns to the security company, but was told that nothing can be done because this person has strong ties with Management. He feels that this security officer does not follow proper protocol when reporting incidents.

Director Yoshioka asked if he discussed his concerns with Management and if today's testimony is that Management is not doing anything for him.

Mr. Kolio responded that he addressed his concerns with the former Executive Director Denise Wise, and also at a meeting two weeks ago with the Managers. He feels that HPHA is well aware of the issues, and this individual continues to behave like he is "untouchable".

### **For Action:**

**Motion: To Authorize the Executive Director to Conduct Public Hearings on Proposed Revisions to Section 17-2021, Hawaii Administrative Rules, Removing State Housing Projects from the Federal Grievance Procedure for the Hawaii Public Housing Authority ("HPHA").**

**Director Yoshioka moved and Director Shimizu seconded.**

Chairperson Gierlach requested to consolidate Agenda Item IV. A. with Agenda Item VI. C. For Discussion/Information: Medical Use of Marijuana in Federal and State Public Housing Projects.

Ms. Barbara E. Arashiro, Acting Executive Director explained that the For Action is mainly for housekeeping measures. The For Discussion/Information relating to Medical Use Marijuana is the clarification of definition in the Hawaii Administrative Rules (HAR) to include that drug related criminal activity includes the use of a controlled substance as defined in the Uniformed Controlled Substances Act.

Ms. Jennifer Sugita, Deputy Attorney General stated that the entire HAR as presented to the Board today has been reviewed by the Attorney General's office; however what was not reviewed or included is the definition of drug related criminal activity in relation to the use of medical marijuana in federal public housing. At the time of the review, the issue of the medical use of marijuana in public housing was not before the Board. She explained that if the Board decides to ban the use of medical marijuana, the Attorney General and the Hawaii Public Housing Authority are proposing to include the medical use of marijuana in the definition of "drug related criminal activity" in the HAR..

Director Yoshioka asked if it would be included as a prohibited act in both the State and Federal public housing.

Ms. Sugita responded affirmatively.

Director Shimizu stated that medical use marijuana is legal in the State of Hawaii, but if it could be separated because of the federal law.

Ms. Sugita clarified that this specific amendment to the HAR 17-2021-23 is for the federal projects.

Ms. Arashiro explained that the State public housing is governed by the Landlord-Tenant Code and that there is a clear distinction from the federal public housing. Federal public housing program goes through an administrative hearing process and not to the courts. She also clarified that we want to remove the State public housing from the federal grievance process.

Chairperson Gierlach stated that his understanding is that the HAR will continue to apply to the State public housing properties and that it will not provide the grievance process because the Landlord-Tenant Code applies to State properties.

Ms. Sugita mentioned that in February 2011 the U.S. Department of Housing and Urban Development (HUD) came out with guidelines for medical use marijuana for Federal public housing, requiring Public Housing Authorities (PHA) to create a policy regarding the medical use of marijuana. HUD ordered PHAs to not admit medical marijuana users and to make amendments to the Admissions and Continued Occupancy Policy (ACOP). Also with respect to

fair housing and discrimination issues, medical use marijuana is not a Reasonable Accommodation.

Director Thompson asked if the timeline would be affected if this item is tabled.

Mr. Nicholas Birck, Housing Planner explained that we could move forward with the draft and at a later date do a single amendment on the definition section once we have a policy on medical use marijuana. Tabling the For Action item would derail the amendment. Mr. Birck suggested we move forward with the draft and would be able to make definitional changes at a later date.

Ms. Arashiro mentioned that in addition to the amendment, we would also need to make changes to the ACOP, PHA Plan and possibly other administrative rules. It may also include notice to tenants, allow for public comment and Board approval.

**The motion was unanimously carried.**

**For Action:**

**Motion: To Adopt Revisions to the HPHA's Policy on Communication**

**Director Thompson moved and Director Yoshioka seconded.**

Ms. Arashiro explained that a revised Communication Policy was brought to the Board in July 2011 and the Board requested revisions to clarify that inquiries from the media should be channeled through the Office of the Executive Director; there are no other changes to the Policy.

Director Yokoyama mentioned that there may be miscommunication between top level and middle level management.

Chairperson Gierlach responded that this Policy is not relating to communication within the HPHA.

**The motion was unanimously carried.**

**Reports:**

Chairperson Gierlach requested that the Board Task Force Reports, Personnel Reports and Program Status Reports be deferred and discussed in Executive Session later in the meeting.

**Executive Director's Report:**

Ms. Arashiro explained that there was a format change listing: 1) accomplishments for the month; 2) activity that will undertake the following month; and 3) follow up responses to previous Board meetings.

Chairperson Gierlach requested to defer the Executive Director's Report and move to Agenda Item VI. B. Presentation/Training by the U.S. Department of Housing and Urban Development since officials from the U.S. Department of Housing and Urban Development (HUD) just arrived at the meeting.

Chairperson Gierlach called for a recess at 9:43 a.m. and reconvened at 9:50 a.m.

**For Discussion/Information:**

**Discussion:** Presentation/Training by the U.S. Department of Housing and Urban Development.

Chairperson Gierlach expressed his appreciation to the HUD officials for attending and providing the presentation.

Mr. Michael Flores, Director of the Office of Public and Indian Housing (PIH) stated that they appreciated the opportunity to speak with the Board about HUD's programs. He introduced Mr. Ryan Okahara, Honolulu Field Office Director and Ms. Marie Miguel-Cortez of the local HUD office.

Mr. Okahara thanked the Board for allowing them the opportunity to present an overview of their programs, and also thanked the Board for serving the Hawaii Public Housing Authority. Mr. Okahara and Mr. Flores presented the power point presentation (refer to handout) that covered an overview of HUD programs including the following:

- Objectives of the Briefing
- Current HUD Organization
- HUD's Mission
- HUD's Strategic Goals
- U.S. Housing Act of 1937
- Public Housing Authority
- HPHA Public Housing
- Asset Management
- Public Housing Objectives
- Public Housing Assessment System
- FY 2010 Scores
- Housing Choice Voucher
- Section 8 Management Assessment Program
- Board Oversight Priorities
- Redevelopment of Public Housing
- Rental Assistance Demonstration

Director Jason Espero entered the meeting at 10:01 a.m.

Mr. Flores mentioned based on the Public Housing Assessment System (PHAS) Score for FY 2010 that was reported on September 15, 2011, the HPHA is designated as a "troubled" PHA. The HPHA did not file an appeal that was due 30 days from receipt of report. HUD anticipates

receiving the list of Housing Authorities designated as troubled in January 2012 and will work with the PHAs and enter into a Recovery and Sustainability Agreement.

Mr. Flores summarized the Housing Choice Voucher program and explained that a voucher holder is able to rent a unit in the marketplace and would pay 30% of their income for rent, and the HPHA, as the administrator of the program, provides the owner with the Housing Assistance Payments. The optimal utilization of funding is the number one emphasis for this program. The HPHA is considered a high performer for the Section 8 program.

Asset Management Project (AMP) is critical for public housing as a result of the Quality Housing and Work Responsibility Act (QHWRA) 1998. It is a grouping of projects into developments and HUD funds the developments. The HPHA has not yet fully implemented Asset Management.

Mr. Flores presented a handout listing current data listing the number of days the units are vacant. HUD will be working with HPHA staff with a plan of action to address the vacant units.

Director Yoshioka asked if the units for demolition and modernization are included.

Mr. Flores responded negatively and mentioned that 26 are approved for non residential use, 16 are approved for modernization and 56 are approved for demolition.

Mr. Flores suggested that the Board should review the plan and determine if they would like to continue with the units that are approved for demolition.

Director Gierlach stated that it seems that there has been a break down when it comes to the kind of oversight and accountability, especially when reviewing the handout from HUD that listed vacant unit for over 2000 days. He further stated that he is not finding fault but would like to set up a system of accountability and assist the staff to resolve this.

Mr. Flores reported in regards to the Condition of Units and Projects, a re-count of the 16 AMPs for the 2011 Real Estate Assessment Center (REAC) scores, refer to handout. The Kekaha project score was adjusted to 61. He mentioned that three of 16 Developments failed which also means that 13 of the 16 passed of which eight scored 70 or better.

Mr. Flores mentioned in regards to the Capital Fund Program, the HPHA is given two years to obligate and four years to expend funds. Refer to handout for a current summary. The HPHA received a seven month extension. Depending on Congress, funding may be an issue for future programs.

The HOPE VI and Choice Neighborhood Initiatives have also been programs to transform public housing; however the programs may be affected due to limited funding in the future.

Mr. Flores mentioned in regards to Integrated Pest Management (IPM) in public housing projects, it is important and will require residents' involvement. Three ways in dealing with

pests: 1) remove the food source; 2) plug or patch the holes; and 3) use limited amount of pesticide.

Mr. Flores mentioned in regards to Rental Assistance Demonstration, this would allow HUD to use the operating subsidy and Capital Funds that are being provided to the public housing developments and transform that type of assistance into some voucher type or program. It would provide the power of Net Operating Income. Palolo Homes is an excellent example.

Ms. Kim Nash is HUD's regional counsel and has offered to do Ethics Training for the Board tentatively scheduled for the November Board meeting.

Mr. Flores and Mr. Okahara offered to attend future Board meetings and provide updates. The Board gladly accepted and suggested they attend every quarter. Ms. Arashiro will coordinate the schedule with HUD and include on future Board agendas.

Chairperson Gierlach called for a recess at 11:11 a.m. and reconvened at 11:37 a.m.

Chairperson Gierlach mentioned that the meeting would continue with Agenda Item V. B. Staff Reports, Executive Director' Report.

### **Executive Director's Report**

Ms. Arashiro explained that Ms. Stephanie Fo is the Branch Chief for the Property Management and Maintenance Services Branch and also overseeing the Section 8 Subsidy Programs Branch, which are both major programs for the Authority.

Ms. Arashiro pointed out that the handout from HUD designating the HPHA as a troubled PHA is from the 2010 PHAS score for Fiscal Year ending June 30, 2010. The 2011 scores have not yet been issued.

Ms. Arashiro mentioned that staff is submitting database adjustments for the new physical report for FY 2011, that was handed out by HUD. The HPHA has 45 days to appeal after receipt of the actual score.

Chairperson Gierlach asked if we should have filed an appeal for the 2010 PHAS score.

Ms. Arashiro responded that the Authority just received the report in September 2011 and that eight of the 16 AMPs failed and although the Authority submitted database adjustments at that time, the scores still stand. She believed that an appeal will not have changed the scores a year and half later.

Ms. Arashiro mentioned that once the HPHA is under the Recovery and Sustainability Agreement with HUD, it will require a tremendous amount of staff time for meetings, reports, etc.

Director Thompson asked if we knew when the 2011 scores would be out and what would happen if we are not designated as troubled.

Ms. Arashiro responded that HUD did not provide the agency with that information. She also mentioned that they changed the PHAS criteria between 2010 and 2011, so PHAs are rated on different categories.

Ms. Arashiro explained that the difficulty for the staff is prioritizing and addressing the concerns. For example, they may be using all of their resources fixing the vacant units, but still fail REAC because as reported by HUD during their presentation one project failed due to site conditions. These are considerations for the Board Capital Planning Task Force to consider.

Director Yokoyama commented that there must be a waiting list for public housing.

Ms. Arashiro responded that the waitlist is estimated at 9,000 to 11,000 families.

Director Thompson commented that the issue is not the waitlist, but that the units are not ready for move-in.

Ms. Arashiro handed out the HPHA's report on Vacant Units.

Chairperson Gierlach mentioned that there is a community group called VIP that organizes and coordinates various volunteers to prepare (clean up or painting) units for occupancy.

Ms. Arashiro mentioned that they did some units for the privately management AMPs and that the maintenance staff completed the repairs for occupancy. The volunteers are limited in the type of work that they can perform. They are mainly used for privately-managed AMPs, rather than AMPs that employ government workers due to union issues that need to be resolved. Staff met with the United Public Workers union on those two events.

Director Espero asked if something could be done at the legislative level to create a law allowing volunteers to renovate units.

Ms. Arashiro responded that it may require civil service reform.

Ms. Stephanie Fo mentioned that the contract for the privately managed AMPs requires them to fix the vacant units, and that there are sanctions if they are not performing. In the past, the agency has withheld management fees and terminated agreements for non-compliance.

Chairperson Gierlach asked for clarification of vacant units from the handout from HUD versus the handout from the HPHA.

Ms. Arashiro stated that this is the first time that staff saw HUD's handout and that they don't believe the list included the Type C (require major renovation or repairs outside of the scope of the maintenance person) units assigned to the Construction Management Branch.

Director Yokoyama asked how long the private management contracts are.

Ms. Arashiro responded that the contracts are for two years with three one-year options to renew. The contract cannot exceed five years.

Discussion ensued regarding the vacant unit lists and that the numbers don't match the HUD report. Ms. Fo reported that the Property Management monitors go out to the properties and look at each vacant unit.

Director Tokishi suggested that staff should have the opportunity to respond and comment on each unit since this is the first time that they viewed the report. Staff will present a report at the November Board meeting. Chairperson Gierlach thanked the staff and mentioned that the Board would need to focus on this area.

Director Thompson asked for the status of the personnel vacancies and hiring.

Ms. Arashiro responded that there are an estimated 100 vacant positions agency-wide. However, there is a concern if the agency is able to sustain that with HUD's budget. She mentioned that another concern would be if the type of position is suited for the specific AMP.

Chairperson Gierlach stated that he is sympathetic to the personnel concerns and understands that there is a process, however he feels that the AMP Managers should notify upper level management on what their needs are and that it doesn't seem like that is happening. He also commented that he appreciated what staff is doing and that the Board just wants to get a handle on the organization and fix it.

Director Yoshioka commented that she received complaints from the general public about the condition of the public housing properties on Kauai, specifically Hui O Hanamaulu and Eleele Homes. There are abandoned vehicles on both properties. Property Management will follow up with these concerns.

Director Tokishi asked for clarification on the financials.

Mr. Clarence Allen, Fiscal Officer referred to the handout for July and August.

Director Tokishi noted a correction to page 70, Variance should be 8% and not .08%.

Ms. Arashiro referred to another handout about the possibility of HUD intending to recapture operating reserves from public housing authorities for the previous fiscal year.

Director Yoshioka asked if HUD provided guidance and if there is a cap on the reserves.

Ms. Arashiro responded that there is no cap and they generally look for the housing authority to have four months of operating reserves.

Director Shimizu asked for the status of the Board vacancies, in particular the Resident Board member.

Ms. Arashiro responded that the HPHA did not receive official word from the Office of the Board and Commissions on acceptance of Desiree Kihano's resignation. The Resident Advisory Board (RAB) would need to submit the nominations to the Governor for his consideration.

Director Shimizu asked if the Governor would be able to use the previous list, or if a new list would need to be submitted.

Ms. Sugita mentioned that the current statute requires five nominees from the RAB. Ms. Sugita stated that she would check, but she believed that the RAB needed to submit a new list containing five (5) names to the Governor, and could not use the previous list.

Director Shimizu requested an update on the Weed and Seed Program.

Ms. Arashiro mentioned that staff is working with the Department of Public Safety and that a draft of the lease is being reviewed by their Counsel and Union. She stated that the HPHA will still need to set up the selection process and submit a request to HUD to deprogram a unit for a police officer occupancy that will be done concurrently.

Director Shimizu asked for the status of the Memorandum of Understanding (MOU).

Ms. Arashiro responded that she requested for a sample copy from Ms. Maile Shimabukuro that was previously used at Mayor Wright Homes and is awaiting a response.

Director Shimizu asked for the status in regards to the seven month extension for the Capital Fund.

Ms. Arashiro responded that the rules require that we obligate 90% of the grant before the due date and we're currently at 93%, therefore we met the obligation. She further stated that the expenditure deadline is two years from now plus the additional seven months.

Director Yokoyama asked if we could contract the work out to fix the vacant units since the construction industry is slow.

Ms. Arashiro responded that the units that require major repairs and qualify for the Capital Fund Program or the Capital Improvement Program (CIP) are contracted out.

Director Tokishi asked if it could be contracted out for normal AMP repairs.

Ms. Arashiro responded that it would be a violation of the union's collective bargaining agreement for government AMPS with civil service employees.

Director Shimizu requested staff to update the Board regarding the meeting with the Department of Budget and Finance (B&F) and also the meeting with Representative Pono Chong.

Ms. Arashiro mentioned that staff met with Representative Chong to primarily discuss the status of the CIP expenditures and also the proposed conversion of the existing CIP appropriation to a

lump sum CIP during the next legislative session. Representative Chong mentioned that he didn't think the legislature would support it without B&F concurrence.

Mr. Birck reported that staff met with officials from B&F on September 26, 2011 and they are currently reviewing our proposal.

Ms. Arashiro mentioned the discussion with B&F were mainly about three major issues: 1) Request to use a portion of the State CIP monies to cover associated costs; 2) Request to convert the individual appropriations into a lump sum award which would allow us more flexibility; and 3) Hiring constraints.

Director Yoshioka requested to include the Hearing Office status report in the Executive Director's Report.

**Motion: To go into Executive Session at 12:34 p.m. pursuant to Hawaii Revised Statutes sections 92-4, 92-5(a)(2) and 92-5(a)(4) to consult with the Board's attorneys on questions and issues pertaining to personnel to discuss:**

- 1. Personnel Task Force: Report on the Performance Evaluation of the Executive Director and Executive Assistant.**
- 2. Staff Reports: Program Status Reports, including Vacant Unit Report.**
- 3. Approval of Minutes Executive Session, September 22, 2011 and October 6, 2011.**

**To go into Executive session pursuant to Hawaii Revised Statutes sections 92-4 and 92-5(a)(4) to consult with the Board's attorneys or questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities as related to:**

- 1. *Kolio, et al v State of Hawaii , Hawaii Public Housing Authority: Denise Wise in her Official Capacity As Executive Director (Civil Case No. CV 11-00266 and Civil No. 11-1-0795.)***
- 2. For Discussion: Management Audit of the HPHA by the Office of the Auditor, State of Hawaii.**

**Director Thompson moved and Director Yoshioka seconded.**

The motion was unanimously carried.

**The Board reconvened from Executive Session at 1:27 p.m.**

Chairperson Gierlach explained that during the Executive Session the Board considered and approved personnel matters of adjusting the Acting Executive Director salary so that it matched the former Executive Director's salary.

Chairperson Gierlach requested to amend the Agenda to add the Salary Adjustment of the Acting Executive Director to the Agenda. All of the members agreed.

Ms. Sugita clarified that during Executive Session a motion to increase the salary was approved and unanimously carried.

Chairperson Gierlach deferred Item VI. F. For Discussion: Location of HPHA Board Meetings and Possible Alternate Sites or Rotation at Public Housing Complexes, to the November Board meeting,

The meeting adjourned at 1:29 p.m.

#### MINUTES CERTIFICATION

Minutes Prepared by:

  
Deidra L. Ahakuelo-Kepa  
Recording Secretary

NOV 17 2011

Date

Approved by the Hawaii Public Housing Authority Board of Directors at their Regular Meeting on NOV 17 2011.

  
Jason Espero  
Director/Board Secretary

NOV 17 2011

Date