

LAND USE COMMISSION
MEETING MINUTES
January 8, 2020- 09:30 a.m.
Natural Energy Laboratory Hawai'i Authority (NELHA)
Hale`lako Training Room #119
73-987 Makako Bay Drive Kailua Kona, Hawai'i, HI 96740-2637

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

COMMISSIONERS EXCUSED: None
(8 Seated Commissioners)

LUC STAFF PRESENT: Daniel Orodener, Executive Officer
Bill J. Wynhoff, Deputy Attorney General
Riley Hakoda, Staff Planner/Chief Clerk
Rasmi Agrahari, Staff Planner

COURT REPORTER: Laurie Savo

CALL TO ORDER

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

APPROVAL OF MINUTES

Chair Scheuer asked if there were public witnesses to testify on the minutes. There were none.

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

January 9, 2020

Chair Scheuer asked if there were any corrections or additions to the December 17-18, 2019 meeting minutes. There were none.

Commissioner Cabral moved to approve the minutes and Commissioner Wong seconded the motion. There were no comments or discussion on the minutes.

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

TENTATIVE MEETING SCHEDULE

Executive Officer Orodenerker provided the following:

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

JAN 9- HNL- A87-610 Waiawa continued hearing and SP09-403 Motion to Terminate Order Regarding Written Status Reports
JAN 22-23 on Oahu for A17-804 Hawaiian Memorial Life Plan
(JAN 22 at Koolau Ballroom/ JAN 23 at HNL airport)
FEB 5 Tentative video conference for LUC to be the accepting authority for A03-739 A&B Properties/ R.D. Olson Development-Windward Hot-Maui.

Any questions or conflicts, please contact LUC staff.

There were no questions or comments on the schedule.

Status Report

A90-660 Villages of Lai`opua, North Kona, (Hawai'i)

Chair Scheuer announced that this was a status report non action meeting on Docket No. A90-660 Village of Lai`opua, North Kona .

APPEARANCES

Jeffery Fujimoto, Department of Hawaiian Homeland, Engineer (DHHL)
HHFDC had provided notice that it would stand on its earlier written status report
Ronald Kim, Esq., Deputy County Attorney representing Hawai'i County Planning Department (County)
Jeff Darrow, Planning Program Manager, County
Dawn Takeuchi-Apuna, Esq., Deputy Attorney General, Office of Planning (OP)
Lorene Maki, Planner, OP

DISCLOSURES

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

January 8, 2020

Chair Scheuer disclosed that DHHL was his client for DHHL water issues and recused himself from proceedings on this matter. Chair Scheuer surrendered the meeting proceedings to Vice Chair Nancy Cabral and left the meeting room.

There were no other disclosures.

Vice Chair Cabral updated the record and described the procedures for the hearing . There were no questions or comments on the procedures.

Vice Chair Cabral called for Public Witnesses.

PUBLIC WITNESSES

There were no public witnesses.

Vice Chair Cabral called for Mr. Jeffery Fujimoto – DHHL to make his presentation.

PRESENTATION

Petitioner DHHL

Mr. Fujimoto described DHHL's plan for development of Village of Lai'opua and acknowledged being delinquent on Annual Reports and committed to be more diligent in submitting future Annual Report.

Commissioner Giovani requested clarification on the DHHL's policies for providing short term rentals

Commissioner Aczon requested clarification on how many houses were built and occupied.

The Commission went into recess at 10:25 a.m. and reconvened at 10:30 a.m.

Chair Scheuer sought comments from the County.

County

County had no comments.

Chair Scheuer called for OP's comments.

OP

OP had no comments

FINAL COMMENTS

Vice Chair Cabral stated that the Commission had determined that no action was required on this matter and requested that the Petitioner be more diligent in submitting their Annual Reports in the future.

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

January 8, 2020

Vice Chair Cabral called for the Status Report for Docket No A02-737 Bencorp and relinquished control of the meeting Chair Scheuer.

A02-737 U of N Bencorp

Chair Scheuer resumed presiding over the meeting and announced that the next agenda item was a meeting on Docket No A02-737 to consider Petitioner's Motion for Reconsideration of Order to [sic] Granting United Nation [sic] of Kona's ("UNK") Motion to Continue Hearing on Order to Show Cause.

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)
Paul Childers, CEO U of N Bencorp
Jeff Darrow, Program Manager, County of Hawaii Planning Department (County)
Ron Kim Esq., Deputy Corporation Counsel, represented County
Dawn Takeuchi-Apuna, Esq., represented State Office of Planning
Lorene Maki, Planner, State Office of Planning.

Chair Scheuer updated the record and described the procedures to be followed.

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

Chair Scheuer called for Public Witnesses

PUBLIC WITNESSES:

None

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

DISCLOSURES

None

Chair Scheuer called for Petitioner to provide their presentation on the Motion for Reconsideration.

MOTION TO RECONSIDER.

Petitioner

Mr. Simon argued why the Order Granting Motion to Continue Hearing on OSC was premature in stating that “substantial commencement has not occurred” and that Petitioner should get an opportunity to present its case for the OSC before Commission could make that determination

Commissioner Chang provided her perspective that it seemed like a minor factual dispute

Mr. Simon argued that the Commission must hold the hearing for OSC to determine whether substantial commencement had occurred .

Commission Chang commented that she didn’t see any pre conclusion in the Decision and Order .

Commissioner Okuda asked what standard Mr. Simon thought the Commission needed to apply to determine whether the findings of fact were proper or not proper?

Mr. Simon responded that the issue was procedural. .

Commission Okuda requested clarification on Mr. Simon’s perspective of what standards of Hawaii Supreme Court applied and whether factual statements were made by OP

Mr. Simon responded OP had not been mistaken but that the record was incomplete.

Commission Wong commented that 1) Though the February 2019 Motion to Withdraw Land Use Approvals and Revert Land Use District Boundary Classification to Agricultural was withdrawn by the petitioner it was still part of record, and 2) an OSC was issued on this matter since there was evidence that there was no compliance with the conditions of the original D&O.

Mr. Simon acknowledged that the Commission had the authority to issue an OSC if it had reason to believe that there was non-compliance with conditions.

Commission Cabral asked whether any construction activity had occurred in the Petition Area.

Mr. Simon responded that educational facilities and agricultural programs such as aquaponics had been initiated and that substantial archeological preservation and documentation work had been performed.

Chair Scheuer asked for further clarification on how LUC Decision and Order conditions had been met and whether that activity could be considered substantial commencement/

Mr. Simon responded that an OSC hearing would allow for that determination to be made.

There were no further questions for Petitioner.

Chair Scheuer called for the County to make its presentation.

COUNTY

Mr. Kim stated that County had no position but understood Petitioner's argument substantial commencement .

Commissioner Chang Requested clarification on County's perspective on the procedural matters involved in the Petitioner's argument.

County described why it understood Petitioner's argument. .

There were no further comments or questions for County.

Chair Scheuer declared a recess at 10:55 a.m. and reconvened the meeting at 11:05 a.m.

Chair Scheuer called for OP to make its presentation.

OP

OP stated that it would rest on its pleadings and described how the Petitioner could argue on substantial commencement during OSC proceedings and provide evidence to substantiate its position then.

Chair Scheuer requested for clarification on how OP perceived the factual record could address substantial commencement. .

Ms. Apuna described how the OSC process could obtain facts about the matter for the Commission to consider during deliberations.

Commissioners Okuda and Chang requested clarification on what the issued order might be lacking and what corrections needed to be made to the details that it contained. Ms. Apuna described how editing and correcting certain Findings of Facts could be helpful.

EXECUTIVE SESSION

Commissioner Wong moved for an Executive Session. Commissioner Ohigashi seconded the motion. By voice vote, the Commission unanimously voted to enter Executive Session.

The Commission entered Executive Session at 11:15 a.m. and reconvened into regular session at 11:30 a.m.

Mr. Simon stated that he had concluded his presentation.

There were no further questions.

Chair Scheuer sought the pleasure of the Commission.

Commissioner Wong moved that the LUC deny Petitioner's Motion to Reconsider in part and approve only minor typographical errors and for date changes to Petitioner's Corporate name change and associated amendments and corrections to the caption

Commissioner Ohigashi seconded the Motion.

Discussion

Commissioner Okuda suggested that the Motion make clear that the LUC order was not entering judgment on whether substantial commencement had occurred and that evidence on the matter of commencement had not been part of the Motion's proceedings.

Commission Cabral supported Commissioner Okuda's statement.

Commissioner Wong, Ohigashi spoke in favor of the Motion.

Commissioner Okuda described how public policy matters need to be decided on the merits of the case and why a full and complete record was necessary to achieve those ends.

Commissioners Chang and Giovanni stated their support for the Motion.

Commissioner Aczon described why he supported the current Motion and why he had voted affirmatively on the original Motion. .

Commission Cabral supported to the motion and recognized the need for affordable housing throughout the State

Commissioner Okuda affirmed that he had reviewed the record and was ready to deliberate.

Chair Scheuer announced that the Commission would begin formal deliberations and had Mr. Orodener poll the Commission to ensure that all Commissioners present were prepared to deliberate. The Commission unanimously confirmed that they were ready to deliberate (8-0)

Chair Scheuer recognized the viewpoints that the Commissioners had expressed and spoke in favor of the Motion. Chair Scheuer spoke of how the corrections to the typographical

and factual errors in the Order would be helpful and why recognizing that no predetermination about substantial commencement by the LUC was important.

There was no further discussion.

Chair Scheuer had Mr. Orodener poll the Commission.

The Commission voted as follows:

Yeas- Commissioners Wong, Ohigashi, Okuda, Cabral, Chang, Giovanni, Aczon, and Chair Scheuer.

Nay – None

The Motion passed. (8-0)

The Commission went into lunch recess at 11:46 a.m. and reconvened at 12:46 p.m.

Commissioner Giovanni excused himself from the meeting with the permission of the Chair to return to Kauai. (7 Commissioners present)

NON-ACTION- STATUS REPORT A02-737 BENCORP

Chair Scheuer announced that this was a status report non action meeting on Docket No. A02-737 United Nation of Kona, and the parties identifies themselves.

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)

Paul Childers, UNB

Jeff Overton (G70, Principle Planner)

Jeff Darrow, Program Manager, County of Hawaii Planning Department (County)

Ron Kim Esq., Deputy Corporation Counsel, represented County

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

Lorene Mahi, Planner, 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:

None

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

DISCLOSURES

Chair Scheuer disclosed that his wife worked for Group 70 but had no direct connection to this project and felt that he could remain fair and impartial during the proceedings. There were no objections for Chair Scheuer's continued participation.

Ms. Anjo provided general background of the status of the project and offered Mr. Overton to report on Petitioner's progress since May 2019.

Petitioner's Witness

1. Jeff Overton (Power Point Presentation)

Mr. Overton described UNB's i Revised Master Plan and described how various academic and sports facilities would be developed in the coming years.

Commissioners Cabral, Wong, Chang, Aczon and Ohigashi requested clarification of when Group 70 was engaged to perform work in the Petition Area, what the affordable housing component was in future plans and how the current plans differed from those proposed in 2003.

The Commission went into recess at 1:50 p.m. and reconvened at 2:05 p.m.

Chair Scheuer requested clarification on how the proposed project complied with the Kona Community Development General Plan and what water sources would be available for the development. Mr. Overton shared his knowledge of the situation and deferred more specific questions to Petitioner.

Ms. Julie Anjo provided Petitioner's Financial Plan for the proposed project. Commissioners Chang, Ohigashi, Wong, Aczon, Okuda, requested Clarification on how the financing plan was expected to provide sufficient funds for the planned development, how accurate the project cost estimates were, what the development timetable would be, and what the accreditation status of UNB was. Ms. Anjo provided her understanding of how UNB planned to execute its development and financing plan and stated that the Federal Department of Education did not recognize UNB as being accredited.

COUNTY COMMENTS

Mr. Kim reported on the results of meetings that County had with Petitioner and described the re-zoning ideas that were under consideration.

Commissioner Wong requested clarification on how County would ensure that the proposed project would be consistent with the Kona Community Development General Plan. Mr. Kim offered Mr. Darrow to provide additional information from the Planning Department perspective.

Mr. Darrow described how concurrency zones might apply to various situations. Commissioner Ohigashi, Cabral and Chair Scheuer requested clarification on how County housing needs were expected to be met by UNB's efforts and why UNB did not sell the property and attempt its development elsewhere.

There were no further comments by County.

OP COMMENTS

Ms. Apuna described how OP was working with the Petitioner to Amend Conditions and remained open to continuing to assist Petitioner. Commissioners Wong, Chang and Aczon requested clarification on why incremental phasing was not being considered and whether potential Chapter 343 triggers were involved. Ms. Apuna responded that the reviews were still underway and opined how a new DBA might be more appropriate to accomplish UNB's plans. There were no further questions for OP.

REBUTTAL

None.

FINAL COMMISSION QUESTIONS

Commissioner Chang requested clarification on what activities had occurred in the Petition Area. Commissioners Ohigashi and Aczon opined that the future plans needed more work and how better status reports could avoid OSC situations.

Chair Scheuer summarized the Commission's options at this point of the proceedings. Commissioners Chang, Okuda, Cabral, Wong, Cabral, and Chair Scheuer voiced suggestions of what might be reported on in future status reports for this docket. There were no further questions. Chair Scheuer stated that the LUC would continue its meeting in Honolulu at the Airport Conference Center and declared the meeting to be in recess at 3:37 p.m.

LAND USE COMMISSION
MEETING MINUTES

January 9, 2020 – 9:00 a.m.
Airport Conference Center
400 Rodgers Blvd. Suite 700, Room #IIT#2
(in Hawaiian Airlines Terminal Building)
Honolulu, HI 96819

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

COMMISSIONERS EXCUSED: None
(8 seated Commissioners as of 9/1/2020)

STAFF PRESENT: Daniel Orodener, Executive Officer
William Wynhoff, Deputy Attorney General
Bert Saruwatari, Staff Planner
Riley Hakoda, Staff Planner/Chief Clerk
Rasmi Agrahari

COURT REPORTER: Laurie Savo

CALL TO ORDER

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

ACTION

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

January 9, 2020

SP09-403 Department of Environmental Services (Waimanalo Gulch Sanitary Landfill Remand)

Action on MOTION TO TERMINATE ORDER REGARDING WRITTEN STATUS REPORTS ON PROCEEDINGS OF THE PLANNING COMMISSION RELATING TO COUNTY SPECIAL PERMIT FILE NO. 2008/SUP-2

Chair Scheuer called for the Parties to identify themselves:

APPEARANCES

Kamila Chan, Esq., represented City and County of Honolulu, Department of Environmental Services (ENV)

Cal Chipchase, Esq., represented Intervenors-the Ko Olina Community Association and Senator Maile Shimabukuro (KOCA)

Naomi Iwabuchi, Esq., Schnitzer Steel Hawai'i

Dina Wong, represented City and County, Planning Department ("County")

Dawn T. Apuna, Esq., represented State Office of Planning ("OP")

Rodney Funakoshi, Land Use Administrator, OP

Chair Scheuer updated the record and described the procedures to be followed for the hearing. There were no questions or comments.

Chair Called for Public Testimony

PUBLIC TESTIMONY

None

PETITIONER (ENV)

Ms. Chan presented background information on Petitioner's Motion and argued why it should be granted.

Commissioners Wong and Okuda requested clarification on how the Motion would impact future SP09-403 matters and on what legal action ENV had planned.

Ms. Chan opined on what might happen if there were future action on the docket and replied that the time period for an appeal had passed and no further ENV action was anticipated.

KOCA argued why the Order should be modified instead of terminated. Commissioners Wong, Cabral, and Ohigashi requested clarification on the modifications to the Order that were being suggested. Mr. Chipchase described how Petitioner would be required to notify the Planning Commission of any planned filings and participate in Neighborhood Board Meetings and events.

Discussion ensued to resolve procedural matters. Ms. Chan requested and was granted time for rebuttal. Commissioners Aczon and Okuda shared how social media could assist Petitioner and how the existing noticing requirements could be accommodated.

Schnitzer Steel

Ms. Iwabuchi stated that Schnitzer Steel took no position on the matter and requested to be notified of any changes.

County

County had no objection to the termination of written Status Reports.

OP

OP had no objection to the termination of written Status Reports.

Rebuttal

Ms. Chan summarized why her Motion should be granted and why KOCA 's suggested modifications were not necessary.

Final Questions

Commissioners Wong, Okuda and Chang requested clarification on Mr. Chipchase's suggestion to modify the Order requiring mandated written status reports. Mr. Chipchase described additional specifics that would be included and argued that the ENV's performance history required the suggested vigilance over landfill activities.

Chair Scheuer sought the pleasure of the Commission.

Commissioner Okuda moved to grant the "Motion to Terminate Order Regarding Written Status Reports on Proceedings of the Planning Commission". Commissioner Aczon seconded the Motion.

Discussion

Commissioner Okuda spoke in favor of the Motion and described why he took that position.

Commissioner Aczon supported the Motion.

Commissioner Giovani supported the Motion and encouraged ENV to be transparent and diligent in reporting on its activities.

Commissioner Wong opposed the Motion and shared why KOCA's suggestion for modification of the Order was more sensible to him.

Commissioner Cabral echoed Commissioner Wong's opposition to the Motion.

Commissioners Ohigashi, Chang and Chair Scheuer stated that they would vote in favor of the Motion.

There were no further comments.

Chair Scheuer directed Mr. Orodener to pull the Commissioner votes.

The Commission voted as follows:

Yeas: Commissioners Okuda, Aczon, Ohigashi, Giovanni, Chang and Chair Scheuer.

Nays: Commissioners Wong and Cabral.

The motion passed with 6 affirmatives votes and 2 nays (6 ayes-2 nays)

The Commission went into recess at 10:07 a.m. and reconvened at 10:20 a.m.

Chair Scheuer moved on to the next agenda item.

STATUS REPORT AND ACTION (IF NECESSARY)

A87-610 Tom Gentry and Gentry Pacific, Ltd. (Successor Petitioner- Kamehameha Schools), (O`AHU)

APPEARANCES

Jennifer Lim, Esq. and Onaona Thoene, attorneys for Successor Petitioner- Kamehameha Schools ("KS")

Dina Wong, Acting Planning Division Chief- 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

Chair Scheuer updated the record and described the procedures to be followed for the hearing.

Chair Scheuer asked if Ms. Lim had reviewed HAR rules for reimbursement of LUC hearing expenses. Ms. Lim responded that she had and stated that Kamehameha Schools would comply.

Ms. Lim noted that the correct submission date of the Master Plan was October 7, 2019 not November 4, 2019. Chair Scheuer acknowledged the date correction.

There were no further comments or questions on the record or the procedures.

PUBLIC TESTIMONY

None

Chair Scheuer called for Petitioner’s status report presentation.

PRESENTATION

Ms. Lim offered Walter Thoemmes, Managing Director of Kamehameha School Commercial Real Estate Division to present the future development plans for the Petition Area.

Mr. Thoemmes described how Petitioner would be following a Transit Oriented Development (“TOD”) and Master Plan with a supporting solar power facility to develop the Petition Area in 5 phases.

Commissioner Questions

Commissioners Giovanni and Chang requested clarification on how Conditions from the original order would be addressed, how various portions of the Petition Area would be utilized, what acreage amounts for each component might be, what infrastructure costs were projected and on what timeline.

Chair Scheuer declared a recess at 11:20 a.m. and reconvened the meeting at 11:32 a.m.

Commissioners Chang, Aczon, Okuda, Giovanni, Cabral, and Chair Scheuer requested clarification on what community support and outreach efforts were planned or underway, what solar energy plans were being considered, what risks and time factors had been planned for, and how the Master Plan for development had been developed in contrast to the original Gentry plan to include TOD, solar energy power and affordable housing.

COUNTY

Ms. Wong requested clarification on how the planned development plan phases would be coordinated .

OP

OP asked to question Mr. Thoemmes after hearing the next agenda item on this docket. Ms. Lim acknowledged OP's request.

Chair Scheuer declared a recess from 12:45 p.m. to 12:50.

Discussion ensued on how to transition from the status report agenda item to the continued action items involved with Docket A87-610. Chair Scheuer described how concluding the status report and resuming the continued action should be more definitive. Commissioner Giovanni noted that he felt there was conflict in the testimony from the status report given to the Commission in November 2019 and currently. Commissioner Okuda provided his recollection of what had occurred in the November meeting. Chair Scheuer determined that questions to Mr. Thoemmes would be included in the record for the Motion for Modification of Decision and Order in the next agenda item.

Chair Scheuer declared a recess at 12:53 p.m., reconvened the meeting at 1:51 p.m. and moved on to the next agenda item.

CONTINUED ACTION (from November 20-21, 2019 LUC meetings)

A87-610 Tom Gentry and Gentry Pacific Limited (Successor Petitioner-Kamehameha Schools), O`ahu)

Motion for Modification of Decision and Order and Time Extension

Chair Scheuer stated that he had previously updated the docket record and described the procedures to be followed. There were no questions on the procedures .

Chair Scheuer called for Public Witnesses.

PUBLIC TESTIMONY

PETITIONER WITNESSES

1. Jeff Overton - Principal Planner for G70.

Mr. Overton stated his support for the Motion for Time extension for Solar Project and provided details of Waiawa Solar Project (“WSP”) project timeline and permit details.

COUNTY

No questions

OP

Ms. Apuna inquired whether the proposed backbone infrastructure planned for the next 10 years would interfere with the solar project. Mr. Overton did not have a response.

Commissioner Giovani requested clarification on the proposed Purchased Power Agreement (“PPA”) timetable. Mr. Overton described how conditional use permit impacted development in the area.

There were no further questions Mr. Overton.

2. Daniel Von Allmen- Clearway Energy Group (“CEG”)

Mr. Von Allmen supported the Motion and provided the details of the proposed solar project.

COUNTY

No questions

OP

Ms. Apuna requested for clarification on CEG’s position regarding the proposed development of the Petition Area. Mr. Von Allmen responded that CEG was not taking a position. .

There were no further questions for Mr. Von Allmen.

Commissioners Cabral , Giovanni, Wong, requested clarification on what supporting infrastructure within the Petition Area was needed to support the solar facility, what the terms and conditions were contained in the PPA and what was involved in the permitting process and its associated deadlines and performance requirements. Ms. Naomi Kuwaye, Esq., attorney for CEG requested and was granted permission to respond to questions on the PPA and development plan schedule.

There were no further questions for Mr. Von Allen or Ms. Kuwaye.

3. Cameron Black- Hawaii State Energy Office

Mr. Black stated his office's support for the Motion and described how important renewable energy efforts were to the State of Hawai'i. .

COUNTY

County requested clarification on the PPA and how it might be extended. Mr. Black responded that he could not speak on that issue

No questions

Chair Scheuer declared a recess at 2:41 p.m. and reconvened the meeting at 2:51p.m

There were no further questions for Mr. Black.

Chair Scheuer called for Petitioner's presentation.

Petitioner's Presentation

Ms. Lim provided a historical recap of the Petition Area, described the events that contributed to the lengthy delay in developing the Petition Area and argued why the Commission should approve her Motion.

Commissioner Chang, Cabral, Giovanni and Chair Scheuer requested clarification on the proposed phasing of infrastructure and the associated financing involved, and how Petitioner proposed to address OP's concerns stemming from the original D&O conditions.

Chair Scheuer commented that OP should question Mr. Thoemmes before Petitioner concluded its presentation.

Ms. Apuna requested clarification on why a Motion to Amend could not be sought earlier. Mr. Thoemmes responded that without having a secured development partner in place, it was difficult to accurately predict how development efforts would flow, making the Motion to Amend difficult to construct. Mr. Thoemmes opined on how Petitioner would advance once a development partner was obtained to achieve substantial commencement

Commissioners Ohigashi and Okuda requested for clarification on what kind of development partnership and time conditions were being sought and why Petitioner could not achieve a reasonable balance to determine future plans.

Chair Scheuer declared a recess at 3:23 p.m. and reconvened the meeting at 3:37 p.m.

Ms. Lim argued that original D & O had no time conditions and strongly opposed OP conditions

Commissioners Giovanni and Chang requested for clarification on what any future EIS would need to address and on how the solar project timetable was scheduled

There were no further questions Mr. Thoemmes.

COUNTY

Ms. Wong described how possible changes to the Waiawa Master Plan and Central O`ahu Sustainable Community Plan may need to be included in Petitioner's future Motion to Amend.

There were no questions for County.

OP

Ms. Apuna stated that OP fully supported the Solar Project and shared why OP's concerns about the backbone infrastructure within the 200 acres under discussion were valid. a .

Commissioners Giovanni, Ohigashi and Chang requested clarification on what OP's position was about proposed Condition 5, procedural differences between an OSC action versus a voluntary Motion to Amend, and how OP perceived the solar farm in relation to the original Petition.

Final Comments Ms. Lim stated that Petitioner objected to the OP's conditions and argued why the Motion should be granted.

Commissioner Giovanni sought clarification on Ms. Lim's references to SunEdison's bankruptcy and PPA terms and conditions.

There were no further questions.

DELIBERATIONS

Chair Scheuer sought the pleasure of the Commission.

Commissioner Giovanni moved to Grant the Motion to Modification of Decision and Order and Timeline subject to the amendment of existing conditions as well as to the imposition of additional conditions to the Order Granting Motion for Order Amending D&O filed on November 26, 2014. and Commissioner Cabral seconded the Motion.

Chair Scheuer spoke to the motion and Commissioner Giovanni described why he felt the Motion was consistent with OP's conditions.

Commissioner Okuda suggested a friendly amendment to make the conditions non-severable.

Commissioners Giovanni and Cabral accepted the friendly amendment.

Discussion on the Friendly Amendment

Commissioner Wong requested clarification on the friendly amendment and its impact on the original Motion. Commissioner Giovanni provided his understanding of the PPA extension and the corresponding changes to the effective dates involved.

Commissioner Ohigashi spoke against the friendly amendment and shared his concerns for allowing it.

Further discussion ensued with Commissioners Wong, Giovanni, Okuda and Aczon sharing their viewpoints on the friendly amendment.

Chair Scheuer assessed the state of the proceedings and recognized Commissioner Okuda.

Commissioner Okuda stated that upon reconsideration, he would withdraw his friendly amendment. Commissioners Giovanni and Cabral agreed and acknowledged the withdrawal and reaffirmed their positions of respectively making and seconding the original motion.

Discussion on the Original Motion

Commissioners Chang, Aczon, and Chair Scheuer stated their support for the Motion. Commissioner Ohigashi stated that he supported the Motion with reservations.

Chair Scheuer directed Mr. Orodener to poll the Commission.

The Commission voted as follows:

Yeas: Commissioners Giovanni, Cabral, Chang, Aczon, Wong, Okuda, Chair Scheuer

Yea with reservations: Commissioner Ohigashi

Nays: None.

The Commission unanimously voted to grant the Motion to Extend. (8 ayes-0 nays)

Chair Scheuer moved on to the next agenda item- Agenda Item XII- Appointment of a LUC Legislative Committee.

After a brief discussion, Chair Scheuer stated that the Commission's Legislative Committee would consist of Commissioners Aczon, Wong and Chair Scheuer.

There being no further business, Chair Scheuer adjourned the meeting at 4:36 p.m.