

1 Land USE COMMISSION
2 STATE OF HAWAII
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7 AIRPORT CONFERENCE CENTER
8 CONFERENCE ROOM 3
9 400 ROGERS BLVD., SUITE 7
10 HAWAIIAN AIRLINES TERMINAL BUILDING
11 HONOLULU, HAWAII 96819
12 ON OCTOBER 22, 2015
13 COMMENCING AT 9:35 A.M.

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BEFORE: Jean Marie McManus, CSR #156

1 APPEARANCES:
2 EDMUND ACZON, CHAIRMAN
3 ARNOLD WONG, VICE CHAIRMAN
4 JONATHAN SCHEUER, VICE CHAIRMAN
5 COMMISSIONERS:
6 AARON MAHI
7 LINDA ESTES
8 NANCY CABRAL
9 CHAD McDONALD
10 KENT HIRANAGA
11 DIANE ERICKSON, ESQ.
12 Deputy Attorney General
13 STAFF:
14 DANIEL ORODENKER, Executive Officer
15 BERT SARUWATARI, Planner
16 RILEY K. HAKODA, Planner/Chief Clerk
17
18 CALVERT G. CHIPCHASE, IV, ESQ.
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20 1000 Bishop Street, 10th Floor
21 Honolulu, Hawaii 96813
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23 For Intervenor Ko'olina Community Association
24 and Maile Shimabukuro
25
26 BRYAN YEE, ESQ.
27 Deputy Attorney General
28 RODNEY FUNAKOSHI, Office of Planning
29
30 For the State of Hawaii
31 Office of Planning
32
33 DANA VIOLA, ESQ.
34 Deputy Corporation Counsel
35
36 Department of Environmental Services
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INDEX

2

1. Adoption of Minutes

Page 4

3

2. Tentative Meeting Schedule

Page 4

4

3. Docket No. SP09-403

Page 6

5

6

7

8

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1 CHAIRPERSON ACZON: Good morning. This is
2 the October 22nd, 2015, Land Use Commission meeting.

3 The first order of business is the adoption
4 of the October 16, 2015 minutes. Are there any
5 corrections or comments on them? If not, is there a
6 motion to adopt minutes?

7 COMMISSIONER MAHI: I move.

8 COMMISSIONER ESTES: Second.

9 CHAIRPERSON ACZON: A motion has been made
10 by Commissioner Mahi and seconded by Commissioner
11 Estes to adopt the minutes.

12 All in favor say "aye", any opposed? The
13 minutes are adopted unanimously.

14 The next agenda item, tentative meeting
15 schedule. Mr. Orodanker.

16 EXECUTIVE OFFICER: Thank you, Mr.
17 Chairman. Tomorrow we have a hearing on AO6-771,
18 Motion to Show Cause in the Dudley case. That will
19 be held here.

20 November 4th, which is Wednesday, West
21 Hawaii Civic Center Building will be having a
22 continuation of McClean Honokohau Motion.

23 November 18th to 19, Wednesday and
24 Thursday, Maui Arts and Cultural Center to acceptance
25 of the FEIS for A10-786 which is the Olowalu project.

1 December 9th and 10, Maui DOT meeting for
2 Commissioner training, and site visit to Ma'alaea
3 Plantation on December 10th.

4 January 2016, a tentative hearing
5 scheduled. I don't have a specific date for that yet
6 for Ma'alaea Plantation, and February is set aside
7 for that as well, and that takes us out through
8 February.

9 CHAIRPERSON ACZON: Thank you, Mr.
10 Orodenker.

11 Commissioners, do you have any questions?

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1 BEFORE THE LAND USE COMMISSION
 2 OF THE STATE OF HAWAI'I

3 In the Matter of the)DOCKET NO. SP09-403
)
 4 DEPARTMENT OF ENVIRONMENTAL))
 SERVICES, CITY AND COUNTY)
 5 OF HONOLULU)
)
 6 For a New Special Use)
 Permit To Supersede)
 7 Existing Special Use Permit))
 to Allow A 92.5-Acre)
 8 Expansion and Time)
 Extension for Waimanalo)
 9 Gulch Sanitary Landfill,)
 Waimanalo Gulch, O'ahu,)
 10 Hawai'i, Tax Map Key:)
 9-2-03:72 and 73)
 11 _____)

12 STATUS REPORT

13 Held on October 22, 2015, commencing at 9:35 a.m., at
 14 the Honolulu Airport, 400 Rodgers Blvd., Suite 700,
 15 Room 3, Honolulu, Hawaii 96819.

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24 BEFORE: Jean Marie McManus, CSR #156

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1 CHAIRPERSON ACZON: The next agenda item is
2 a meeting on Docket No. SP09-403, Department of
3 Environmental Services City and County of Honolulu,
4 Civil No. 09-1-2719-11 to receive a status update
5 regarding the Special Use Permit that encompasses
6 approximately 107.5 acres Waimanalo Gulch Sanitary
7 Landfill and an approximately 93.122 acre lateral
8 expansion, Tax Map Key: 9-2-03:72 and 73.

9 Would the parties please identify
10 themselves?

11 MS. VIOLA: Good morning, Chair and
12 Commissioners, Dana Viola on behalf of Department of
13 Environmental Services.

14 MR. CHIPCHASE: Cal Chipchase for
15 Intervenor for the Ko'olina Community Association and
16 Maile Shimabukuro.

17 MR. YEE: Good morning, Deputy Attorney
18 General Bryan Yee on behalf of Office of Planning.
19 With me is Rodney Funakoshi from the Office of
20 Planning.

21 CHAIRPERSON ACZON: Thank you. Let me
22 update the record.

23 On May 16, 2014, the Commission met and
24 received a status report from the Department of
25 Environmental Services, City and County of Honolulu.

1 The Commission considered the status report and the
2 comments presented by the other parties in this
3 proceeding and issued a Decision and Order to require
4 the Applicant to file a written status report with
5 LUC on the proceedings of the Planning Commission
6 every other month starting from July 2014 with
7 service upon the other parties in this matter on
8 May 28th.

9 The Commission received the mandated
10 reports from the Department of Environmental Services
11 in May, July, September and November of 2014 and
12 January, March, May, July and September of 2015.

13 On October 13th, 2015 the Commission mailed
14 the LUC October 22-23, 2015 agenda notice to the
15 parties, the statewide and Oahu mailing list.

16 For members of the public, please be
17 reminded that the Commission will not be considering
18 the merits of the Special Use Permit No. 2008/SUP-2
19 petition, rather the Commission is interested in
20 learning what is the current state of the proceedings
21 related to this Special Permit pending before the
22 Honolulu Planning Commission.

23 Public testimony in regards to this report
24 will be heard after the Applicant has completed its
25 report and the Parties and Commission have completed

1 their questioning.

2 Let me go over our procedures for this
3 docket.

4 First, I will call for the Applicant to
5 provide the status update on this matter.

6 After the County's report and the
7 completion of questioning by the Intervenors, OP and
8 the Commission, those individuals desiring to provide
9 public testimony for the Commission's consideration
10 will be asked to identify themselves and will be
11 called in order to our witness box where they will be
12 sworn in prior to their testimony.

13 After completion of the public testimony,
14 the Intervenor will then be heard in the following
15 order: Intervenor for Hanabusa, then Intervenor
16 Ko'Oolina Community Association and Senator Maile
17 Shimabukuro.

18 Then the State Office of Planning will then
19 be given the opportunity to comment. The Commission
20 will then ask any final questions it might have of
21 the Parties.

22 The Chair would also note that from time to
23 time I will be calling for short breaks.

24 Are there any questions on our procedure
25 for today?

1 Ms. Viola, will you please provide your
2 status report.

3 MS. VIOLA: The status report is as
4 indicated in the updates that we provided. I believe
5 that the City -- I believe that it states on behalf
6 of the City as well as community association that the
7 negotiations are successful. They're proceeding
8 successfully, and that in this light, in particular
9 that we have accomplished -- the City has
10 accomplished its primary objectives of continuing to
11 divert municipal solid waste from the landfill, in
12 particular sewage sludge which we are successfully
13 now burning at the H-Power facility.

14 In light of the accomplishments that the
15 City has already made, and the City intends to
16 continue to focus on diversion of waste streams from
17 the landfill, the parties want to continue to
18 negotiate with that common goal, continuing
19 diversion.

20 And so the parties are requesting a
21 continuance of the negotiations for an additional
22 18 months so that we could essentially establish and
23 memorialize objectives for the continuing diversion.
24 And to that effect, the parties will commit to a
25 18-month continuation of the negotiations by way of

1 stipulation.

2 And we would file a stipulation with the
3 Planning Commission that will memorialize that
4 18-month period of negotiation, that commitment. We
5 would seek approximately two months to essentially
6 stipulate to the specific objectives that the parties
7 will have in terms of land fill diversion. And once
8 the stipulation as to those objectives has been, or
9 the objectives have been established, we will also
10 commit to an every three-month update in front of the
11 Planning Commission to provide the progress on those
12 negotiations.

13 At this point we feel that we've made
14 significant progress in light of coming to a joint
15 recommendation for the Planning Commission to resolve
16 the SUP application.

17 CHAIRPERSON ACZON: Any questions, Mr.
18 Chipchase?

19 MR. CHIPCHASE: No questions, Chair. I
20 believe Ms. Viola has stated it accurately. What it
21 would look like within the next two months, we would
22 agree on a form of a stipulated order to be filed
23 with the Planning Commission and approved and adopted
24 by the Commission.

25 That order would provide for an 18-month

1 continued negotiation period beginning from today.
2 And then as part of that order, there would be the
3 parties' stipulated list of continuing diversion
4 objectives for the City that also set some realistic
5 time frames that the parties can come to agreement.

6 That's why we ask for two months to enter
7 that order, because we anticipate some continued
8 discussions to reach that agreement. Once that gets
9 on file with the Planning Commission, then we would
10 continue to provide periodic updates, we think
11 through the Planning Commission, since that's the
12 body that has the consolidated case now and with whom
13 we would file the stipulated order.

14 In terms of frequency of those updates, Ms.
15 Viola suggested every three months. As far as
16 Ko'olina is concerned, we would be fine with less
17 frequent status reports, and before the Commission,
18 but we would suggest three, and on set dates so that
19 there's sufficient time for there to be meaningful
20 progress to achieve those objectives before we come
21 back before the Planning Commission to report where
22 we are.

23 It doesn't seem to make a lot of sense to
24 come in and say we're not there yet. I want to give
25 the City time to make some progress so that we have

1 real updates before the Planning Commission.

2 But for me the frequency is a detail that
3 the parties can work out with consent and concurrence
4 with the Planning Commission.

5 It would be enough for us, I believe, if
6 the Commission, this body, accepted that as the
7 approach and directed us to proceed accordingly with
8 the objectives and the frequency of the updates to be
9 negotiated and determined by the parties as approved
10 by the Planning Commission.

11 CHAIRPERSON ACZON: Thank you. Mr. Yee,
12 any questions?

13 MR. YEE: We have no comments on the
14 substance of this. We do have a question that's
15 unclear to us on the status of Senator Hanabusa
16 and/or Representative Shimabukuro. I understand Mr.
17 Chipchase represents Shimabukuro, so it's helpful to
18 clarify whether this also represents a stipulation
19 from her, and whether this represents a stipulation
20 from Senator Hanabusa. Thank you.

21 CHAIRPERSON ACZON: I will have Mr.
22 Chipchase to help us with comments later.

23 Any comments from the Commissioners or
24 questions to Ms. Viola? VICE CHAIR WONG.

25 VICE CHAIR WONG: I have a question. First

1 thing is what is the status of SUP?

2 MS. VIOLA: The status of SUP is that it's
3 pending. It was remanded to the Land Use Commission,
4 and Land Use Commission has remanded or requested
5 consolidation with the related case that was ongoing
6 at the time. So the SUP is before the Planning
7 Commission presently.

8 VICE CHAIR WONG: Right now it's expired
9 per se, right?

10 MS. VIOLA: No. The position of the City
11 is that it has not expired. The Planning Commission
12 and the Land Use Commission had granted SUP for the
13 duration for the capacity of the landfill. So it has
14 not expired.

15 What has been struck by the Supreme Court
16 which is the subject matter of the appeal was the
17 deadline that was imposed by the Planning Commission
18 for municipal solid waste, not ash and residue, but
19 municipal solid waste as of July 31st, 2012. That
20 deadline has been struck by the courts.

21 VICE CHAIR WONG: So the question is when
22 is the Planning Commission going to take up this
23 issue?

24 MS. VIOLA: Well, what we're proposing is
25 that the Planning Commission, who has agreed to allow

1 the parties to negotiate, would give us an additional
2 18 months, as described by both myself and Mr.
3 Chipchase. And so that the parties can provide for
4 joint recommendation to resolve the Application that
5 is now before the Planning Commission.

6 VICE CHAIR WONG: Thank you.

7 CHAIRPERSON ACZON: Any others questions?
8 Vice Chair Scheuer.

9 VICE CHAIR SCHEUER: Aloha. This would be
10 either to the City or the Intervenors. Why
11 18-months? It seems like for something that's
12 already gone on a long time, it's a fairly long
13 additional time that you're seeking.

14 MS. VIOLA: Additional 18 months is
15 primarily in regards to the plans that the City has
16 for further diversion. Some of the waste streams
17 that we are focused on are shredder waste, the home
18 waste, to reduce number of trucks going to the
19 landfill, and ultimately ash and residue.

20 The reason why it's taken -- I understand
21 it's taken three years, and we ask for additional
22 time -- is that it's not a quick process. We have
23 been working to find alternative disposal methods for
24 these waste streams. We've reduced it significantly
25 in the last three years. The waste that we were

1 talking about in 2011 and 2009, the City has made
2 great strides in reducing the amount of stuff going
3 to the landfill.

4 And we want to target additional waste
5 stream to remove from the landfill so that we would
6 ultimately have a landfill that perhaps would not be
7 a full landfill.

8 So the reason we need more time is because
9 the alternative uses or alternative disposal methods
10 are immediate. This is something that we have to
11 work on. At this point in time, ash and residue
12 reuse is not being conducted anywhere in the country.
13 I think at this point the State of Minnesota is doing
14 a private project on the reuse of ash. So that's
15 hopefully within reach of the City.

16 VICE CHAIR SCHEUER: So if I may follow up.
17 So that it's not really the negotiations themselves
18 that need additional time, but the City's work
19 towards finding an acceptable solution that they can
20 then bring into negotiations?

21 MS. VIOLA: That is really the focus on the
22 negotiations. I can let Mr. Chipchase speak on
23 behalf of his clients, but the joint goal is to
24 reduce use of landfill, so reduce impact on
25 surrounding community, but I'll let him comment.

1 MR. CHIPCHASE: So the parties have been
2 working on reaching, if possible, a stipulated
3 proposed Findings of Fact, Conclusions of Law,
4 Decision and Order since about spring of 2013. So
5 the negotiations that have occurred to date have
6 taken us to this point where we're able to say, okay,
7 we're ready to identify a list of remaining diversion
8 objectives, and we as Intervenors -- and to clarify
9 for the Chair and body -- that does include Ms.
10 Shimabukuro, both of us would be stipulating to that.

11 I can't, of course, speak for Mr. Wurdeman
12 and his client, but as far as my clients are
13 concerned, this stipulation would cover both of them.

14 And so we have reached a point in those
15 negotiations where we see an end in sight, the
16 18 months, and we're willing to accept that, it's
17 gone on a long time for us as well.

18 We've been involved with this for many
19 years even before that, but we're happy to see some
20 end to that, and having come so far with the City and
21 achieved this much, we think we're at a point that if
22 we list out those objectives, remaining diversionary
23 objectives at the end of 18 months, hopefully we will
24 have finally achieved a stipulated order for review
25 by the Planning Commissioner and of course this body.

1 VICE CHAIR SCHEUER: Thank you. One final
2 question for the City.

3 Do I understand correctly that because of
4 the pursuit of these matters, the City is no longer
5 looking at alternate sites?

6 MS. VIOLA: No. One of the conditions of
7 the existing SUP is to consider alternative sites. I
8 think in the context of finding alternative sites is
9 once this landfill has reached capacity so that if
10 the City has a continuing need to use a landfill,
11 which, you know, purportedly there will be as well as
12 emergency needs, and along with backup need for
13 H-Power, if H-Power goes down, if there's any kind of
14 fire goes down, any kind of emergency, there should
15 be a backup for protection of the public.

16 So we are continuing, the City is still
17 continuing to identify and build, hopefully locate an
18 alternative site, and under the circumstances, will
19 be used when this landfill is closed.

20 VICE CHAIR SCHEUER: So can you just very
21 briefly say more specifically what is being done in
22 terms of alternative site identification?

23 MS. VIOLA: Well, there was a committee
24 panel that looked -- that looked into alternative
25 sites. They came up with a list. That list was

1 produced in 2012, I believe, during the pendency of
2 the underlying Planning Commission proceeding.

3 But that committee looked at the sites from
4 a community aspect. What needs to be further
5 evaluated is the structural needs, infrastructure,
6 community impact, environmental impact. There is a
7 lot of other criteria that that committee was not
8 involved in.

9 Moving from the selection of 11 sites that
10 that committee identified, the City's now focusing on
11 timing, when will an alternative site be needed. Of
12 the 11 sites, which sites would be viable at the time
13 when the landfill alternate site would be needed, if
14 the City can obtain that. And if those sites will be
15 available.

16 So a number of factors that the City is
17 still evaluating to determine whether or not, of the
18 11 sites, whether they will be actually viable.

19 VICE CHAIR SCHEUER: Thank you.

20 CHAIRPERSON ACZON: Any other questions for
21 Ms. Viola? Vice Chair Wong.

22 VICE CHAIR WONG: I have a question.

23 So right now you have three H-Power plants,
24 correct?

25 MS. VIOLA: We have one H-Power plant but

1 it has three burners.

2 VICE CHAIR WONG: So most of the trash or
3 rubbish is being diverted to H-Power?

4 MS. VIOLA: Yes.

5 VICE CHAIR WONG: So less amount of trash
6 going to the landfill at this time?

7 MS. VIOLA: Yes.

8 VICE CHAIR WONG: So because of that, the
9 type of keeping it -- the type of amount of trash
10 that can go in has increased because there is less
11 trash going in?

12 MS. VIOLA: Right. What you're saying, the
13 life of the land has expanded because of the waste
14 diversion. Would that be accurate?

15 VICE CHAIR WONG: But you still have ash
16 from the boilers, the residual --

17 MS. VIOLA: Yes.

18 VICE CHAIR WONG: The question I have is,
19 because you have, from 2012, that group that is
20 looking for different sites, they haven't really --
21 they don't have a hard pushed because of this issue,
22 is that correct?

23 MS. VIOLA: No. The group that was looking
24 into -- the group that initially was assigned to
25 identify sites, their job is done. That group is

1 disbanded. They came out with their report, which I
2 believe is 11 sites that they identified. And from
3 that list, the City would have to work further in
4 terms of evaluating the viability of the 11 sites.

5 And what the City is now doing is, it's
6 correct, I mean in terms of the immediacy as opposed
7 to 2011-2009 when we would need an alternative site
8 because the life of the landfill has changed because
9 of the amount of diversion that we have accomplished,
10 then that well affect the viable sites on the list.

11 So it's not that the City's any less
12 aggressive in identifying a site, but a criteria to
13 determine the viability of the sites has changed from
14 the 2009 to the present date.

15 So we're evaluating the present
16 circumstances and future uses. I mean if we are --
17 if the City is capable of diverting ash, that's going
18 to change -- that's going to drastically change the
19 picture because then majority of everything that's
20 going into landfill will be reduced significantly.

21 So when we'll need an alternative site,
22 when this present site is reached capacity, will have
23 changed drastically. So what the City has to
24 evaluate is different scenarios. And so in the
25 context of extrapolating or predicting, you know, the

1 different scenarios in the future, we have to
2 evaluate -- likewise evaluate the viability of the
3 current sites on the list.

4 VICE CHAIR WONG: Just that I'm concerned
5 that because this area that's just on the whole
6 Leeward Coast have a lot of things thrown there, that
7 they are just being piled on, and they might be
8 saying, look, you guys don't care about us any more
9 because we are going to extend the landfill because
10 the landfill issue is just going to last forever.

11 MS. VIOLA: In terms of the community,
12 that's one of the reasons why we are looking to
13 reduce the current usage of that landfill, so to
14 reduce the impact on the surrounding community.

15 The concerns in the past that the City has
16 heard, of course, is the concern of disposal of
17 sewage sludge and bulky waste and lining of the
18 trucks, I mean all of these immediate concerns that
19 the community, that's what we are trying to address
20 by diverting waste.

21 VICE CHAIR WONG: Just that because they
22 know the landfill takes time to open a new one for
23 EIS, lining the hole and everything, that I hope the
24 City understand that it is not like you can turn it
25 around like that to open up a new landfill. So even

1 though they're looking for new site, it's probably
2 take next year to open it up.

3 MS. VIOLA: No, that was something that the
4 Planning Commission in the 2009 matter had identified
5 specifically that that was the reason why the
6 petition was added to the present SUP is that they
7 did not want to come to a situation where the land
8 must close tomorrow and we're starting to search
9 tomorrow.

10 No, the reason why the City is evaluating
11 alternative sites and continuing that evaluation is
12 because the City has to be prepared when the landfill
13 reaches capacity.

14 VICE CHAIR WONG: Because I've seen, you
15 know, when this issue came up there was talk about
16 how Japan had issues where trash was going into the
17 parks. And I don't want to see the kids not using a
18 clean park, and then piled up on the sidewalks and
19 everything. So that's what I'm really worried about.

20 MS. VIOLA: I think I can assure you that
21 the City will not be looking to dispose any trash in
22 our own parks.

23 VICE CHAIR WONG: Thank you.

24 CHAIRPERSON ACZON: Any other question for
25 Ms. Viola? Vice Chair Scheuer.

1 VICE CHAIR SCHEUER: If I may I want to,
2 with forbearance of my fellow Commissioners, follow
3 up on the question Mr. Yee asked.

4 What has been the status of Mr. Wurdeman
5 and his client's participation in these discussions?

6 MS. VIOLA: At this point in time it's not
7 clear what their involvement is, so I think it would
8 move the City to reach out to Mr. Wurdeman. We
9 haven't had much contact with him, and I'm not sure
10 on the level of involvement at this point.

11 MR. CHIPCHASE: That's correct,
12 Commissioner. I can speak to what his level of
13 involvement is. If I had to speculate, I would say
14 it's not high. I had reached out to him. I expected
15 Richard to be here today.

16 VICE CHAIR SCHEUER: I ask for the purpose
17 of the goal is to reach a stipulated decision, but
18 one of the parties is not a part of that decision,
19 that would affect how much faith we might put as a
20 body in this process going forward.

21 MR. CHIPCHASE: I certainly can understand
22 that. I think the two months that we have asked for
23 to reach stipulation include an update to the
24 Commission at the conclusion of that, whether we're
25 successful in reaching a stipulated order to the

1 Commission and who has signed off on. If the
2 Commission were uncomfortable with that, certainly we
3 could come before you again and address it.

4 CHAIRPERSON ACZON: Any other questions for
5 Ms. Viola? Thank you, Ms. Viola.

6 Any individuals deciding to provide public
7 testimony on this docket? Thank you.

8 Mr. Chipchase, do you have any comments?

9 MR. CHIPCHASE: Chair, nothing further to
10 add.

11 CHAIRPERSON ACZON: Any question for Mr.
12 Chipchase, Mr. Yee?

13 MR. YEE: No questions.

14 CHAIRPERSON ACZON: Commissioners? Mr.
15 Yee.

16 MR. YEE: We have no further comments.

17 CHAIRPERSON ACZON: Any questions for
18 anybody?

19 VICE CHAIR SCHEUER: Are you feeling well,
20 Mr. Yee?

21 MR. YEE: I remembered my coat today.

22 CHAIRPERSON ACZON: Commissioners? Last
23 call, Commissioners.

24 As this is a status report, we are not
25 required to take any action at this time. If no

1 action is taken, the continued status report on this
2 docket will remain open. Any further discussion?
3 Commissioner McDonald.

4 COMMISSIONER McDONALD: If you can remind
5 me, what was the requirement for the status updates
6 to the Land Use Commission? Every two months? Is
7 that actually necessary in light of their ongoing
8 negotiations? With parties negotiating, I should
9 say. Or is that actually a condition of the permit?

10 EXECUTIVE OFFICER: That was actually from
11 the last meeting we discussed this matter. We made
12 that request of the County. That is subject to
13 adjustment by the Commission. The staff can't
14 laterally change that.

15 COMMISSIONER McDONALD: Just a little
16 refreshing here. So it doesn't really make sense at
17 this point for the County to come back and provide a
18 status report in the next two months. I'm not sure
19 what the other Commissioners feel.

20 CHAIRPERSON ACZON: Commissioners?

21 COMMISSIONER McDONALD: Well, just going on
22 what was presented, the parties are looking in the
23 next two months to provide an update to the Planning
24 Commission within the next two months.

25 MS. VIOLA: Right.

1 MR. CHIPCHASE: Actually reach a stipulated
2 order.

3 COMMISSIONER McDONALD: Within the next two
4 months.

5 I'm sorry, Chair, so the two months, I
6 mean, are you folks okay coming back? Are you folks
7 going to be ready and have enough substance to
8 provide the Commission within that two months?

9 MS. VIOLA: We have been providing written
10 updates every two months, so we have only come before
11 the Commission one other time in May of 2014, I
12 believe. So if you want us to continue with the
13 two-month update, but really I would agree with you
14 that I don't really -- I think it would be some
15 overlap, since we are going to provide the
16 stipulation and we are going to stipulate, map out a
17 schedule for updating the Planning Commission with,
18 we can cc the Land Use Commission as well.

19 CHAIRPERSON ACZON: Okay.

20 Vice Chair Scheuer.

21 VICE CHAIR SCHEUER: So for the parties, my
22 understanding was you were actually asking us to sort
23 of take an action today. We don't have to take an
24 action. So please correct me -- I'm often wrong, ask
25 my wife -- but my understanding from your

1 presentation was you have this plan to try to reach a
2 stipulated agreement within two-month's time, within
3 18 months have a final implemented agreement and you
4 were asking the Land Use Commission to sort of
5 endorse that process. That was my understanding.

6 MS. VIOLA: I guess, yes, endorse. I don't
7 think that there's anything before you that we're
8 asking you to take action from on the order.

9 I think maybe to address Commissioner
10 McDonald's concern, I'm not sure I can speak on
11 behalf of Cal, but the City would be very -- would
12 ask that the Commission maybe issue an order saying
13 the update is no longer necessary in light of the
14 stipulation that we plan to file with the Planning
15 Commission.

16 We don't have a problem with updating you,
17 but it has been pretty similar every two-month update
18 is that we're continuing to update. Short of
19 reaching conclusion, we are not going to go into
20 specifics of what we're actually considering. So
21 we'll continue to provide you with that if that's
22 what you prefer, but it does seem to me to be
23 somewhat duplicative.

24 VICE CHAIR SCHEUER: Just to follow up.
25 Just to share my thoughts, and I'm sure my fellow

1 Commissioners have their own.

2 It seems that we have this existing order
3 to have you update every two months, but it so
4 happens within two months, hoping to have a
5 stipulated judgment, it would sort of make sense to
6 me to leave the existing order in place hoping that
7 you will come back actually with here's the
8 stipulated order, then that might be the appropriate
9 time to visit former Chair Member McDonald's concerns
10 like maybe we need to modify this because the
11 circumstances have improved and changed.

12 That's my kind of thought on it.

13 MR. CHIPCHASE: We have no objection to
14 that.

15 CHAIRPERSON ACZON: Vice Chair Wong.

16 VICE CHAIR WONG: I was just going to say
17 what Commissioner Vice Chair just said we may have to
18 wait for the two months and then that's it. So I
19 just was going to listen to whatever Vice Chair
20 Scheuer says, which sounds right this time.

21 VICE CHAIR SCHEUER: Every ones in awhile,
22 Vice Chair Wong.

23 MS. VIOLA: City has no objection.

24 CHAIRPERSON ACZON: Any further discussion,
25 Commissioners?

1 There being no further business, I declare
2 this meeting in recess until 8:30 tomorrow morning.

3 VICE CHAIR WONG: Can I have a five-minute
4 recess because I want to clear the room and then go
5 into executive session.

6 CHAIRPERSON ACZON: Five-minute recess.

7 (Recess taken.)

8 CHAIRPERSON ACZON: Back on the record.

9 VICE CHAIR WONG: I want to move for
10 executive session to discuss the responsibilities of
11 the Commission with counsel and Executive Officer.

12 CHAIRPERSON ACZON: Any second then?

13 COMMISSIONER McDONALD: Second.

14 CHAIRPERSON ACZON: Moved and seconded.

15 Those in favor say "aye", opposed? Motion carries

16 (Executive Session.)

17 (The proceedings ended at 10:10 a.m.)

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1 CERTIFICATE

2 STATE OF HAWAII)
) SS.
3 COUNTY OF HONOLULU)

4 I, JEAN MARIE McMANUS, do hereby certify:

5 That on October 22, 2015, at 9:05 a.m., the
6 proceedings contained herein was taken down by me in
7 machine shorthand and was thereafter reduced to
8 typewriting under my supervision; that the foregoing
9 represents, to the best of my ability, a true and
10 correct copy of the proceedings had in the foregoing
11 matter.

12 I further certify that I am not of counsel for
13 any of the parties hereto, nor in any way interested
14 in the outcome of the cause named in this caption.

15 Dated this 22nd day of October, 2015, in
16 Honolulu, Hawaii.

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JEAN MARIE McMANUS, CSR #156

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