

GOVERNOR'S TURTLE BAY ADVISORY WORKING GROUP

**June 25, 2008 - 10:00 A.M. - 11:00 A.M.
Governor's Conference Room
State Capitol, Fifth Floor
Honolulu, Hawaii 96813**

MINUTES

Attendance

Present: Chair Bill Paty; Senator Clayton Hee; Representative Michael Magaoay; Mr. Reed Matsuura (Representing Councilmember Donovan Dela Cruz); Mr. Eric Gill; Mr. Junior Primacio; Ms. Cathleen Mattoon; Mr. Mitch Costino; Mr. Ernest Martin; Mr. Ted Liu; Ms. Denise Antolini; Mr. Blake McElheny; Mr. Steve Metter; and Ms. Lea Hong

Excused: Dr. Steven Wheelwright; Mr. Cy Bridges; and Vice-Chair Thielen

Also Present: First Deputy Attorney General Lisa Ginoza; Senior Policy Advisor Linda Smith; Chief of Staff Barry Fukunaga; and members of the public

Call to Order Meeting called to order at 10:05 a.m.

I. Opening Comments – Bill Paty, Chair

Chair Paty called the meeting to order and invited members of the public to introduce themselves.

a. Approval of Minutes from May 14th meeting

The minutes were approved as submitted.

II. Subcommittee Reports

a. Acquisition Options – Steve Metter

Mr. Steve Metter introduced and gave a brief background on Mr. Stanford Carr.

i. Loan Restructuring – Stanford Carr, CEO of Stanford Carr Development

Mr. Stanford Carr informed the group that he is the appointed Interim Management Officer for the asset on behalf of Oaktree as well as the lenders. He stated that he reports to Oaktree. He said the foreclosure action has been set aside for six months. He informed the group that for the next six months Oaktree and the lenders will be actively marketing the property for sale. Mr. Carr indicated, however, that lenders are prepared to hold and own Turtle Bay, as well as maintain the obligations that run with the land if the property does not sell. He said the last 18 months have been tumultuous and it is his intention, as well as the owners, to regain some credibility in the visitor industry and the community.

Before opening up to questions, Mr. Carr expressed the difficulty Benchmark has experienced with publicity regarding the foreclosure and the State's interest in acquiring Turtle Bay. He said this has negatively impacted bookings, which creates uncertainty about the future of the property, jobs, and the hotel. Mr. Carr asked that the working group be sensitive to this problem.

In response to Mr. Metter's question, Mr. Carr said that should there be a sale of the Makai property, the Mauka lands would be included in that transaction. He expressed a desire to have the Mauka lands remain in agricultural use.

In response to Mr. Metter's question about a general philosophy on potential development of the property, Mr. Carr shared that there has been a lot of new trends in destination resort development over the years and that monolithic building of many hotels may not necessarily produce optimum value. Mr. Carr emphasized it has never been Oaktree's intent to build 3,500 units. He emphasized that Oaktree has the entitlement to build another 3,500 units based on the unilateral agreement and this was accepted by the community at the time it was negotiated.

In response to a question from Mr. Eric Gill, Mr. Carr indicated that all parties have set aside their disputes to market the property. But Mr. Carr reminded the working group that in order to consummate a deal, there needs to be a willing seller and a willing buyer at agreed upon terms and price. As such, Mr. Carr re-iterated that the sellers are cognizant that they may not receive a bid that is acceptable to them, which may necessitate the need for them to continue to hold the property.

Mr. Gill pointed out that there is substantial dispute as to 1) the true value of the property and 2) whether the 1986 unilateral agreement should apply. Moreover, he asked Mr. Carr if the sellers would view anything less

than full recovery of the loan as a good offer. He questioned what effect the Mauka lands would play in determining a good price for the property.

Mr. Carr emphasized that the value is based on its uses. He indicated that he really could not provide much comment on how the lenders underwrote the loan in 2005. Mr. Carr emphasized that he and the lenders are reviewing the impacts of the public improvements and the conditions of the unilateral agreement. He noted the great job that Benchmark has been doing. Mr. Carr also emphasized the property's need for re-investment.

Chair Paty suggested we go around the table to allow all members to ask questions or make comments.

In response to Mr. McElheny's questions, Mr. Carr confirmed that in his capacity as Interim Management Officer, he is responsible for maintaining hotel operations and interfacing with Eastdil in the sale of the property.

Senator Clayton Hee asked if they had given thought to legislation passed, specifically related to the eminent domain provision.

Mr. Carr indicated that this provision has caused great concern because it significantly impacts the marketability of Turtle Bay. Specifically, he said there is concern that interested parties will pursue the acquisition, spend a significant amount of time and money only to have the State exercise its right by eminent domain to acquire the property by condemnation.

Mr. Ted Liu asked Mr. Carr to comment on what he anticipates the sales process to be like and to clarify what happens if a sale is not consummated within the six-month time period.

Mr. Carr responded that if the sale is not made in six months the lenders would become the sole owners of the asset. He indicated that they will buy the Mauka lands that are presently owned by Oaktree and Oaktree will no longer be a party to the matter.

In a response to a follow-up question from Mr. Liu, Mr. Carr indicated that the six-month period began three weeks ago and will continue through October.

Ms. Cathy Mattoon stated her concerns that 1) the asset that is being sold are the development entitlements, 2) that it has been 22 years since these entitlements were given and the unilateral agreement was created, and 3) there should be a review of all permits enabling these entitlements. She commented that there are some that feel these permits should have been cancelled and she shared her opinion that any future development that

comes along should have finite deadlines. Ms. Mattoon pointed out that the passing of time plays a critical role in any evaluation or analysis related to potential development of Turtle Bay and called for the re-evaluation of the archaeological and environmental impact studies.

In response Mr. Carr noted that each of the islands has its own legislation on the permitting process and access to capital takes time, and it is important to be sensitive to economic cycles, which can affect a property liability. He cautioned the group regarding the effects a decision like this would have on the economy, job creation, sustainability, economic sustainability, and more importantly, the effect this decision will have on society.

Mr. Reed Matsuura informed the working group that Councilmember Dela Cruz proposed Resolution 106-366 calling for a cut-off date on unilateral agreements. The resolution passed the Council and was forwarded to the Department of Planning and Permitting (DPP). DPP has not implemented the resolution because they share the same sentiment as Mr. Carr. Mr. Matsuura suggested to discern clarity on this matter, we could invite DPP to a working group meeting.

Mr. Gill commented that the intent of such legislation is to restrict, to the extent possible, the speculative selling and re-selling of property, which adds price but does not add value. Moreover, he pointed out that the core question is how willing is the current ownership to engage in a discussion about what is appropriate, given current conditions.

Mr. Carr pointed out that there is a need for parity. He asked the working group to think about the message we are sending to the world about doing business in Hawaii.

Mr. Ernest Martin informed the working group that the Department of Planning and Permitting is willing to appear before the working group to provide any information they can, recognizing they are constrained in certain respects because of on-going litigation.

Ms. Linda Smith asked Mr. Carr if he had any thoughts on how the working group and/or the people in this room could help in the short term, in terms of the hotel and its operations.

Mr. Carr pointed out that media attention has negatively impacted the operations of the hotel and its ability to market. Competitors have capitalized on this and have drawn customers away from Turtle Bay. Essentially he asked the group to be sensitive to the challenges they are facing.

Mr. Junior Primacio provided comments on 1) the need to upgrade the water system should it be put back into production, 2) the desire of the East and West Kuilima Condo Associations to purchase their fee, and 3) the potential flood damage to Kawela Bay.

In response to a question posed by Ms. Denise Antolini, Mr. Carr agreed that he would like to form a partnership with the working group.

Mr. Mitch Costino gave a brief history on the negotiation process between Oaktree and Kuilima East and West. He informed Mr. Carr that in 2006 an informal agreement had been reached, but it was never formalized. Mr. Costino further commented that in light of the current economic situation, the number agreed to in 2006 is a soft number. He also informed Mr. Carr that Eastdil is a wholly-owned subsidiary of Wells Fargo Bank.

Mr. Carr responded that he looks forward to resurrecting the negotiation with the condominium associations.

Chair Paty opened up the dialogue for important questions from members of the public.

A member of the public asked Mr. Carr to comment on the relative values of entitlements specifically related to when Oaktree paid \$50 million in 1998.

Mr. Carr responded that value is somewhat subjective because it is based on different approaches, such as income stream. He re-emphasized that when you speak about the value of entitlements, it will fluctuate accordingly.

Mr. Gil Riviere agreed that Benchmark has done a good job in marketing the property properly to attract new bookings, but questioned whether the health of the hotel rests primarily on the owners. He contended that if the owners would engage in discussions and articulate a clear message to the world that they are willing to make this work and get along with the community that it would aid in resolving that uncertainty.

Mr. Carr responded that any effort to shore up and re-enforce the viability of the hotel would be a tremendous help to everybody. He added that the hotel is in need of re-investment. So, they are working with Benchmark to discern what capital improvements are needed to improve and sustain their marketability.

Mr. Metter clarified for the working group that Mr. Carr's responsibility is to increase occupancy and maintain functionality of the hotel. He added that in the next six months Mr. Carr would not engage in any further

development. In a follow-up question, Mr. Riviere asked what would happen to the subdivision applications filed by Oaktree and if they will expire?

Mr. Carr responded that they are working towards satisfying the application conditions.

Chair Paty wrapped up the discussion by thanking Mr. Carr for his frank, open, and insightful comments. He extended his appreciation to Mr. Carr for his willingness to speak with the working group.

Chair Paty called for a recess at 11:06 a.m.

Chair Paty called the meeting back to order at 11:13 a.m.

Chair Paty welcomed Mr. Sam Chung of Peninsula Real Estate Partners.

Mr. Metter shared with the working group that Sam, in the spirit of openness, is willing to sit down with members of the community and share his preliminary analysis with them.

Mr. Chung reported that there has not been a lot of new information released since his initial analysis, however, he wanted to make the offer to speak with the community about his initial analysis.

In response to Chair Paty's question, Ms. Antolini suggested that Sam and a member of the working group, specifically a member of the Cabinet, attend a meeting with the community. She noted that it is likely the committee will have broader questions that may require someone else to be present as well.

Mr. Gill asked if there would be a continuous review in light of the economic conditions.

Mr. Chung agreed that there would be a need to keep an eye on how the change in the economy will change his initial analysis.

Mr. Liu indicated that he is concerned about people with stronger currencies than the U.S. He also made the point that the State of Hawaii can not sign Confidentiality Agreements.

Mr. Metter indicated that there would be new information forthcoming.

Chair Paty said that there could not be a better person representing the creditors than Mr. Carr, but the working group needs to keep in mind that

he came to the meeting in his official capacity as Interim Management Officer and to do his job.

Mr. Chung indicated that it is positive that Mr. Carr recognized the involvement of this working group and the State and its impact on how the lenders are choosing to conduct this transaction.

Mr. Metter added that the influence of this group is tremendous on the sales process, particularly with respect to legislation and the tool of eminent domain. He indicated that it is an excellent tool for requiring potential buyers to meet with the acquisition committee and the working group.

In response to Mr. Primacio's question, Mr. Metter indicated that an appraisal has not been done but an opinion of value has been conducted. He added that new information will be forthcoming and, as Mr. Gill suggested, the change in the economy will require a re-vamp of initial analysis.

b. Community Communications – Denise Antolini

Ms. Antolini reported that an opinion editorial by Chair Paty ran in the newspapers and the following Monday three members of the working group participated in radio shows. She said since then it has been relatively quiet but the subcommittee and the Governor's Communication Office will be collaborating to produce a similar opinion editorial or update piece for dissemination to the neighbor islands.

Ms. Antolini also reported that, contingent upon the technical concerns subcommittee, she would like to work on a set of frequently asked questions regarding the unilateral agreement.

Ms. Antolini shared that the working group's email has received a dribble of incoming email, which will be forwarded to the rest of the group via the googlegroups website. Ms. Antolini pointed out that there is an email in particular that threatens a lawsuit against several entities and individuals. She commented that she is unsure of its validity but it is her job to pass information on to members of the working group.

Ms. Antolini concluded by presenting a draft of a community vision-marketing piece to the working group. She emphasized that this is not a product of the subcommittee but of the community. It is an effort to articulate clearly the vision of the community and the case for why acquiring Turtle Bay is a positive vision.

Mr. McElheny shared his appreciation for those who worked together to produce this case statement. He said any comments or criticisms are welcome.

c. Long-Term Resort Viability – Eric Gill

Mr. Gill indicated that Mr. McElheny would like to share something with the working group.

Mr. McElheny shared an article with the working group about the greening of hospitality means green jobs. He noted the presence of Starwood and its program called Element in the article.

Ms. Mattoon pointed out for the group the presence of a resolution from the Ko'olauloa Neighborhood Board in their packet. She asked that the group respond to them as soon as possible.

Chair Paty and Ms. Antolini agreed to work on a letter of response for the Ko'olauloa Neighborhood Board resolution.

Lastly, Mr. McElheny has shared that Bill Braden, a local artist from the North Shore, has just completed a painting of Kawela Bay and he has agreed to give half of the proceeds to the Turtle Bay acquisition effort. There will be a reception held at the Hawaii Prince Hotel starting at 5:00 p.m. on August 22nd.

III. Technical Concerns – Mitch Costino

Mr. Costino reported on behalf of his subcommittee, as Vice-Chair Thielen was off-island. In the interest of time, Mr. Costino submitted a hard copy of his subcommittee report, which is attached to these minutes. He also shared a concern that a similar situation to the Molokai Ranch situation might take place at the Turtle Bay Resort.

Ms. Antolini added that in her opinion a review and critical analysis of the unilateral agreement are important because there are areas that may prove to be grounds for a legal dispute, as many conditions required by the unilateral agreement have not been met. She also indicated her opinion that when an agreement is reached there should be a re-evaluation of the unilateral agreement.

Mr. Gill re-emphasized his subcommittee's position that there needs to be consensus amongst all parties, in particular, with the community. He pointed out that because the members of the community and the working group are demanding that conditions be met, they are, in effect making, the unilateral agreement legitimate and effective. Mr. Gill also indicated

his concern over a vested rights interest and selling parcels off in pieces and how that affects the overall unilateral agreement. He also shared concerns over the effort to complete subdivision applications in light of environmental impact statements, which is a question of law.

IV. Public Comments

Mr. Bob Nakata commented that he is concerned about selling the property in part because it becomes a multi-lateral, not a unilateral, agreement. He also shared that the working group should take up the offer by the DPP to speak to this group. Mr. Nakata said that in light of the burial sites and iwi present on the property, there should be an intense study of the property in an effort to protect cultural resources and the interest of potential buyers.

Mr. Nakata pointed out that former State Historic Preservation Division Director Melanie Chinen ordered a 750-foot setback and a redesign of the entire project based on a previous survey.

Before the close of the meeting, Mr. Nakata suggested that Laura Thielen should ask the State Historic Preservation Division to look at the study done by Dr. Hammond.

V. Schedule of Future Meetings – Bill Paty, Chair

Meeting will be scheduled at the call of the Chair.

VI. Adjournment

The meeting adjourned at 11:57 a.m.