

HUMAN SERVICES AND ECONOMIC DEVELOPMENT COMMITTEE

MINUTES

February 14, 2002

Council Chamber

CONVENE: 9:09 a.m.

PRESENT: Councilmember Robert Carroll, Chair
Councilmember Jo Anne Johnson, Vice-Chair
Councilmember G. Riki Hokama, Member

Councilmember Charmaine Tavares, Nonmember

EXCUSED: Councilmember Patrick S. Kawano, Member
Councilmember Michael J. Molina, Member

STAFF: Shannon Alueta, Legislative Analyst
Jo-Ann C. Sato, Committee Secretary

ADMIN.: Traci Fujita-Villarosa, Deputy Corporation Counsel, Department of the
Corporation Counsel
Agnes Hayashi, Deputy Director, Department of Finance
Rosalyn Baker, Economic Development Coordinator
Monnie Gay, Economic Development Specialist, Office of Economic
Development

OTHERS: Robert Howerton, Maui Community College Sea Grant Extension
William Lansford, Aquatic Ventures, Inc.
Plus (2) other people

PRESS: Melissa Tanji, *The Maui News*

CHAIR CARROLL: . . . (*gavel*) . . . Meeting of Human Services and Economic Development will now come to order. Okay.

. . . (*Pause*). . . (*Technical Difficulties*)

CHAIR CARROLL: Alright. For the record, we shall just start all over again. Human Services and Economic, Economic Development Committee will now come to order. Good morning, Members and audience. We have with us this morning Jo Anne Johnson, Vice-Chair; Riki

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Hokama, Committee Member; and Charmaine Tavares, Council Member. Excused this morning is Pat Kawano and Mike Molina. We have with us this morning from the Administration Roz Baker and Monnie Gay. For Corporation Counsel, we have Traci Fujita-Villarosa. For Finance, Director of Finance, we have Agnes Hayashi, Deputy Director. Committee staff, we have Shannon Alueta, our Legislative Anal...Analyst and Jo-Ann Sato, our Committee Secretary. If there's anybody wishing to testify this morning, please come down. Do we have anybody signed up?

MS. SATO: No.

CHAIR CARROLL: Alright. This morning we are going to hear HSED-3, resolution authorizing a grant of a lease of County real property to Jonathan [sic] Sosna. Members, as your remember, we have before us a resolution that would allow Mr. Sosna and his partners to lease County property located adjacent to the Ukumehame Firing Range on January 31, 2002. The committee conducted a site inspection and held a meeting in this matter. At the meeting, Committee recommended adoption of a revised resolution. The revi...revision would have required the applicant to return to the Council in five years. At that time, the Council would revi...review the project's financial documents and decide whether the rent should be increased or if the County should secure a percentage of the profits. Upon the advice of the Department of Corporation Counsel, the Chair has decided against sending this matter to the full Council just yet. In a moment, I will ask Corporation Counsel to review its memo dated February 6, 2002. And is there anyone . . . uh . . . we will have public testimony first.

COUNCILMEMBER TAVARES: . . . (*inaudible*) . . . you first.

CHAIR CARROLL: Please state your name in the microphone?

MR. LANSFORD: Yes. My name is William Lansford. I'm the President of Aquatic Ventures, Incorporated. We're the company that's applying for the lease for the land out in Ukumehame. And . . . uh . . . can you hear me?

COUNCILMEMBER TAVARES: Hardly.

MR. LANSFORD: I'm sorry. Can you hear me better now?

COUNCILMEMBER TAVARES: Yes.

MR. LANSFORD: Okay.

COUNCILMEMBER TAVARES: Thank you.

MR. LANSFORD: We're, I'm William Lansford, President of Aquatic Ventures, Incorporated. We're the company that's applying for the lease in Ukumehame to raise sturgeon. And I just wanted

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to come down and basically say hi and let you guys know that we're here and, and answer any questions you might have regarding the lease or, or what we're doing.

CHAIR CARROLL: Any questions, members? Hearing none. Thank you very much.

MR. LANSFORD: Thank you.

CHAIR CARROLL: And our next testifier may go to the microphone.

MR. HOWERTON: Yeah. Good morning. Thank you for the opportunity to testify. My name is Bob Howerton. I'm with the University of Hawaii Sea Grant Extension Service and I testified on behalf of . . . I testified on behalf of Aquatic Ventures at the previous meeting. Their proposed project could potentially be very lucrative for Maui County. They propose to raise sturgeon, a fresh water species that is endangered. Our fresh water aqua filter species are very limited here in Hawaii, the State of Hawaii and the opportunity to raise a new species could open up economic opportunities both for the State of Hawaii and for Maui County including job opportunities and aqua filter training. I'd be happy to . . . uh . . . answer any questions from the Council.

CHAIR CARROLL: Charmaine.

COUNCILMEMBER TAVARES: Yeah. I'm sorry. I missed your, your name and your title.

MR. HOWERTON: Oh, I'm sorry. My name is Bob Howerton. I'm with the University of Hawaii. I'm the aquaculture specialist for Maui County.

COUNCILMEMBER TAVARES: Your name sounds familiar. Thank you.

CHAIR CARROLL: Any questions, members? Thank you.

MR. HOWERTON: Okay. Thank you very much.

CHAIR CARROLL: Is there anyone else signed up to give testimony? Does anyone else wish to give testimony at this time? If not, public testimony is now closed. I'd now like to call upon Corporation Counsel.

MS. FUJITA-VILLAROSA: Okay.

CHAIR CARROLL: Traci.

MS. FUJITA-VILLAROSA: Thank you, Mr. Chair. Just to go over real briefly the memo that I . . . it's dated February 6th submitted to Councilmember Carroll. Basically, I just wanted to go over how the lease came about. And basically, this was a lease that was awarded on a competitive

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bid basis and that's pursuant to the requirements of Chapter 3.40, the Maui County Code. Mr. Sosna is, I believe, part of the entity Maui Aquatic . . . Aquatic Ventures, Incorporated and he was the one that submitted the bid. So, therefore the lease, that's why the lease is actually in his name and the resolution is currently before Council in this Committee because the lease is for a term of 20 years and a Council resolution is required for that time, length. And I also just wanted to make clear that this is a fair market value lease. The property was appraised through the Department of Finance and if you look in the reso, it gives the range between 60 and \$1,040 per year as the fair market value for the lease rental. Mr. Sosna's bid was 300 . . . \$350 per year, which is within that range and he was the highest responsible bidder, therefore the, he was awarded the bid. And in the last part of my memo is to just let Council know that if it did want to propose like additional rent or additional compensation, that would have to be negotiated with Mr. Sosna. That would . . . it would be something that he would have to agree to. We obviously couldn't negotiate for something lower, you know, because it was a, it was a competitively bid lease, but if Council wanted to propose something else then that would be something that the tenant would have to agree to and then I could just add it into the terms of the lease.

CHAIR CARROLL: Members, any questions? Ms. Johnson.

VICE-CHAIR JOHNSON: I know last time, Traci, I don't recall if you were at the meeting that we had in Lahaina. But anyway, when, when I raised the issue about this rent seeming very low--I can understand for seed money and everything--my concern basically stemmed from the fact that if everything panned out and there was profitability included . . . at least for this operation at some point in time, I wanted to ensure that the County would not be left in a position where their revenues were increasing because it was a for profit business and the County was really not being able to participate, you know, in, in that kind of a return. So, if I understand what you're saying, in the memorandum there seems to be some question even about the fact if this was a competitive bid, to me, does it have to be rebid?

MS. FUJITA-VILLAROSA: No, it doesn't have to be rebid. The, the terms are \$350 per year and that's, you know, that's what the lease should reflect. However, I, you know, I wasn't at that meeting, the last meeting and I did hear that there were some, you know, comments raised by the committee at that time about this possibility of increasing the rent or having some kind of provision for future payment. And . . . uh . . . again that's, you know, if, if Council wanted to propose that in, it would be a negotiated thing between, between the County and the tenant at this point. They could say no and then we, we can't force them I mean because, you know, the bid is what really controls and that's, that's what the lease should reflect. And normally, that's how, you know, like all of our contracts are done. For instance, you know, whoever is the highest responsible bidder gets the bid at their bid price. There is often . . . you know, a change in circumstances where the County does have to renegotiate a contract for instance. So, it's, you know, it's been done before but we can't go below. You know, we can't renegotiate, like I said, below what he's bid, but normally the contract, the lease would reflect the bid amount.

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VICE-CHAIR JOHNSON: One more question, Mr. Chair. When we do an RFP where it actually goes out, you know, and then you take in all the bids from people who could be responsible, when you put those, I guess criteria out and you establish that, if we change that in such a way that it changes the whole mix, there, is there the possibility that there could have been another bidder out there who's, who would then come back at us and say, oh, well, if I had known I had an opportunity to give your percentage of whatever and agree on that then I could have, you know, paid more? Is, is there a possibility for anyone to come back and say, well, because you changed any element of this particular contract therefore changing the whole nature of the request for proposal, could they come back at us and say, well, it was unfair because you changed all the specifications and the parameters?

MS. FUJITA-VILLAROSA: Normally, a . . . a person wouldn't come back to the County and protest a bid award if the . . . um . . . the bidder who had originally won the award was paying more. It would, it would happen more if the, the bidder who won the award ended up paying less because then--or say if we changed the scope of the project such that, like you said, somebody else out there may have wanted to bid, like, oh, if, if I had known--I don't know--you know, whatever, if we just changed something about it. But in this case, from what I understand, the committee wasn't proposing a change in the scope of the project or anything. They, the, the committee was, was interested in perhaps having some kind of a provision in there for a rent increase and I just, I can't see how somebody would want to, you know, how they would protest that. Um . . . I just, I just don't think that, that would be a . . .

VICE-CHAIR JOHNSON: Okay. Thank you, Traci.

MS. FUJITA-VILLAROSA: . . . reasonable.

CHAIR CARROLL: Members, any further questions for her?

COUNCILMEMBER HOKAMA: Chairman.

CHAIR CARROLL: Mr. Hokama.

COUNCILMEMBER HOKAMA: What is the official disposition of this item at this time? Is it back in committee? I thought this committee had sent it to Council.

CHAIR CARROLL: No, it's in committee at this time . . . before us now as a new agenda item.

COUNCILMEMBER HOKAMA: Yeah, but two weeks ago in the meeting that I was not able to attend, Chairman, and . . . uh . . . you have my apologies, my understanding was this, your committee voted this out.

CHAIR CARROLL: That is correct.

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COUNCILMEMBER HOKAMA: There has been no Council action to recommit it. So . . .

CHAIR CARROLL: The procedure to bring it back--let's see who would be the best one to explain this . . . uh . . . Shannon.

MS. ALUETA: Mr. Chair. What happened was after that meeting and Councilmember Johnson had that suggestion and the Committee voted to support her inclusion in the reso or in the lease, the Committee sent a memo to Corp. Counsel asking that the language be drafted and inserted prior to the hearing of the reso at the next Council meeting. However, as the Corp. Counsel opinion or memo states, she advised us against trying to include that kind of language based on the whole RFP set up of this particular project. And because we can't, it would be difficult to do some kind of swap on the floor, you know, of that nature because it's not just a housekeeping type of thing, it would be a major revision, we decided to bring it back to committee instead of sending it forward.

COUNCILMEMBER HOKAMA: So, Council did not officially receive a report from the Committee to be posted on the Council agenda? I thought I saw it on the Council agenda.

MS. ALUETA: No.

COUNCILMEMBER HOKAMA: It is not?

MS. ALUETA: No. There were two other items that we took up that same day that were, but not this item.

COUNCILMEMBER HOKAMA: Okay. Recess.

MS. ALUETA: Recess.

COUNCILMEMBER HOKAMA: Recess, Chairman.

CHAIR CARROLL: Short recess.

RECESS: 9:23 a.m.

RECONVENE: 9:51 a.m.

CHAIR CARROLL: Reconvene. Alright members, we seem to have several problems here. I was hoping that we could pass this out, the resolution as it is written. Uh . . . this is rather a small project actually that I was hoping could be a pilot project. And I still don't think that any of the

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things that we're talking about are appropriate to attach to it when some . . . when we lease land to a farmer we have never gone and done anything like this. If the members would just agree to pass this out as it is written, the original resolution, we could do it today and send it to the Council floor. If not, I'm going to have to defer which I hate to do. Vice-Chair Member Johnson.

VICE-CHAIR JOHNSON: The, the one thing I would like to know because Councilmember Molina is not here--and he was one of the people that was present at the last meeting, and I think that out of respect for him--I would prefer to defer it 'til the afternoon 'til he could be present to see what, you know, his understanding was. I, I don't . . . at that point in time, could we move to reconsider, Mr. Chair?

CHAIR CARROLL: Can we defer to a . . . do we have a time . . . can we defer to a time this afternoon?

MS. ALUETA: Yeah. Mr. Chair, Councilmember Hokama will be absent if we meet this afternoon.

CHAIR CARROLL: But then we could have Mr. Molina.

COUNCILMEMBER HOKAMA: Yes.

MS. ALUETA: It's up to you.

MS. BAKER: Mr. Chair, could I make a suggestion or . . .

CHAIR CARROLL: Yes.

MS. BAKER: I would be more than happy to meet with Councilmember Molina, Deputy Director Agnes Hayashi and I to go over what the process was and, and sort of explain some of the difficulties with the action that Council moved on last year 'cause I think their, their clearly was some misunderstanding. And, you know, I apologize that I wasn't able to be at that, at that meeting as well. And maybe that would, you know, give Councilmember Johnson some comfort that just as, you know, she has new information now and is, is looking at it in a different light that Councilmember Molina would do the same. And we'd be more than happy to meet with him as soon as possible on that.

CHAIR CARROLL: Is it--

VICE-CHAIR JOHNSON: I, I think that would be fine and then we could just, you know, defer 'til this afternoon then. Is that what you're saying, Roz?

MS. BAKER: Well, no. Actually, I was suggesting that you go ahead and, and take it up today and, of course, I would urge you to pass the reso out as it, as it was originally presented since you

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do have a quorum and then meet with Council member this afternoon or as soon as he's available.

CHAIR CARROLL: The one thing too is, you know, the applicant's over here. Uh . . . their financing, it is difficult to get financing for any type of Ag projects where there's Ag or aquaculture and we do not have an infinite amount of time, which is why we tried to do this today. I was hoping that the original resolution, if we could pass it out. I think it would be best for all and we do have time before the Council meeting to . . . uh . . . if there are any concerns. But I would hope that we could do that Ms. Johnson.

VICE-CHAIR JOHNSON: Mr. Chair, also one of the things that I, I . . . I had received a question and it was from someone at the last meeting. They said what if we move Honoapiilani Highway more mauka and the operation, all of the investment that they have is installed already in the ground and they've got this . . . and we have a 20-year lease. That, that was one of the things that someone else had asked. So, I was just wondering, would this totally mess them up also if that movement of the highway more mauka would interfere with their project? I would like to hear from, from them also.

CHAIR CARROLL: I don't know how they could judge if it were to interfere with their project to begin with. It would depend on how far mauka the highway was. I mean . . .

VICE-CHAIR JOHNSON: Well, any distance depending on where their project is sited. Any distance that you move it in, even if you expand to the two lanes. It, it might encroach on their operation. So, I just, you know, that was, that was one of the other things that I had hoped to discuss when we had more committee members here.

MS. BAKER: Mr. Chair, looking at the map . . .

CHAIR CARROLL: Yes.

MS. BAKER: . . . it looks like its further mauka of any easement that currently exists for moving the highway in--

CHAIR CARROLL: See the high--

MS. BAKER: --but I would, I would defer to--the principal's in the audience. He could probably answer the question.

CHAIR CARROLL: Alright. Is there any objection to us asking the principal about this, the applicant?

VICE-CHAIR JOHNSON: No objection.

CHAIR CARROLL: Will you please come to the microphone?

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COUNCILMEMBER HOKAMA: Mr. Chairman.

CHAIR CARROLL: Yes, Mr. Hokama.

COUNCILMEMBER HOKAMA: You know . . . it's a good question but it's a hard question. You know, we'll be working or we will try to be working with a State agency and I'm sure at this time there's no clue where the road is going to be. I would think it would be a more appropriate as the . . . steward of the property to put in appropriate language in the agreement that both parties are clear that if such an occurrence should happen that there are remedial options to take into consideration. That would be part of it, part of the agreement whether upon three months notice, six months notice, what, whatever it may be. I mean if you're going to make a road, you're gonna get a lot of notice because it's not that easy to get all that monies and do all the construction. So, I would think that would be an appropriate time for us to do a relocation or a termination . . . uh . . . option that both parties would recognize should this project, State project move forward.

CHAIR CARROLL: Alright. Would you care to comment since I have you up there already? Identify yourself, please?

MR. LANSFORD: Yeah. William Lansford, President of Aquatic Ventures. Excuse me. As far as moving the, the highway mauka, if it just consists of an expansion of the highway, the, the present highway in the mauka direction, I don't think that would be a problem at all. We're, we're far enough away that, that I don't think that would really effect us in any significant way. You would actually have to physically move the highway 100 yards inland to really do any kind of, of damage to us. Um . . . you know, I suppose if, if that became the plan at some point in time--I, I honestly don't know where the highway's gonna end up, so I can't really give you a definitive answer to this. But . . . uh . . .

COUNCILMEMBER HOKAMA: Nobody knows.

MR. LANSFORD: . . . yeah. This is . . . that, that potato's been bouncing around for a long time, so I don't know what's gonna happen. But . . . uh . . . as I say, you know, an actual widening of the highway shouldn't affect us in any way that I can think of other than, you know, some temporary nuisance. You know, the, the usual associated dust, dirt and so on and so forth, which we can deal with. That's not a problem.

CHAIR CARROLL: Thank you.

VICE-CHAIR JOHNSON: Also--

CHAIR CARROLL: Johnson.

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VICE-CHAIR JOHNSON: --and maybe, maybe the applicant can answer this along with Corporation Counsel. If there were to be language inserted in the resolution, would that materially affect anything? Like, because we don't know something and it's got a 20-year lease, I would hope that something would happen in the next 20 years--

CHAIR CARROLL: . . . *(inaudible)* . . .

VICE-CHAIR JOHNSON: --starting that highway. So, is that language gonna be problematical based on the original bid that the other issues that you brought up?

MR. LANSFORD: Well--

VICE-CHAIR JOHNSON: Would that be a problem for you?

MR. LANSFORD: Yeah. I'm not quite sure exactly what sort of language you're talking about. You mean just that if, should the highway interfere with our operation . . . uh . . .

VICE-CHAIR JOHNSON: That you would be given a certain period of notification at which time . . .

COUNCILMEMBER TAVARES: The State would have to do that.

VICE-CHAIR JOHNSON: Well, I know the State would have to do that, but, you know, basically if we put a clause in there--if we have a lease and all of a sudden we're not able to fulfill our part of the obligation, my concern is that . . . is there any action? You know, like are you gonna have cause to take action against us because we can't discharge our responsibilities and duties to you?

MR. LANSFORD: You know . . . you know, you know, we're kind of borrowing lawnmowers here. We're working on, you know, on the, on the assumption that there's gonna be, you know, a pretty major move of the highway. I mean but . . . the highway would have to quick right and then a left to, to really effect us in any major way.

VICE-CHAIR JOHNSON: Alright. You know, I'm gonna stop this now because all this is just conjecturing

MR. LANSFORD: Yeah.

CHAIR CARROLL: It's getting us nowhere.

MR. LANSFORD: Yeah, I really can't answer this question.

CHAIR CARROLL: This conversation is just a dead end right here.

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VICE-CHAIR JOHNSON: Okay. Um . . . I, I have no further questions then.

CHAIR CARROLL: Alright. Members, we have before us a resolution . . . the original resolution, the one in your, the resolution in your binder. Yeah. So, we can either act on this today and send it the full Council or we're gonna have to defer it. And there's only three of us here so we all have to agree. Give me a hint? Councilmember Johnson.

VICE-CHAIR JOHNSON: I, I personally would prefer to defer it.

CHAIR CARROLL: Mr. Hokama.

COUNCILMEMBER HOKAMA: Defer it, Chairman.

CHAIR CARROLL: I would like to thank everyone that has come today. We appreciate your participation. This item is deferred. The Human Services and Economic Development Committee is now adjourned.

COUNCILMEMBER TAVARES: Mr. Chairman.

CHAIR CARROLL: . . . *(gavel)* . . . Yes. I'm sorry.

COUNCILMEMBER TAVARES: Are you deferring it 'til today, later today or . . .

COUNCILMEMBER JOHNSON: No, he didn't.

COUNCILMEMBER TAVARES: You didn't decide.

CHAIR CARROLL: Can we defer it 'til later today?

COUNCILMEMBER HOKAMA: You could have recessed it.

COUNCILMEMBER TAVARES: Recessed it.

MS. ALUETA: Yes. Um . . . Mr. Chair.

CHAIR CARROLL: Yes.

MS. ALUETA: You need to call a recess rather than deferring.

COUNCILMEMBER TAVARES: Yeah.

CHAIR CARROLL: Alright. We're gonna, we're gonna call a recess. . . . *(gavel)* . . .

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MS. ALUETA: Wait.

COUNCILMEMBER HOKAMA: Wait, wait, wait, wait.

MS. BAKER: You gotta recess to a time certain.

COUNCILMEMBER HOKAMA: He adjourned the meeting. There is no meeting any more. It's over.

CHAIR CARROLL: Item is deferred.

ADJOURN: 10:02 a.m.

APPROVED BY:



ROBERT CARROLL, Chair

Human Services and Economic Development Committee

HSED:min:020214

Transcribed by: Lori Blume