

LAND USE COMMISSION
MEETING MINUTES
May 23, 2018 – 9:30 a.m.
Natural Energy Laboratory Hawai`i Authority (NELHA)
73-987 Makako Bay Drive Kailua Kona, Hawai`i 96740-2637
Hale `Iako Training Room #119

COMMISSIONERS PRESENT: Arnold Wong
Nancy Cabral
Aaron Mahi
Jonathan Scheuer
Gary Okuda
Lee Ohigashi
Dawn Chang
Edmund Aczon

COMMISSIONERS EXCUSED: None (8 Seated Commissioners- 1
Kauai County vacancy)

LUC STAFF PRESENT: Daniel Orodener, Executive Officer
Randall Nishiyama, Deputy Attorney
General
Scott Derrickson, Staff Planner
Riley Hakoda, Staff Planner/Chief
Clerk

COURT REPORTER: Jean McManus

CALL TO ORDER

Chair Wong called the meeting to order at 9:00 a.m.

APPROVAL OF MINUTES

Chair Wong asked if there were any corrections or additions to the May 9, 2018 meeting minutes. There were none. Commissioner Mahi moved to approve the minutes and Commissioner Cabral seconded the motion.

The minutes were unanimously approved by voice vote (8 ayes-0 nays- 0 excused- 8 seated Commissioners).

TENTATIVE MEETING SCHEDULE

Executive Officer Orodener provided the following:

The regular tentative meeting schedule has been distributed in the handout material for the Commissioners for the following dates and docket numbers.

MAY 24-at HNL airport conference meeting room #3

- o DR18-61 Hartung Brothers - Oahu IAL Docket
- o A92-683 Halekua Developments- Status Report

JUN 14- on Maui at DOT Highways office

- o A89-649 Lanai Resorts Status Report
- o LUC training

JUN 28- To be determined- keep open for now

JUL 11

- o A94-706 Ka`ono`ulu Ranch- Motion to Rescind OSC

JUL 25-26

- o A05-755 Hale Mua Properties- OSC

AUG 8

- o DR18-62 Kualoa Ranch- IAL

September 26 - 28, 2018, HCPO Hawaii Island- Hilo

Chair Wong asked if there were any questions or comments.

Commissioner Scheuer stated that the oral arguments for A89-649 were to be heard on July 12, 2018. There were no further comments or questions.

Chair Wong moved on to the first agenda item.

STATUS REPORT AND ACTION (IF NECESSARY)

A00-730 LANIHAU PROPERTIES LLC (HAWAII)

Chair Wong stated that the this was a meeting to receive a continued status report and take any appropriate action on Docket No. **A00-730 LANIHAU PROPERTIES LLC (HAWAII)**- A Petition To Amend the Conservation Land Use District Boundary into the Urban Land Use District for Approximately 336.984 Acres at Honokohau, North Kona, Hawaii, Tax Map Key Nos.: 7-4-08: portion of 13 and 7-4-08: 30

APPEARANCES

Dr. Jefferey Zimpfer, Ph.D., Environmental Protection Specialist, National Park Service (NPS)

Riley Smith, represented Petitioner Lanihau Properties, LLC (LP)

Benjamin Kudo, Esq., represented Kaiser Hospital (KH)

Terry Muldoon, Executive Director, KH

Robert Stallings, AECOM Engineer, KH contractor

Daryn Arai, Deputy Director, County of Hawaii Planning Department (County)

Amy Self Esq., Deputy Corporation Counsel, represented County

Dawn Takeuchi-Apuna, Esq., represented State Office of Planning (OP)

Lorene Maki, OP

Chair Wong updated the record and explained the procedures to be followed for the proceedings. There were no questions, comments or objections to the procedures.

DISCLOSURES

Commissioner Scheuer disclosed that he was a consultant for NPS and stated that he would recuse himself from the proceedings for agenda items V and VI to avoid any conflict of interest and exited the meeting at 9:11 a.m. (7 Commissioners remain)

There were no objections to Commissioner Scheuer's recusal

Chair Wong called for Public Witnesses

PUBLIC WITNESSES:

None

Chair Wong called for Intervenor NPS to provide an update on the status of its complaint against KH.

Intervenor NPS's Presentation

Dr. Zimpfer had submitted written testimony and described the NPS discussions with KH and stated that KH had been working cooperatively with them to address NPS concerns regarding the effectiveness of the KH filtration system.

County and OP had no questions.

Commissioner Chang requested clarification on how NPS monitored degradation of cultural resources. Dr. Zimpfer described how difficult it was to measure degradation since it was a problem occurring over a long period of time, and the challenges of determining any cause and effect relationships.

There were no further questions for Dr. Zimpfer.

Chair Wong call for Lanihau Properties- Riley Smith to make his presentation.

LP

Mr. Smith, Lanihau Properties, was recognized by Chair Wong and provided written and oral testimony regarding updates to conditions 1a to 1g of the annual report submitted to the Commission in January. Mr. Smith provided general summaries of his organization's future plans for waste water treatment facilities for the area.

Commissioner Ohigashi requested clarification on how complaints were communicated and resolved by Petitioner. Mr. Smith described how the North Kona community was tightly knit with ample meeting opportunities to air complaints and concerns directly to him to reply to.

Commissioner Chang asked if NPS was open to contacting Petitioner to seek resolution to its concerns. Dr. Zimpfer replied that NPS was; and would seek to do so in the future.

Commissioner Aczon stated that he had reviewed the transcripts and meeting materials for the past meeting on this matter and encouraged the Petition area tenants to work with Petitioner to resolve issues first before seeking to involve the Commission.

Commissioner Okuda echoed the need for collaborative resolution of problems before involving the Commission.

Additional discussion ensued on how Petitioner could report incident/issue resolutions to the Commission with Commissioner Aczon and Chair Wong suggesting alternative ways to report matters. Mr. Smith summarized the discussion by providing a historical perspective of how the Greenwell family, as landowners, had provided responsive stewardship over the land for 168 years.

There were no further questions, comments or discussion. Chair Wong called on KH to make its presentation.

KH

Mr. Kudo stated that KH had purchased Parcel 30 from Petitioner and was not an original Party to the proceedings. Mr. Kudo reported that KH had been working cooperatively with NPS since January to resolve the problems with proper monitoring and testing to achieve the desired results required by the decision and order condition; but had been delayed due to late delivery of parts. Mr. Kudo stated that the repair and testing of the filtration systems would take till October and the test results would be shared with NPS.

Chair Wong acknowledged Mr. Kudo's remarks and sought responses from the Parties.

County and OP had no questions.

Commissioners Cabral, and Mahi requested clarification on Mr. Kudo's presentation. Mr. Kudo deferred responses to technical, engineering questions to KH's contractor, Robert Stallings- AECOM engineer; and responses to KH's future expansion plans to KH representative, Terry Muldoon.

Further discussion ensued with Mr. Kudo, Mr. Stallings, and Mr. Muldoon responding to Commissioners Aczon, Okuda, Wong, Mahi, and Ohigashi requests for clarification on matters such as reasons for the shipping delay of needed parts, adequate capacities of the planned improvements, future area growth concerns, NPS issues with KH's future plans and methods used to monitor and report concerns during development; as well as the projected useful lifespans of installed infrastructure.

Commissioners Cabral and Mahi disclosed that they were Kaiser medical plan members but that their membership would not affect their fairness and impartiality in this matter.

There were no objections to their continued participation.

Commissioner Okuda inquired what next steps KH had in mind. Mr. Kudo stated that Petitioner was prepared to return to report to the LUC at the end of 2018 on its progress and would work on a memorandum of understanding (MOU) with NPS regarding its remediation plan.

Commissioner Chang suggested providing or including the information via the annual report for 2018 instead.

County

Ms. Self stated that County had nothing to add and that the NPS and KH arrangement and plans for future KH expansion would require the attention of the County and the Commission.

Commissioner Okuda requested clarification on the County's position on matters before the Commission. Ms. Self stated that the County was satisfied with the actions of the Commission in attending to the condition as stated in the LUC order.

OP

Ms. Apuna stated that OP had nothing to add.

Commissioner Okuda requested clarification on OP's position on matter before the Commission. Ms. Apuna stated that OP was satisfied with the actions of the Commission in attending to the condition as stated in the LUC order.

Commissioners

Chair Wong stated that the status report matter would remain open. Commissioner Ohigashi asked when the next status update might be. Chair Wong stated that he expected it to be around January, 2019.

There were no further questions, comments or discussion.

Chair Wong declared a recess at 9:53 a.m. and reconvened the meeting at 10:04 a.m.

Chair Wong moved on to the next agenda item.

STATUS REPORT AND ACTION (IF NECESSARY)

A10-788 HHFDC & Forest City- Kamakana Villages at Keahuolū (HAWAI'I)

Chair Wong stated that the this was a meeting to receive a continued status report and take any appropriate action on Docket No. **A10-788 HHFDC & Forest City (HAWAI'I)-**

A Petition To Amend the Agricultural Land Use District Boundaries into the Urban Land Use District for certain lands to situate at Keahuolū, North Kona; consisting of approximately 271.837 acres, Tax Map Key No. (3) 7-4-021: 020(por.), (3) 7-4-021:024, (3) 7-4-021:025, (3) 7-4-021:026, (3) 7-4-021:027

APPEARANCES

Dr. Jefferey Zimpfer, Ph.D., Environmental Protection Specialist, National Park Service (NPS)

Craig Hirai, Executive Director, Hawaii Housing Finance & Development Corporation (“HHFDC”)

Elizabeth Char, Development Officer, represented Michael Development (MD)

Dr. Sheryl Nojima, Ph.D. PE, consultant for MD

Daryn Arai, Deputy Director, County of Hawaii Planning Department (County)

Amy Self Esq., Deputy Corporation Counsel, represented County

Dawn Takeuchi-Apuna, Esq., represented State Office of Planning (OP)

Lorene Maki, OP

Chair Wong updated the record and explained the procedures to be followed for the proceedings. There were no questions, comments or objections to the procedures.

Chair Wong called for Public Witnesses

PUBLIC WITNESSES:

None

DISCLOSURES

Commissioner Cabral disclosed that she had obtained a financial loan from HHFDC about 25-30 years ago.

Commissioner Okuda disclosed that he had legally represented Mr. Hirai’s family for approximately 30 years.

Both Commissioners Cabral and Okuda stated that their past disclosed relationships would not impact their ability to remain fair and impartial in the proceedings. There were no objections to their continued participation.

Chair Wong called for NPS to described the nature of its complaint against HHFDC.

Intervenor NPS's Presentation

Dr. Zimpfer had submitted written testimony and described NPS's concerns regarding MD's storm water filtration controls and lack of best management practices (BMPs) to control pollutants in the Petition Area. Dr. Zimpfer commented that NPS preferred vegetative swales over the storm drain filtration system used by MD for its project.

Commissioner Okuda asked what NPS wanted the LUC to do. Dr. Zimpfer replied that NPS was seeking to ensure that MD consider retrofitting the current storm drain filters and using vegetative swales in the future and was open to more discussion on further action that the LUC could take. Chair Wong requested that Commissioner Okuda withhold his detailed questions on future process and procedures till later.

Chair Wong recognized Mr. Hirai from HHFDC to contribute testimony for the proceedings.

HHFDC

Mr. Hirai stated that he did not have written testimony, and described how DOT standard rated filters had been selected for use with its Kamakana project.

MD Presentation

Ms. Char provided written testimony on May 21, 2018 to the Commission and described how MD had been working with NPS on its use of DOT standards filters.

County and OP had no questions.

Commissioners Chang and Ohigashi requested clarification on Ms. Char's testimony. MD engineering consultant, Dr. Nojima, responded to Commissioner Ohigashi's questions about the selection of alternate pollution controls, other than the vegetative swales recommended by NPS.

Further discussion ensued with contributions from HHFDC, NPS, MD, OP and Commissioners Ohigashi, Cabral and Okuda and Chair Wong over the methodology and considerations made to select/use alternate pollution control systems, project development layout considerations, types of communications required among the entities involved in the development, adhering to the BMPs, what impact and consequences failure to follow BMP might result in; what time element might be involved to continue discussions and what dispute resolution methods might be required or used if agreements could not be reached.

Chair Wong summarized matters and stated that another status report would be scheduled in approximately 6 months to assess progress. Commissioner Aczon

expressed his concern that the current November 5, 2020 deadline for infrastructure would be compromised. HHFDC replied that it would be returning to the LUC to amend that and other conditions of the original decision and order.

There were no further questions or comments.

Chair Wong stated that no further action would be taken on A10-788 at the meeting and moved on to the next agenda item.

The Commission went into recess at 10:55 a.m. and reconvened at 11:03 a.m. (Commissioner Scheuer rejoined the meeting (8 Commissioners now present) after the recess.)

STATUS REPORT AND ACTION (IF NECESSARY)

A06-767 WAIKALOA MAUKA, LLC (HAWAII)

Chair Wong stated that this was a meeting to receive a status report and take any appropriate action on Docket No A06-767 Waikoloa Mauka LLC.'s Petition To Amend the Agricultural Land Use District Boundaries into the Rural Land Use District for Approximately 731.581 Acres in South Kohala District, Island of Hawaii, Tax Map Key No. (3) 6-8-02:016 (por.)

Chair Wong updated the record and explained the procedures to be followed for the proceedings. Chair Wong noted that Petitioner had notified the Commission on May 22, 2018 that it would not be appearing.

There were no questions, comments or objections to the procedures.

Chair Wong called for Public Witnesses.

PUBLIC WITNESSES

1. Ruth Smith

Ms. Smith described her background in community work and expressed her concerns regarding traffic in the area and the lack of adequate infrastructure to handle the increasing volume of traffic as continued growth in the area occurs.

There were no questions for Ms. Smith.

There were no further public witnesses.

Chair Wong asked if County had any comments..

COUNTY

Ms. Self stated that County had found that Petitioner was currently in violation of complying with a condition of a re-zoning ordinance deadline that will now require them to re-apply at the County Council and deferred further questions to Mr. Arai to respond to.

Commissioner Ohigashi requested clarification on what might occur and whether County could provide a status report if requested to. Ms. Self acknowledged that if any future action was taken, the County would be able to provide a status report on this matter at that time.

There were no further Commissioner questions.

Chair Wong asked if OP had any comments..

OP

Ms. Apuna stated that OP had no comments.

There were no questions for Ms. Apuna.

Commissioners

Commissioner Ohigashi requested verification that the correspondence to Petitioner had been read into the record. Chair Wong acknowledged that it had been.

Commissioner Scheuer questioned whether a call for appearances was necessary. Chair Wong acknowledged Commissioner Scheuer's remark and asked if there was a Petitioner representative present for the record. There was no response.

Chair Wong entertained a motion for an Executive Session to consult with the Commission's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities. Commissioner Cabral moved and Commissioner Aczon seconded the motion to enter Executive Session.

There was no discussion.

The Commission entered Executive Session at 11:19 a.m. and reconvened at 11:41 a.m.

Chair Wong stated that the meeting on Docket No. A06-767 would resume.

Chair Wong asked if there was any discussion since the Commission had already heard from County and OP.

Commissioner Scheuer stated that he moved that "the testimony today, and the record, including the absence of a 2017 status report and an impending June 10, 2018 deadline leads the LUC to believe that there has not been substantial commencement of use of the subject property in accordance with the presentations and commitments made by the Petitioner to this Commission; and the LUC directs the Chair to prepare

with staff's assistance, an order to show cause why the property should not revert to its former land use district classification or be changed to a more appropriate land use classification." Commissioner Okuda seconded the motion.

Discussion

Chair Wong called for discussion on the motion.

Commissioner Okuda stated that the record on this matter was clear and that this action was supported by the record.

Commissioner Chang noted for the record that the Petitioner did receive notice of the hearing, and was not present; and that the order to show cause was an appropriate remedy.

Commissioner Cabral expressed her concern about the need for more follow-up on matters such as what was before the Commission; and provided her perception of how the Legislature could empower the Commission to take more action

Commissioner Okuda noted that the current action was a procedural step and there was no pre-judgment being made to ensure a fair hearing for the benefit of all.

Commissioner Chang requested that the County provide the Commission a status update on Petitioner's lack of compliance with the change of zoning issue that had been brought to the Commission's attention. Ms. Self acknowledged Commissioner Chang's remarks.

There was no further discussion or comments.

Chair Wong directed Mr. Orodener to poll the Commission.

The Commission voted unanimously 8-0 in favor of the motion.

Chair Wong stated that the Commission would recess and reconvene at the Honolulu Airport Conference Center in Honolulu on May 24, 2018. The Commission went into recess at 11:45 p.m.

LAND USE COMMISSION
MEETING MINUTES
May 24, 2018, 9:00 a.m.
Airport Conference Center, Meeting Room IIT#2
400 Rodgers Boulevard, Suite 700,
Honolulu, HI 96819

COMMISSIONERS PRESENT: Gary Okuda
Dawn Chang
Arnold Wong
Jonathan Scheuer
Nancy Cabral
Edmund Aczon

COMMISSIONERS EXCUSED Lee Ohigashi
Aaron Mahi

LUC STAFF PRESENT: Daniel Orodenker, Executive Officer
Randall Nishiyama, Deputy Attorney General
Scott Derrickson, Staff Planner
Bert Saruwatari, Staff Planner
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Phyllis Gonzaga

CALL TO ORDER

Chair Wong called the meeting to order at 9:00 a.m.

HEARING AND ACTION

DR18-61 HARTUNG BROTHERS HAWAI'I, LLC (A Hawai'i Limited Liability Company)

LUC Meeting Minutes (*Please refer to LUC transcript for more details on this matter*)

May 24, 2018

To Consider Declaratory Order to Designate Important Agricultural Lands for approximately 463 acres at Kunia, O'ahu; TMK Nos. (1) 9-2-004-006 (por.); -011; and -012 (por)

APPEARANCES

Joseph Dane, Esq., attorney for Petitioner Hartung Brothers Hawai'i LLC (*HBH")

No representative-City and County of Honolulu Department of Planning and Permitting ("DPP")

Dawn Takeuchi Apuna, Esq. for State Office of Planning ("OP")

Rodney Funakoshi, Land Use Administrator, OP

Lorene Maki, Planner, OP

Tomas Oberding, Planner, OP

Earl Yamamoto, Planner, Department of Agriculture (DOS)

Chair Wong described the procedures for the proceedings and asked if Petitioner had been made aware of and was agreeable with the Commission's policy on reimbursement. Mr. Dane replied that Petitioner had no objections to the Commission's policy and would comply.

Chair Wong called for Public Witnesses

PUBLIC TESTIMONY

1. Brian Miyamoto- Executive Director, Hawaii Farm Bureau

Mr. Miyamoto testified in support of the Petition.

Commissioner Okuda asked if there were any perceived negatives to the Petition. Mr. Miyamoto responded that there were none and re-stated his organization's support for the Petition.

Commissioner Cabral stated for the record that she was not related to the Randy Cabral mentioned during Mr. Miyamoto's testimony.

There were no further public witnesses.

PETITIONER PRESENTATION

Mr. Dane provided a brief history and background summary on the Petition and described how he would be making his presentation using a PowerPoint presentation and why the Declaratory Order should be granted.

Mr. Dane stated that he had two witnesses to offer.

Petitioner Witnesses

1. Joshua Uyehara

Mr. Uyehara shared his personal and professional background and described his role with Hartung Brothers Hawaii, LLC, and provided organization information on his company and its business mission; why the IAL designation was being sought and how the proposed IAL lands factored into Monsanto's operations.

Commissioners Chang, Aczon, Cabral, Okuda, Scheuer and Chair Wong requested clarification on Mr. Uyehara's testimony regarding crops planted for local consumption; distribution/allocation of land area for IAL and other uses, water availability, non-IAL property held by Petitioner, how water was allocated and used on the Petition Area, differences between the Petitioner's proposed IAL lands and DPP's proposed IAL plans, why a larger portion of land was not included in the Petition, how any proposed IAL conditions would apply, Mr. Uyehara's future plans with HBH, and other types of operations or business HBH was involved in.

There were no further questions for Mr. Uyehara.

Chair Wong declared a recess at 9:39 a.m. and reconvened the proceedings at 9:42 a.m. Mr. Dane called his next witness, Tom Schnell.

2. Tom Schnell- PBR Hawaii- Expert Witness- Land Use Planning

Mr. Schnell was qualified and accepted as an expert witness in the field of land use planning and described his company's work in preparing the IAL Petition for HBH.

Commissioners Cabral, Chang, Scheuer and Okuda requested clarification on Mr. Schnell's testimony regarding concerns about overspray/contamination containment, IAL legal criteria and tax benefits, appropriate LUC votes required to impose or remove IAL designation, factors involved in assessing and determining land to include in the Petition, and more details regarding the historical origins of this IAL Petition and how DPP had been advancing its IAL identification program; and what the Petitioner might do if the IAL designation

was granted. Mr. Dane provided his understanding of how analysis of what land areas to include in the Petition was done.

There were no further questions on Mr. Schnell's testimony.

Chair Wong declared a recess at 10:19 a.m. and reconvened the meeting at 10:28 a.m.

Chair Wong noted that DPP had not appeared to provide any public testimony. Commissioner Okuda inquired whether DPP had been advised. Mr. Hakoda acknowledged that a notice had been mailed to DPP a week prior to the LUC meeting.

Commissioner Chang requested that the record note DPP's absence. Chair Wong acknowledged her request.

There were no further comments regarding DPP.

Chair Wong called for OP to make its comments.

OP

Ms. Apuna deferred to Mr. Funakoshi to provide OP's statements. Mr. Funakoshi stated that OP recommended approval of the Petition in its entirety and expressed his appreciation of Petitioner's efforts to voluntarily designate IAL land.

There were no questions or comments for Mr. Funakoshi.

Chair Wong called for DOA to provide its comments.

DOA

Mr. Yamamoto stated that DOA would stand on its letter in support of Petitioner's request for IAL designation.

There were no questions or comments for Mr. Yamamoto.

Chair Wong asked if the Commissioners had any further questions. There were none.

Commissioner Scheuer moved for an Executive Session to consult with the Commission's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities. Commissioner Aczon seconded the motion to enter Executive Session.

There was no discussion.

The Commission entered Executive Session at 10:35 a.m. and reconvened at 10:55 a.m.

Chair Wong asked if Petitioner had anything further to add. Mr. Dane responded that he did not.

Commissioner Aczon made a motion to grant the IAL Petition. Commissioner Chang seconded the motion.

Discussion

Commissioners Okuda and Scheuer requested clarification on whether the motion included OP's conditions; as stated in the record. Commissioner Aczon confirmed that it did.

Commissioners Scheuer, Aczon, Okuda, Cabral and Chang stated their positions on the motion and their reasons for supporting it.

Chair Wong directed Mr. Orodener to poll the Commission.

The Commission voted unanimously 6-0-2 excused in favor of the motion.

Chair Wong declared a recess at 11:05 a.m. and reconvened the proceedings at 11:17 a.m. Chair Wong moved on to the next agenda item.

STATUS REPORT AND ACTION (IF NECESSARY)

A92-683 HALEKUA DEVELOPMENT CORPORATION (O`AHU)

APPEARANCES

David Tanoue, Representative, RP2 Ventures, LLC (Subsidiary of R. M. Towill)
("RP2")

No representative-City and County of Honolulu Department of Planning and Permitting ("DPP")

Dawn Takeuchi Apuna, Esq. for State Office of Planning ("OP")

Lorene Maki, Planner, OP

Janice Fujimoto, Department of Agriculture (DOA)

Morris Atta, DOA

Chair Wong called for Public Witnesses

PUBLIC TESTIMONY

LUC Meeting Minutes (*Please refer to LUC transcript for more details on this matter*)

May 24, 2018

None.

DISCLOSURES

Commissioner Okuda stated that he knew Stephen Mau, attorney for one of the A92-683 property owners, through his professional practice of law, but that it would not affect his ability to remain fair and impartial during the proceedings. There were no objections to Commissioner Okuda's continued participation.

There were no other disclosures.

Chair Wong called for Petitioner RP2 to make its presentation.

RP2 Ventures, LLC

Mr. Tanoue provided background history of how his organization became involved with the Petition Area, and what RP2's intentions to provide expected infrastructure were. Mr. Tanoue described ongoing discussions that he had been involved with among entities involved with the Petition Area's development, including DOA, and shared RP2's perspective of the current state of affairs between the entities.

DISCLOSURES

Commissioner Okuda stated that based on Mr. Tanoue's testimony, he wanted to add that he did associate with James Yamamoto, an R M Towill employee, on a social basis; but that it would not affect his ability to remain fair and impartial during the proceedings.

Chair Wong disclosed that he knew Mr. Tanoue, and that he felt he could remain fair and impartial during the proceedings.

Commissioner Chang disclosed that she did some work for R M Towill that had no connection to the matter at hand; and knew Mr. Tanoue; but felt that she could remain fair and impartial as well.

There were no objections to Commissioner Okuda. Chang and Chair Wong continuing to participate in the proceedings.

Chair Wong asked if RP2 was aware of the docket conditions and that they would run with the land. Mr. Tanoue confirmed that RP2 was aware of the conditions and would abide by them.

Commissioners Okuda, Cabral, Chang, and Aczon requested clarification on Mr. Tanoue's education and professional experience, the location of the actual RP2 portion of the Petition Area, and the details of the applicable conditions in the decision and order and action being taken on them.

Commissioner Scheuer stated that his preference was to hear the responses of DOA and OP to RP2's testimony; and then being able to question each of them respectively. Chair Wong acknowledged his request.

Ms. Apuna described how OP and DOA would provide a blended presentation on the docket; and identified Ms. Fujimoto and Mr. Atta as the DOA representatives and Ms. Maki, OP representative providing comments to the Commission. Ms. Apuna described the concerns that OP/DOA had with Condition No. 19 of the decision and order and how those concerns generated a request for a status report at this hearing; and the types of actions that OP and DOA would like the Commission to take in this matter.

Ms. Apuna provided a PowerPoint presentation describing the timeline of events affecting the Petition Area that supported her request for Commission action to get RP2 to move forward on construction and agree to updated performance deadlines. Ms. Apuna stated that Ms. Fujimoto and Mr. Atta would provide DOA's perspective on the matter.

DOA

Mr. Atta and Ms. Fujimoto described the importance of developing the agricultural park, the need for infrastructure to be installed in the Petition Area to facilitate its success and obtain legislative funding; the difficulties encountered in the years after the initial decision and order was granted that prevented favorable progress on the proposed project and an update of current meetings to address concerns.

Commissioners Okuda, Chang, Scheuer, and Aczon requested clarification on what Mr. Atta's background was, what type of tenants DOA would seek for the agricultural park and how they would be qualified as "farmers"; why imposed deadlines were not observed' why no "order to show cause (OSC)" was being sought, how deadlines/conditions needed to be updated and observed, and whether an OSC action was the appropriate course of action for the Commission to take.

Commissioner Chang sought further clarification from Ms. Apuna to assess how the failure to comply with condition 19 needed to be balanced against initiating an OSC. Ms. Apuna described what RP2 and OP/DOA had been attempting to resolve during their meetings and why OP/DOA felt it necessary to request certain actions by the Commission.

Chair Wong recalled Mr. Tanoue to join OP/DOA to respond to Commissioner's questions.

Ms. Fujimoto and Mr. Atta shared DOA's need to obtain a more certain timeline and performance commitments from RP2 and discussion ensued between Mr. Tanoue and OP/DOA and Commissioners Scheuer, Okuda and Aczon to determine the specifics of what the current state of the proposed project was; and what was expected of the Commission.

Ms. Apuna requested a recess. Chair Wong acknowledged her request and declared a recess at 12:24 p.m. Chair Wong reconvened the meeting at 12:33 p.m.

Chair Wong called on Ms. Apuna to describe what OP/DOA would need from RP2 going forward.

Commissioner Scheuer requested clarification on what might happen if RP2 was unable to commit to complying with OP/DOA's expectations.

Discussion ensued to determine the scope of what needed to be done in the Petition Area by what certain deadlines. Chair Wong commented that more property in the Petition Area (beyond RP2's control) might be involved; and shared his concerns of how that might impact RP2. OP and Mr. Tanoue shared how a memorandum of understanding might be used to amend Condition No. 19 to address outstanding concerns. Commissioner Aczon requested clarification on whether a March 31, 2019 completion date was feasible. Mr. Tanoue stated that it was the "best guess" for now.

Commissioner Okuda questioned whether RP2 and OP/DOA were agreeable on the dates being mentioned. Chair Wong requested that discussion on the agreements on dates be addressed between RP2 and OP/DOA later and Commissioner Okuda reserved his question.

Commissioners Scheuer, Chang and Cabral requested clarification on deadline concerns, RP2's ability to react and begin construction once permit approvals were obtained, potential barriers to delay construction, and the feasibility of a year to complete work.

There was no further discussion.

Chair Wong directed the Parties to continue discussions and to check with LUC staff and advise them of progress.

There being no further business to address, Chair Wong adjourned the meeting at 12:46 p.m.