

LAND USE COMMISSION
MEETING MINUTES
May 22, 2019- 09:30 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: Jonathan Scheuer
Gary Okuda
Dawn Chang
Nancy Cabral
Aaron Mahi
Arnold Wong
Edmund Aczon

COMMISSIONERS EXCUSED: Lee Ohigashi
(8 Seated Commissioners)

LUC STAFF PRESENT: Daniel Orodener, Executive Officer
Randall Nishiyama, Deputy Attorney
General
Bert Saruwatari, Staff Planner
Rashmi Agrahari, Staff Planner
Riley Hakoda, Staff Planner/Chief
Clerk

COURT REPORTER: Jean McManus

CALL TO ORDER

Chair Scheuer called the meeting to order at 9:30 a.m.

APPROVAL OF MINUTES

Chair Scheuer asked if there were any corrections or additions to the April 23, 2019 meeting minutes. There were none.

Commissioner Cabral moved to approve the minutes and Commissioner Wong seconded the motion. Chair Scheuer stated that he would abstain from voting since he was not present for a portion of the meeting.

The minutes were unanimously approved by voice vote.
(6 ayes-0 nays- 1 abstain (Scheuer)- 1 excused).

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.
 - JUN 5-(reserved) A02-737 U of N Bencorp continuation?
 - JUN 6- HNL IAL site visit/mtg for DR19-66 Poma`ikai Partners
 - JUN 26-OGG- A94-706 Evidentiary Hearing Ka`ono`ulu Ranch
 - JUN27-KOA-Adoption of Orders- OSC action for A06-770 Shopoff and A02-737 U of N Bencorp and A19-807 Puna DBA- Accepting Authority for EIS
 - JUL 10-(Reserved) A06-767 Adoption of Order
 - JUL 11 -HNL DR19-66 Poma`ikai Partners IAL and A05-758 Charitable Foundation Amend motion
 - JUL 24-TBD
 - JUL 25-Kauai- A17-803 Kealia
 - AUG 14-15- Oahu Commission Training
 - AUG 28-HNL-A87-610 Waiawa (Oahu)
 - AUG 29- A11-791 Hokua Place (Kauai)
 - HCPO- will be on Maui SEP 11-13- details to follow later this year

Any questions or conflicts, please contact LUC staff.

There were no questions or comments on the schedule.

Chair Scheuer stated that the next agenda item was an action item on Docket No. A06-770 Shopoff Group L.P. (Hawai`i); now known as Kula Nei Partners ("KNP")

ACTION

A06-770 Shopoff Group L.P. (HAWAII)

Hear evidence, deliberate and take action on order to show cause issued March 29, 2019.

APPEARANCES

Nohea Baptista, Petitioner (KNP)

Robert E. Lee, Jr., Petitioner, KNP

Duane Kanuha, County of Hawaii Planning Department (County)

Ron Kim Esq., Deputy Corporation Counsel, represented County

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

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

Chair Scheuer called for Public Witnesses

PUBLIC WITNESSES:

There were no public witnesses.

PETITIONER PRESENTATION

Ms. Baptista provided background information and the history of why KNP did not comply with the conditions prescribed by the LUC's decision and order and described how KNP's future plan was to create 26 lots within the Petition Area for a Planned Unit Development ("PUD") instead of attempting the large-scale development proposed by The Shopoff Group in the original Petition; and why KNP was seeking to have the Petition Area reverted back to its former Agriculture designation and have the existing conditions removed.

Commissioner Questions

Commissioner Chang requested that Ms. Baptista confirm KNP's intentions to construct a low-density housing community and working with the County on it. Ms. Baptista confirmed that KNP would pursue its plans and responded that a conceptual plan was currently in place and that KNP was close to starting construction.

Commissioner Cabral asked what project timetable KNP would follow. Ms. Baptista replied that there were still studies underway and that they were awaiting the

results; and that they would commence once any recommended changes were adopted and approved.

Commissioner Okuda requested that Ms. Baptista validate the Declarations submitted to the Commission. Ms. Baptista described her family's connection to the Petition Area and provided a historical recap of memorable family events related to the property.

There were no further questions for Ms. Baptista.

Chair Scheuer called for the County to make its presentation.

COUNTY

Mr. Kim offered Mr. Kanuha to provide comments for the County. Mr. Kanuha described the considerations County had made before agreeing to the stipulation by the Parties presented to the Commission prior to the hearing; and clarified why County had agreed to an Agriculture rather than a Rural designation. Mr. Kanuha shared how the County had evaluated the surrounding areas and determined that agricultural zoning characteristics were dominant enough to support having the Petition Area designated Agriculture.

Commissioner Chang asked if the agricultural zoning would allow for the proposed PUD and if County was agreeable to the LUC reverting the Petition Area. Mr. Kanuha described how County "transfer of density" zoning provisions allowed for the PUD and agreed that the LUC had the authority to revert the Petition Area.

There were no further questions for County.

Chair Scheuer called for OP to make its presentation.

OP

Ms. Apuna stated that OP joined in the stipulation. Chair Scheuer requested clarification on why OP was agreeable to a designation of Agriculture instead of Rural. Ms. Apuna replied that OP was more comfortable with reverting the Petition Area back to its original designation rather than attempting to justify a Rural designation.

There were no further questions for OP.

Final Comments

Ms. Baptista thanked the Commission for its efforts and shared some comments on Petitioner Exhibit No. 3- the proposed Cultural Center.

Commissioner Chang stated her appreciation of KNP's efforts.
There were no further final comments.

Chair Scheuer entertained a motion to accept the presented evidence, position statements, and stipulation by the Parties to conclude the evidentiary portion of the hearing. Commissioner Cabral moved and Commissioner Aczon seconded the motion to accept the evidence, statements and stipulation by the Parties to conclude the evidentiary portion of the hearing.

Chair Scheuer had Mr. Orodener poll the Commission. The motion was unanimously approved. (7 ayes-0 nays- 1 excused).

FORMAL DELIBERATIONS

Chair Scheuer confirmed that all Commissioners had reviewed the record and read the transcripts for any meeting that they may have missed and were prepared to deliberate on the subject docket. All Commissioners present responded that they were prepared to deliberate.

Chair Scheuer opened the floor to deliberation. Commissioner Cabral thanked the Lee Family and made a motion to revert the Petition Area from Urban to Agriculture. Commissioner Aczon seconded the Motion.

Commissioner Chang questioned whether the Motion needed more details to support reverting the land use designation and moved for an Executive Session to consult with the board's attorney on the Commission's powers, duties, privileges, immunities, and liabilities.

Chair Scheuer declared a recess at 10:05 a.m. and reconvened proceedings at 10:06 a.m.

Chair Scheuer asked Commissioner Chang to provide further specifics on why she was requesting an Executive Session during deliberations. Commissioner Chang described why she felt including the Commission's determination of non-compliance in

the motion was necessary. Commissioner Aczon noted that discussion on the motion still needed to be held. Chair Scheuer commented that the Parties' stipulation acknowledged the non-compliance and asked if there was a second to Commissioner Chang's motion for an Executive Session.

There was no second to the Motion.

Chair Scheuer opened discussion on the original Motion.

Commissioner Okuda shared his reasons for supporting the Motion and recognized that the Petitioner was in line with his perception of the Public Trust doctrine.

Commissioner Aczon stated his support for the motion and described his appreciation of the Petitioner's efforts to seek the Commission's approval to revert the Petition Area to Agriculture due to the lack of substantial commencement and failure to comply with Conditions by the former Shopoff Group.

Chair Scheuer thanked the Petitioner for appearing before the Commission and recognized that though there were negative connotations to the terms "non-compliance", it was not a reflection on KNP and that it was commendable for KNP to appear without the benefit of an attorney and achieve a positive outcome; and added his support in favor of the Motion.

Chair Scheuer had Mr. Orodener poll the Commission. The motion was unanimously approved. (7 ayes-0 nays- 1 excused).

The Commission went into recess at 10:31 a.m. and reconvened at 10:34 a.m.

Chair Scheuer moved on to the next agenda item, Docket No. A02-737 U of N Bencorp.

A02-737 U of N BENCORP (UNB)

Hear evidence, deliberate and take action on order to show cause issued March 29, 2019.

APPEARANCES

Julie Anjo, Esq., represented Petitioner UNB (co-counselor- General Counsel for UNB)
Derek Simon, Esq. and Kathy Garson, Esq. represented Petitioner UNB (co-counselor - Carlsmith-Ball)

Duane Kanuha, Deputy Director, County of Hawaii Planning Department (County)
Ron Kim Esq., Deputy Corporation Counsel, represented County
Dawn Takeuchi-Apuna, Esq., represented State Office of Planning

Chair Scheuer updated the record and explained the procedures to be followed for the proceedings; and how the Commission would first address Petitioner's motion to rescind the OSC; then take up the motion to continue the hearing on the OSC to give Petitioner more time to prepare; and finally take up Petitioner's motion to allow it one year to submit a motion to amend the Decision and Order.

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

Chair Scheuer called for Public Witnesses

PUBLIC WITNESSES:

None

Chair Scheuer declared the Public Testimony portion of the hearing closed.

DISCLOSURES

None

Chair Scheuer called for Petitioner to provide their argument on the Motion to Rescind.

Motion to Rescind.

Petitioner

Ms. Garson requested to have the Commission admit materials, documents and records/files for their original Motion to the record.

Chair Scheuer declared a recess at 10:16 a.m. and reconvened the meeting at 10:23 a.m.

Chair Scheuer asked Ms. Garson to be more specific on what documents she wanted to have the Commission accept. Ms. Garson described the documents and exhibits related to Petitioner's Motion to Rescind Order to Show Cause or to Continue Hearing on Order to Show Cause that were being requested to be admitted.

County

Chair Scheuer asked County if it had any objections to Petitioner's request. Mr. Kim requested clarification on whether it was the position statement and exhibits Ms. Garson was referring to. Ms. Garson replied that Exhibits Nos. 18-28b were the exhibits she would like admitted. Mr. Kim stated that County had no objections.

OP

Chair Scheuer asked OP if it had any questions or objections. Ms. Apuna replied that OP had no objections to admitting the exhibits into the record.

Commissioners

Commissioner Wong requested verification on what motion the Commission was currently addressing and questioned whether Ms. Garson's request was appropriate at this point of the proceedings. Chair Scheuer stated that the Commission was currently addressing Petitioner's Motion to Rescind and confirmed that Commissioner Wong objected to the Motion.

Commissioner Okuda stated that he considered what was filed by Petitioner as part of the record; and that the entire record would be reviewed by the Commission before rendering a decision. Chair Scheuer asked if Commissioner Okuda believed what has been filed was already part of the record. Commissioner Okuda confirmed that was his belief and commented that Petitioner's Motion to include the evidence was unnecessary at this point of the proceedings; but he would abide by directives to exclude or ignore specific portions if instructed to.

Commissioner Chang stated that she shared Commissioner Okuda's sentiments and requested further clarification on what Ms. Garson was attempting to accomplish with her motion.

Ms. Garson stated that it was not her intent to confuse the Commission with her motion and withdrew her motion to have the exhibits for Petitioner's Motion to Rescind Order to Show Cause or to Continue Hearing on Order to Show Cause accepted.

Chair Scheuer stated that the Commission would move on to address the Motion to Rescind and asked Ms. Garson to make her presentation on the Motion.

Ms. Garson stated that the hearing date in the record for some of Petitioner's pleadings needed to be amended to reflect only a single day of hearings on March 1, 2007. (Some of the pleadings referenced a two-day hearing of March 1-2, 2007.)

Ms. Garson stated that she believed that a procedural anomaly existed in the current proceedings since there was no resolution to Petitioner's 2006 Motion to Amend the 2003 Decision and Order and argued why an OSC should not be pursued until the unresolved 2006 Motion to Amend heard on March 1, 2007 was addressed by the Commission.

Commissioner Questions

Commissioner Okuda requested clarification on what legal authorities Ms. Garson could cite to support her argument that the LUC could not move forward till Petitioner's 2006 Motion to Amend was heard. Discussion ensued to determine the proper legal authorities and why Petitioner had taken no action to move the 2006 Motion forward from 2007 till the present. Ms. Garson provided various legal citations on procedural matters and shared that financial problems, litigation and fraud, economic recession and developer bankruptcies had plagued the Petitioner and prevented proper follow-up.

Further discussion involving procedural due process considerations; a previously withdrawn Petitioner's Motion; the effect that a pending Motion to Amend could have on OSC hearings/determinations; and the legal authority for the LUC to issue an OSC occurred.

Commissioner Chang requested clarification on why the 2019 Motion to Rescind had been filed while an outstanding 2006 Motion to Amend remained in play; and how procedural due process applied in this case due to a 13-year lapse in time. Ms. Garson provided her perception of how she thought the Commission should procedurally handle the outstanding 2006 Motion to Amend and why it still applied to the current proceedings and offered alternative courses of action that the Commission could consider under the circumstances.

Discussion ensued to clarify the state of the proceedings. Chair Scheuer shared his reasons for addressing the Motion to Rescind before the other motions and described why resolving the Motion to Rescind would affect how the Commission moved forward on the remaining motions.

Commissioner Wong expressed why he felt a 13-year gap without any action taken was too long to still be considered active and viable. Ms. Garson contended that she still considered it active.

Commissioner Aczon questioned why Petitioner filed a 2019 Request to Withdraw Motion to Substitute Petitioner and Withdraw Land Use Commission Approvals and Revert Land Use District Boundary Classification to Agricultural if it still considered the Motion to Amend still active. Ms. Garson replied that the Motion to Revert was filed in error and was therefore withdrawn.

Commissioner Chang asked whether it was reasonable for the Commission to conclude that the 2006 Motion was no longer viable due to the passage of time and lack of action on it by Petitioner; and the filing and withdrawal of the 2019 Motion to Revert was further evidence that Petitioner did not consider it active. Ms. Garson stated she was uncomfortable discussing the withdrawn Motion and argued why the “procedural anomaly” was still an obstacle to procedures.

Chair Scheuer assessed the state of proceedings and inquired whether the Petition knew what it intended to do with the Petition Area. Ms. Garson referred to Petitioner Exhibits 29, 30 and 31 to describe the development plans that were under consideration.

Chair Scheuer inquired whether Petitioner had raised the procedural due process previously in its filings; and if Petitioner had been procedurally barred from filing a new Motion to Amend. Ms. Garson described where the due process issue had been mentioned in the 2019 Motion to Rescind and replied that Petitioner had not been barred.

Chair Scheuer noted that the 2019 request to withdraw the Request to Withdraw Motion to Substitute Petitioner and Withdraw Land Use Commission Approvals and Revert Land Use District Boundary Classification to Agricultural was in the form of a letter and asked if Petitioner expected formal action on its request. Ms. Garson replied that she did not expect any Commission action was necessary and discussion ensued whether the procedural issues were brought up during the withdrawal action. Ms. Garson responded that no action on a new motion to amend was taken; and was unable to confirm whether the May 2007 meeting had concluded due to a loss of quorum.

Chair Scheuer declared a recess at 11:28 a.m. and reconvened the meeting at 11:30 a.m.

There were no further questions for Petitioner. Chair Scheuer called on County to make its presentation.

County

Mr. Kim stated that County had no position on the Motion to Rescind. There were no questions for County.

OP

Ms. Apuna stated that OP did not support Petitioner's Motion to Rescind but would not object to a one year stay in proceedings; and argued why the Motion to Rescind should not be granted.

Commissioner Okuda requested clarification on whether a shorter time frame than a year was appropriate. Ms. Apuna deferred to Petitioner to provide approximate dates for dealing with the OSC action and prepare a new Motion to Amend. Discussion ensued on what timelines OP would be open to applying if a time extension was granted.

Commissioner Chang requested clarification on what Motion the Commission was currently addressing. Chair Scheuer commented that the Motions did overlap, but the current focus was the Motion to Rescind. Commissioner Chang asked whether the Commission had 365 days to render a decision on the OSC and what would constitute "substantial commencement". Ms. Apuna described the timeline that she thought would apply to render an OSC decision and defined actions that she would consider "substantial commencement".

Rebuttal

Petitioner had no rebuttal. There were no further questions.

Chair Scheuer stated his expectations for making progress on the proceedings and offered Petitioner an opportunity to withdraw its Motion to Rescind to allow the Commission to move forward and address more substantive matters than procedures.

Ms. Garson requested a recess and Chair Scheuer acknowledged her request.

The Commission went into recess at 11:54 and reconvened at 11:55 a.m.

Ms. Garson requested additional time for recess. Chair Scheuer granted her request.

The Commission went into recess at 11:55 a.m. and reconvened at 12:50 p.m.

Ms. Garson withdrew Petitioner's Motion to Rescind. Chair Scheuer moved on to the Motion to Give Petitioner More Time to Prepare and called on Petitioner to make its presentation.

Motion to Extend Time

Petitioner

Ms. Garson requested clarification on the procedures and argued how the remaining motions were similar and how both sought to address the time element involved continuing the OSC action more time to prepare or by a year to allow Petitioner to amend its conditions. Chair Scheuer weighed whether he would address the extension of time requests by combining the remaining motions or taking them separately and sought input from County and OP.

County had no objection.

OP requested clarification on the proposed action of hearing Petitioner's motion to allow it one year to submit a motion to amend the Decision and Order before addressing the motion to continue the hearing on the OSC to give Petitioner more time to prepare. Chair Scheuer clarified his intentions for handling the motions. Ms. Apuna stated that she had no objections.

Ms. Garson described the circumstances and details involved with the negotiation and crafting of the stipulation between the Parties.

Commissioner Wong requested clarification on the considerations made for the time required by Petitioner to perform and asked if reporting on progress after 6 months was acceptable. Ms. Garson replied that some of the required studies might take longer than that time frame and that Petitioner would be more comfortable with a year.

Discussion ensued over how the 365-day time limit affected proceedings on this matter. Chair Scheuer provided his understanding and concerns of how the time limit applied to the proceedings. Ms. Garson offered to meet prior to the expiration of the 365-day time limit. Commissioner Chang requested clarification on why a year was

necessary to report to the Commission and described how earlier status reports would be helpful. Ms. Garson clarified how previous “stale” studies had to be updated to produce a better Motion to Amend. Commissioner Okuda expressed his concerns that Petitioner would take actions during the allowed time towards achieving “substantial commencement” on the proposed project to contest OSC action and begin use of the land; or if Petitioner would agree not to conduct activities that could be construed as “substantial commencement”.

Chair Scheuer sought clarification of Commissioner Okuda’s remarks as they related to the stipulation among the Parties. Ms. Garson remarked that she would have to check with Petitioner for specifics on how to address various actions to avoid confusion over what “substantial commencement” activities involved.

Chair Scheuer assessed the progress of the proceedings and described the procedures to be followed for the remainder of the hearing on this matter.

Commissioner Chang asked for clarification on the use of the phrase “no ground-breaking activities” in the stipulation. Ms. Garson replied that OP had requested that phrase be included in the stipulation and deferred the question to OP.

There were no further questions for Ms. Garson. Chair Scheuer called on County to make its presentation.

County

Mr. Kim stated that County supported the continuation to allow Petitioner more time to prepare and/or submit a Motion to Amend; and deferred to the Commission to determine the amount of time to be allowed if the continuation was granted.

There were no questions for Mr. Kim. Chair Scheuer called for OP to make its presentation.

OP

Ms. Apuna stated that OP had no objection to granting a reasonable amount of time to allow Petitioner to prepare for the OSC action or file a Motion to Amend.

Commissioner Chang requested clarification on the use of the phrase “no ground-breaking activities” in the stipulation. Ms. Apuna referred to the *Bridge Aina Lea Case* and provided her reasoning for using the phrase “no ground -breaking activities” to describe “substantial commencement” type of work on a project; and described why OP agreed to the stipulation and how it had determined its position in the matter.

Chair Scheuer requested clarification on why OP believed time lines were important. Ms. Apuna replied that timelines ensured timely compliance for completing projects and allowed for orderly planning and development processes to occur.

Rebuttal

Chair Scheuer asked if Petitioner had any rebuttal. Ms. Garson stated that she did not have any rebuttal.

Chair Scheuer summarized the progress of the proceedings and proposed path forward to attend to the remainder of the agenda item. There were no objections to the proposed course of the proceedings. Chair Scheuer called for final Commissioner questions on the Motion to Extend Time.

Commissioners

Commissioner Okuda shared his concerns about how Petitioner could use the time allowed by an extension to begin work on the project and argue that “substantial commencement” had begun and suggested that Petitioner agree 1) not to do anything that could be construed as “substantial commencement” during the extension time period; 2) not argue that “substantial commencement” had begun during the timeframe of when the OSC action began; and 3) waive that the LUC be required to make a decision on the OSC within the 365 day limit. Ms. Garson acknowledged that Commissioner Okuda’s suggestions were acceptable.

Commissioner Chang questioned whether Petitioner intended to file an amendment with its modified plan for development. Ms. Garson described the various options that Petitioner was considering in its plans.

Commissioner Wong sought additional information on what Petitioner would be doing to advance its plans. Ms. Garson provided additional details of what Petitioner was considering and offered to return to the Commission to report any roadblocks or delays to their efforts that would create the need for additional allowed time.

Commissioner Aczon requested clarification on what Petitioner would do to offer just a single Motion to Amend for the Commission to consider. Ms. Garson described possible actions that Petitioner might take to update its procedural activities, simplify proceedings and reduce matters to a single motion.

Commissioner Okuda described his concerns with having to deal with time requirement constraints that would apply to the Commission during OSC proceedings

and having to perform actions triggered by OSC time limits. Ms. Garson stated that Petitioner was open to waiving time limits to relieve such pressures.

Chair Scheuer declared a recess at 1:27 p.m.

The Commission went into recess at 1:27 p.m. and reconvened at 1:40 p.m.

Ms. Garson requested that Commissioner Okuda review his expectations of Petitioner if the Motion to Extend Time was granted. Commissioner Okuda restated his expectations and discussion ensued to clarify the terms of what Petitioner needed to agree to.

Petitioner agreed not argue or claim it had “substantially commenced” development or use of the land from the OSC date going forward and that waive that the LUC be required to decide on the OSC within the 365-day limit from when the OSC was issued. Commissioner Chang requested clarification on what the actual OSC date was. Ms. Garson stated that the OSC was issued on March 29, 2019.

Ms. Garson requested to clarify sections of the stipulation between the Parties for the Commission. Chair Scheuer acknowledged her request and Ms. Garson read section 1A-1E of the stipulation into the record as actions that the Petitioner would be allowed to perform during the extended period.

Commissioner Chang requested acknowledgement that the allowed activities would not be construed as “substantial commencement” activities. Ms. Garson confirmed that they would not be.

There was no further discussion. Chair Scheuer noted that action on the Motion to Extend Time would affect the need to address the OSC portion of the agenda and summarized the progress of proceedings and entertained a motion on the matter.

Commissioner Cabral requested clarification on the date that the year would start from. March 29, 2019 was announced as the beginning start date for the year.

Commissioner Wong moved:

1. to extend by one year the Order to Show Cause hearing to allow the Petitioner to file an amended amendment, either an amendment to the motion to amend conditions; or to withdraw the motion to amend conditions and file a new motion to amend conditions.
2. to accept the two stipulations as reflected on the transcript from this hearing regarding not arguing substantial commencement, and not arguing about the 365-day deadline and
3. Petitioner to come to the Commission within six months for a status report.

Commissioner Mahi seconded the motion.

Commissioner Wong spoke in favor of the motion and shared his expectations that Petitioner would return in 6 months with positive news.

Chair Scheuer recognized OP.

Ms. Apuna noted that the stipulation mentioned a written status report in 6 months and not an appearance before the Commission. Chair Scheuer stated his preference for an appearance before the Commission due to the protracted history of the docket.

Commissioner Wong joined Chair Scheuer in requesting Petitioner's appearance before the Commission.

Commissioner Okuda spoke in favor of the Motion and Petitioner's appearance before the Commission; and voiced the need to honor the representations made before the Commission and community; and the need to enforce conditions when required.

Commissioner Cabral stated that she appreciated Petitioner's efforts and how hopeful she was for a positive outcome for this Petition Area.

Commissioner Chang spoke in favor of the Motion and shared why she thought 6 months was enough time to report to the Commission.

Commissioner Aczon spoke in support of the Motion and shared his hopes that Petitioner would succeed.

Chair Scheuer thanked the Parties for their efforts and called for Mr. Orodener to poll the Commission.

The Commission unanimously voted in favor of the Motion. (7-0-1 excused).

The Commission went into recess at 2:01 p.m. and reconvened at 2:05 p.m.

Chair Scheuer moved on to the non-action agenda item on the election of officers and opened the floor to discussion on the next slate of LUC officers.

NON-ACTION- ELECTION OF OFFICERS FY20

Commissioners Wong, Cabral, Okuda, Chang and Mahi shared their perspectives on how the Commission should approach installing officers for the new fiscal year. During the discussion various Commissioners shared their willingness and

the willingness of absent Commissioners to serve as officers; and it was noted that this was merely a preliminary discussion with no action required till a later hearing.

Chair Scheuer thanked his fellow Commissioners for allowing him the opportunity to serve and for contributing to the discussion.

The Commissioners concluded their discussion and Chair Scheuer moved on to the final agenda item- an executive session pursuant to HRS Section 92-5(a)(4) to consult with its attorney regarding the Commission's powers, duties, privileges, immunities, and liabilities, and HRS Section 92-5(a)(2) to consider personnel matters where consideration of matters affecting privacy will be involved.

EXECUTIVE SESSION

Commissioner Cabral moved for an Executive Session. Commissioner Wong seconded the motion. By voice vote, the Commission unanimously voted to enter Executive Session. LUC staff vacated the meeting room, so the Commission could address personnel matters.

The Commission entered Executive Session at 2:11 p.m. and reconvened into regular session at 2:30 p.m.

There being no further business, Chair Scheuer adjourned the meeting at 2:30 p.m.