

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A89-649
)
 LANA'I RESORT PARTNERS)
)
 To consider further matters)
 relating to an Order To Show)
 Cause as to whether certain)
 land located at Manele, Lana'i)
 should revert to its former)
 Agricultural and/or Rural land)
 use classification due to)
 Petitioner's failure to comply)
 with Condition No. 10 of the)
 Land Use Commission's Findings)
 Of Fact, Conclusions of Law,)
 and Decision and Order filed)
 April 16, 1991, Tax Map Key)
 No. 4-9-002:049 (por.),)
 formerly Tax Map Key)
 No. 4-9-002:001 (por.))
 _____)

CONTESTED CASE HEARING

Transcript of Proceedings

VOLUME VII

Held on Wednesday, May 31, 2017, before the Land Use
 Commission, at the State of Hawaii Department of
 Transportation (Maui) Meeting Room, 650 Palapala Drive,
 Kahului, Maui, Hawai'i, 96732, commencing at 9:30 a.m.

REPORTED BY: Cynthia L. Murphy
 Certified Shorthand Reporter
 CSR 167, RPR

1 APPEARANCES:

2 EDMUND ACZON, Chairman, Hearings Officer
3 ARNOLD WONG, Vice Chair

4 COMMISSIONERS:

5 LINDA ESTES
6 DAWN N.S. CHANG
7 NANCY CABRAL
8 AARON D. MAHI

9 DIANE ERICKSON, ESQ.
10 Deputy Attorney General

11 STAFF:

12 DAN ORODENKER, Executive Officer
13 RILEY HAKODA, Chief Officer/Planner
14 SCOTT DERRICKSON, Staff Planner

15 BRYAN C. YEE, ESQ.
16 Deputy Attorney General
17 State Office of Planning

18 BENJAMIN A. KUDO, ESQ.
19 For Petitioner Lana'i Resort Partners

20 MICHAEL HOPPER, ESQ.
21 Department of the Corporation Counsel
22 County of Maui, Department of Planning

23 WILLIAM SPENCE, Director
24 Department of Planning, Maui County

25 DAVID KEITH KAUILA KOPPER, ESQ.
Native Hawaiian Legal Corporation
For Intervenors Lana'ians for Sensible Growth

--000--

CHAIRMAN ACZON: Good morning. This is the May 31, 2017 Land Use Commission meeting.

I understand that there may be a need to amend the agenda to deal with LUC administrative matters and would like to entertain a motion to amend the agenda.

Vice Chair Wong?

VICE CHAIR WONG: Chair, I would like to amend the agenda for the election of next year's officers, so I would like to add that to the agenda, please.

COMMISSIONER CABRAL: I'll second that motion.

CHAIRMAN ACZON: A motion has been made by Commissioner Wong and seconded by Commissioner Cabral to amend the agenda. Any discussion?

If there's no further discussion, all those in favor say "aye."

(The Commissioners responded affirmatively.)

CHAIRMAN ACZON: Any opposed?

(No response.)

CHAIRMAN ACZON: The agenda is so amended. We're going to take care of that after the action -- adoption of the order. Thank you.

The first order of business is the adoption of the May 24, 2017 minutes. Are there any corrections or comments on them? If not, is there a motion to adopt the

1 minutes?

2 COMMISSIONER ESTES: So moved.

3 COMMISSIONER CHANG: Second.

4 CHAIRMAN ACZON: A motion has been made by
5 Commissioner Estes and seconded by Commissioner Chang to
6 adopt the minutes. All in favor say "aye."

7 (The Commissioners responded affirmatively.)

8 CHAIRMAN ACZON: Any opposed?

9 (No response.)

10 CHAIRMAN ACZON: The minutes are adopted
11 unanimously.

12 The next agenda item is the tentative meeting
13 schedule.

14 Mr. Orodenger?

15 MR. ORODENER: Thank you, Mr. Chair. On
16 June 14th, we will be on Kaua'i for a site visit for the
17 Lima Ola-201H project. On June 28th and 29th, we will
18 then be on Kaua'i for the Lima Ola project hearing. On
19 July 19th and 20th, we will be on Maui for the Kau'ono'ulu
20 Ranch FEIS acceptance. On July 26th will be the Lima Ola
21 adoption of order. On August 9th and 10th, we will be on
22 Oahu for -- there are a couple of solar special permits
23 that are being filed. And on August 23rd and 24th, we
24 will be on Kaua'i for Kau'ono'ulu Ranch motion to amend.
25 And September 6th and 7th is currently open.

1 September 20th and 21st -- or 20th and 22nd, actually, is
2 HCPO. And that is as far as we have on the schedule.

3 CHAIRMAN ACZON: Thank you, Mr. Orodenker.

4 Commissioners, do you have any questions? None?
5 Thank you.

6 This is a hearing on Docket No. A89-649 Lana'i
7 Resort Partners to adopt the form of the order regarding
8 the remand of an Order to Show Cause as to whether certain
9 land located at Manele, Lana'i, should revert to its
10 former Agricultural and/or Rural land use classification
11 due to Petitioner's failure to comply with Condition
12 No. 10 of the Land Use Commission's Findings of Fact,
13 Conclusions of Law, and Decision and Conclusions of Law,
14 and Decision and Order filed April 16, 1991.

15 Would the parties please identify themselves for
16 the record. Go ahead, Mr. Kopper.

17 MR. KOPPER: David Kopper for Lana'ians for
18 Sensible Growth.

19 MR. KUDO: Ben Kudo representing Lana'i Resorts,
20 Petitioner in the case.

21 MR. HOPPER: Michael Hopper for the Department
22 of Corporation Counsel representing the Maui County
23 Department of Planning. And Planning Director William
24 Spence is also here.

25 MR. YEE: Deputy Attorney General Bryan Yee on

1 behalf of the Office of Planning.

2 CHAIRMAN ACZON: Thank you and good morning,
3 everyone.

4 Let me update the record:

5 On April 26, 2017, the Commission began its
6 hearing on this Docket at the Lana'i Community Center,
7 Lana'i City, Hawaii, and received written and public
8 testimony from individuals whose names are on file.

9 On April 27, 2017, the parties made arguments on
10 exceptions to the Hearing Officer's Recommended Findings
11 of Fact, Conclusions of Law, and Decision and Order, which
12 was adopted and treated as the Commission's Proposed
13 Findings of Fact, Conclusions of Law, and Decision and
14 Order. After arguments on the exceptions were heard,
15 deliberations on the matter ensued. A motion was duly
16 made and seconded, and was carried to adopt the Proposed
17 Findings of Fact, Conclusions of Law, and Decision and
18 Order with amendments. Further deliberation ensued.
19 After deliberations concluded, the motion was passed by
20 the Land Use Commission, 6-1-1, six in favor, one against,
21 one recused, and one excused. There are currently eight
22 seated Commissioners.

23 On May 22nd, 2017, the Commission mailed the
24 May 31st, 2017 meeting agenda notice to the parties and
25 those on the statewide and Maui County mailing lists.

1 Let me briefly run over our procedure for the
2 day.

3 First, I will first call for those desiring to
4 provide public testimony for this docket to identify
5 themselves. All such individuals will be called in turn
6 to our witness box where they will be sworn in prior to
7 their testimony.

8 At the conclusion of the public testimony, the
9 Commission will conduct formal deliberations on this
10 matter.

11 Are there any questions on our procedure for
12 today?

13 Hearing none, are there any individuals desiring
14 to provide public testimony on this docket?

15 MR. KOPPER: If there's an opportunity -- if
16 there's no opportunity planned in the record for LSG to
17 make their comment, then I would like to do that for LSG.
18 But if there's opportunity then --

19 CHAIRMAN ACZON: It depends on the content of
20 the comments so.

21 MR. KOPPER: In what way?

22 MS. ERICKSON: Public witnesses can make
23 comments, but the parties aren't going to be having
24 comments at this point.

25 MR. KOPPER: Well, then, if there's nothing

1 planned, then I'd like to say objections at this time.

2 LSG wasn't allowed to make comments at the last hearing
3 while there were other parties who got to raise issues.

4 There are some procedural things that need to be raised.

5 So I'll do that now then first. So I believe, Chair

6 Aczon, you said that the last vote was 6-2-1. My

7 recollection, it was there were five votes "yes" and not

8 six, because there were only six Commissioners at the

9 meeting that actually participated, right. So I'm getting

10 nods by the Commission. I just -- you know, just wanted

11 to make that clear. But my understanding, it was

12 Commissioners Estes, Chang, Aczon, Wong -- I'm sorry --

13 Cabral and Okuda were present and were the only ones who

14 participated in the vote. And that would be six total.

15 I did want to note --

16 CHAIRMAN ACZON: Go ahead.

17 MR. KOPPER: Okay. I did want to note that I

18 requested a -- whatever the final form of the Order in

19 this case, by e-mail, May 23rd, to the Commission staff.

20 I did not receive one. I object -- on that point, I would

21 request a final version of whatever is voted on today so

22 we can see that. We still haven't seen what's being voted
23 on today.

24 CHAIRMAN ACZON: We'll make sure you get a copy.

25 MR. KOPPER: Thank you for that.

1 I do object to any Commissioner voting on this
2 matter that was not present at the last hearing. My
3 understanding is that this vote is on the form of the
4 Order to ensure that it accurately reflects what was voted
5 on April 26 and April 27. So all due respect to
6 Commissioner Mahi, he was not present there, and we would
7 object to his vote.

8 And finally, just one issue as to procedure that
9 we were not allowed to raise at the last hearing. The
10 last hearing was on the Hearing Officer's Decision and
11 Order. And the Commission addressed every party's
12 exceptions which were filed on the record and in detail
13 one by one, except for Lana'ians for Sensible Growth. It
14 is true that you looked at our objections to the Resort's
15 exceptions side by side. But those don't cover all the
16 issues that were raised in our exceptions.

17 So if you remember the history of the case, the
18 reason we came back here is because LSG was not given a
19 fair shake. They were not allowed to present all their
20 evidence. And this --

21 CHAIRMAN ACZON: Mr. Kopper, I believe we went
22 through one by one all those proposed --

23 MR. KOPPER: You did not. And the record
24 reflects that. But you did not. Every other party,
25 exceptions --

1 CHAIRMAN ACZON: As I remember, we went back
2 again to cover that.

3 MR. KOPPER: Okay. So what I recall, every
4 other party had their exceptions go over one by one. We
5 went on a break, and when we came back from break,
6 Commissioners Wong and Chang said that they reviewed the
7 exceptions on the break and they believed that we covered
8 them.

9 Now, first of all, that's not possible because,
10 again, our exceptions raise issues which were not
11 discussed by any of the parties' exceptions or discussed
12 by the Commission. But it was not covered one by one.

13 And second, when we returned from that lunch
14 break, the Commission already had typed changes to the
15 Order waiting for the Commission members. So before there
16 was any discussion on LSG's actual exceptions -- not
17 objections -- but exceptions, the changes were already
18 typed out and on the Commission -- on the Commission's
19 table.

20 So, you know, again, just like the last time,
21 this is an issue of fairness. Contested case hearings, as
22 the Appellate Court says, has to be fair to all parties,
23 especially groups that act as the community's voice. So
24 how is it fair to go through everyone else's exceptions,
25 every party's legal arguments, but not ours, and just say,

1 in a cursory way, "I reviewed it. We covered it"? Well,
2 we know that cannot be true because the decision was
3 already typed up. So I'm just saying we're, once again,
4 repeating the sins of the past. You're going to do what
5 you're going to do but --

6 CHAIRMAN ACZON: Mr. Kopper, that's your
7 opinion. We will take that into consideration.

8 Vice Chair Wong?

9 VICE CHAIR WONG: Chair, I would like to move to
10 executive session to consult with the Board's attorney for
11 questions on issues pertaining to the Board's powers,
12 duties, privileges, immunities and liabilities on this
13 issue.

14 CHAIRMAN ACZON: Any second?

15 COMMISSIONER CABRAL: I'll second that.

16 CHAIRMAN ACZON: Moved by Vice Chair Wong and
17 seconded by Commissioner Cabral to go into executive
18 session. Those in favor say "aye."

19 (The Commissioners responded affirmatively.)

20 CHAIRMAN ACZON: Opposed?

21 (No response.)

22 CHAIRMAN ACZON: Motion carries.

23 If everyone can leave.

24 (Recess taken from 9:49 to 9:51 a.m.)

25 CHAIRMAN ACZON: We're back on the record.

1 First of all, I just want to make a correction for the
2 record on the voting. It should be five in favor, one
3 recused and two excused.

4 Five in favor, one opposed and two excused.
5 Okay.

6 Diane?

7 MS. ERICKSON: In response to a couple of things
8 that Mr. Kopper raised, I believe that, under Chapter 91,
9 Commissioner Mahi is entitled to vote. I assume he is
10 going to make a response when the Chair asks him to
11 confirm that he has reviewed all the transcripts and the
12 record. And as soon as he does that, then I believe he's
13 entitled to vote.

14 The other thing that you had raised, Mr. Kopper,
15 was something about a revised Decision and Order ready
16 after lunchtime. What that was, was just a list of issues
17 that the staff had put together that they thought had been
18 covered by the Commission; for example, "add this item,"
19 "delete this item," things like that. So there was no
20 revised Decision and Order at the last meeting.

21 CHAIRMAN ACZON: Commissioner Cabral.

22 COMMISSIONER CABRAL: And I'd also like to state
23 that I'm hurt or offended, because, as I recall, I -- I
24 felt that we all really tried to make the entire hearing,
25 the entire situation, open to everybody. I know we all

1 read an enormous amount of information before we got
2 there. We had all of that information in front of us. I
3 took detailed notes on the different suggestions and
4 concerns that we, as Commissioners, had raised in that.
5 And I sort of take offense to the idea that we didn't
6 provide opportunity for consideration of all points.
7 Thank you.

8 CHAIRMAN ACZON: Thank you, Commissioner Cabral.

9 MR. KOPPER: And I want to just say there's no
10 offense intended. To respond -- the response is just that
11 you never talked about our exceptions, and that's the
12 only -- and you simply did not. Just our objections, but
13 our exceptions were never talked about. So that's what I
14 wanted to say, not any personal attacks or offense. But
15 our document was never reviewed on the record.

16 CHAIRMAN ACZON: Thank you, Mr. Kopper.

17 Since Mr. Kopper opened up the discussion, I
18 want to give the parties at least two minutes to comment.

19 Mr. Kudo.

20 MR. KUDO: You know, I believe that -- not to
21 render any legal advice here, but I believe that any
22 Commissioner is able to vote on any matter, so long as
23 that Commissioner has reviewed the transcripts of the
24 proceedings and is knowledgeable about the matters before
25 himself or herself.

1 Secondly, in regard to exceptions, exceptions
2 are filed by parties as -- either by way of it to improve
3 upon a D&O, an anticipated D&O, or to object to an
4 anticipated D&O. It is, in my opinion, not necessary for
5 every single exception from any party to be discussed. I
6 think that so long as the Commission has reviewed the
7 exceptions and considered them in their deliberations,
8 without even discussing the specifics, I think that is
9 sufficient and -- because I don't -- I don't know of any
10 legal requirement that every single exception that is
11 filed has to be discussed, you know, back and forth
12 between the Commission members before a decision is
13 reached.

14 And in addition, when you have opposition
15 exceptions, opposing exceptions, generally, if the
16 Commission is leaning toward an approval, to discuss the
17 opposition issues ad infinitum might be counterproductive
18 and not efficient use of the Commission's time since
19 they're going in the other direction. So I would take
20 issue with Mr. Kopper saying that this Commission is
21 required to discuss every single exception from every
22 party.

23 I have been to hearings where there has been no
24 discussion of the exceptions, and Commission members,
25 after review of all the pleadings and the exceptions, go

1 into deliberations and vote on a particular D&O.

2 So, with that, thank you.

3 CHAIRMAN ACZON: Thank you, Mr. Kudo.

4 Mr. Hopper?

5 MR. HOPPER: I do not have much to add,
6 Mr. Chair, other than I do think that, as long as the
7 Commission did receive the exceptions from all the parties
8 into the record and reviewed them, I think that that's
9 sufficient.

10 As a matter of record, the Commission did hear
11 from all the parties. The parties had the opportunity to
12 present the witnesses that they wanted and cross-examine
13 the witnesses presented by the other parties. So along
14 those lines, the County wouldn't have an objection in that
15 process.

16 CHAIRMAN ACZON: Thank you, Mr. Hopper.

17 Mr. Yee?

18 MR. YEE: Thank you. I join and agree with the
19 statements made previously by both your counsel as well as
20 Mr. Kudo and Mr. Kopper. I would only add, with respect
21 to Mr. Kopper's request for a copy of the proposed
22 decision in this case, consistent with your practice over
23 at least the 10 years that I've been here, the Land Use
24 Commission has never provided those copies to the parties,
25 although there is a provision in the rules where one -- if

1 one Commissioner wanted to propose a Decision and Order,
2 that that document be made available to the parties. It
3 has not been interpreted or applied when the proposals
4 from the Commission as a whole or from the staff on behalf
5 of the Commission as a whole. So none of the parties
6 received a copy of your -- of any proposed decision that
7 you would be approving today. We all received the
8 Hearings Officer's proposed decision. We all submitted
9 our exceptions, you considered those documents, and I
10 don't think that there's any -- and sorry -- and you also
11 went through the process that we would be following in
12 adopting -- in your adoption of a final order, and no one
13 had any objections to your description of that process at
14 the time.

15 Finally, I just want to comment that it is my
16 recollection that the typed changes that were made after
17 the recess was simply putting into writing what was orally
18 discussed. So there was no decision made by a staff
19 member, no pre-decisions made for -- by anyone. It was
20 simply, you know, the articulation or the writing down of
21 what had already been discussed by the Commissioners so
22 far. That's it. Thank you.

23 CHAIRMAN ACZON: Thank you. Thank you everyone
24 for your comments.

25 The Commission will now conduct formal

1 deliberations concerning whether to adopt the form of the
2 order. I would note for the parties and the public that,
3 during the Commission's deliberation, I will not entertain
4 additional input from the parties or the public.

5 Commissioners, let me confirm that each of you
6 has reviewed the record and read the transcripts for this
7 matter and are prepared to deliberate. After I call your
8 name, would you please signify with either an "aye" or
9 "nay" that you are prepared to deliberate on this matter.

10 Commissioner Mahi?

11 COMMISSIONER MAHI: Aye.

12 CHAIRMAN ACZON: Commissioner Cabral?

13 COMMISSIONER CABRAL: Aye.

14 CHAIRMAN ACZON: Commissioner Chang?

15 COMMISSIONER CHANG: Aye.

16 CHAIRMAN ACZON: Commissioner Estes?

17 COMMISSIONER ESTES: Yes. Aye.

18 CHAIRMAN ACZON: Commissioner Wong?

19 VICE CHAIR WONG: Aye.

20 CHAIRMAN ACZON: The Chair is also prepared to
21 deliberate on this matter.

22 Commissioners, before you is the form of the
23 Order with amendments adopted by the Commission and other
24 technical, non-substantive changes. The Chair will
25 entertain a motion to approve the form of the Order in

1 this matter.

2 Commissioners, what is your pleasure?

3 Vice Chair Wong?

4 VICE CHAIR WONG: I move to approve this order.

5 COMMISSIONER ESTES: Second.

6 CHAIRMAN ACZON: A motion has been made by
7 Commissioner Wong and seconded by Commissioner Estes to
8 approve the form of the Order. Any discussion?

9 If there's no further discussion, Mr. Orodenger,
10 please poll the Commission.

11 MR. ORODENKER: Commissioner Wong?

12 VICE CHAIR WONG: Aye.

13 MR. ORODENKER: Commissioner Estes?

14 COMMISSIONER ESTES: Aye.

15 MR. ORODENKER: I'm sorry, Mr. Chair. Let me
16 back up for a second. The motion is to adopt the order.

17 Commissioner Scheuer and Commissioner Okuda are
18 excused.

19 Commissioner Chang?

20 COMMISSIONER CHANG: Aye.

21 MR. ORODENKER: Commissioner Cabral?

22 COMMISSIONER CABRAL: Aye.

23 MR. ORODENKER: Commissioner Mahi?

24 COMMISSIONER MAHI: Aye.

25 MR. ORODENKER: Chair Aczon?

1 CHAIRMAN ACZON: Aye.

2 MR. ORODENKER: Thank you, Mr. Chair. The
3 motion carries with six votes.

4 CHAIRMAN ACZON: Thank, Mr. Orodenker.

5 Next on the agenda is a discussion on election
6 of officers.

7 Vice Chair Wong.

8 VICE CHAIR WONG: Chair, can we have a
9 three-minute recess so that everyone can clear out?

10 CHAIRMAN ACZON: We're on recess.

11 (Recess taken from 9:56 a.m. to 9:59 a.m.)

12 CHAIRMAN ACZON: We're back on the record.

13 Vice Chair Wong?

14 VICE CHAIR WONG: So, Chair, previously, to
15 elect new officers for next year, we created a
16 subcommittee that was appointed by you. I wanted to make
17 that we, too, have a -- create a new subcommittee for the
18 next year's election that's a nominating committee.

19 CHAIRMAN ACZON: Any second?

20 COMMISSIONER ESTES: I have a couple of
21 questions I want to ask, okay.

22 CHAIRMAN ACZON: Go ahead.

23 COMMISSIONER ESTES: Is it time? When you're
24 talking about next year, you're talking about 2018?

25 VICE CHAIR WONG: July 1st. Fiscal year.

1 Sorry.

2 COMMISSIONER ESTES: Since we're supposed to
3 elect new officers every year, why didn't we do it last
4 year?

5 MR. ORODENKER: There is no requirement that
6 officers be elected every year. It's at the discretion of
7 the Commission.

8 COMMISSIONER ESTES: The way I read it --

9 MR. ORODENKER: Traditionally, there's been
10 elections every year, sometimes every other year. We've
11 had Chairs serve for two to three terms at times. So it's
12 really at the discretion of the Commission.

13 COMMISSIONER ESTES: Okay. Well, this is
14 something Diane gave me sometime back, which says
15 "Chairperson and Vice Chairperson, the Commissioners shall
16 annually elect a Chairperson and one or more Vice
17 Chairpersons from its members." So "annually" means
18 "yearly," doesn't it?

19 That's what you gave me sometime back.

20 MS. ERICKSON: I think what happened probably is
21 that there were a lot of things going on, and then the
22 membership of the Commission was kind of not set, so
23 that's probably why.

24 COMMISSIONER ESTES: Okay. I don't have an
25 objection.

1 Actually, Edmund, I think you've done a great
2 job, and if you were to run again, I would have voted for
3 you.

4 CHAIRMAN ACZON: Yeah, I understand. I
5 understand.

6 COMMISSIONER ESTES: Okay.

7 CHAIRMAN ACZON: Any second?

8 COMMISSIONER ESTES: I guess another thing, with
9 a group this small, why do we need to get a committee to
10 come up with --

11 MR. ORODENKER: Well, we're missing a couple of
12 Commissioners.

13 CHAIRMAN ACZON: Yeah, Jonathan is not here.

14 COMMISSIONER ESTES: Why don't we just elect?

15 VICE CHAIR WONG: We should have a full body.
16 Because I don't want -- let's say Jonathan wants someone
17 else, and he's not here to nominate. So I think this
18 nomination committee will be open to anyone's suggestions,
19 and then they'll bring it back to the whole body. And
20 then we can --

21 COMMISSIONER ESTES: Okay.

22 CHAIRMAN ACZON: It's really the pleasure of the
23 Commission so.

24 COMMISSIONER CABRAL: Well, I think especially
25 in this case, because if Jonathan in particular was not

1 invited to attend, you know.

2 COMMISSIONER ESTES: Okay.

3 COMMISSIONER CABRAL: I mean, it's not just that
4 he chose not to come. He could have come, I guess, for
5 this -- the rest of this meeting, but he was not -- for
6 the main topic, he was uninvited, let's say.

7 CHAIRMAN ACZON: And that's only for the -- to
8 make the election to --

9 COMMISSIONER ESTES: Okay.

10 CHAIRMAN ACZON: -- at least to --

11 COMMISSIONER CHANG: So, procedurally, what
12 we're proposing is the committee will come up with a slate
13 for the Chair and the Vice Chair.

14 CHAIRMAN ACZON: Right.

15 COMMISSIONER CHANG: Circulate that to the
16 members. And then at the next meeting, we vote?

17 CHAIRMAN ACZON: Or we can make recommendations.

18 COMMISSIONER CHANG: No? How does that work?

19 MS. ERICKSON: It would -- they could transmit
20 the information to Dan, who would transmit it to the
21 Commissioners.

22 COMMISSIONER CHANG: Oh, I see.

23 MS. ERICKSON: Because we cannot have
24 communications --

25 MR. ORODENKER: A lot of times -- I mean, in the

1 past, the way it's happened is that the committee is
2 just made up of --

3 COMMISSIONER ESTES: Okay. So who is the
4 committee?

5 CHAIRMAN ACZON: That's -- I need a second
6 first.

7 COMMISSIONER ESTES: (Indicating).

8 CHAIRMAN ACZON: Thank you, Linda.

9 A motion has been made by Commissioner Wong and
10 seconded by Commissioner Estes to create a committee to
11 elect new officers.

12 Discussion? Hearing none, those in favor say
13 aye.

14 (The Commissioners responded affirmatively.)

15 CHAIRMAN ACZON: Opposed?

16 (No response.)

17 CHAIRMAN ACZON: Motion carries.

18 Now, any volunteers for that committee?

19 COMMISSIONER ESTES: I'll volunteer.

20 CHAIRMAN ACZON: Linda.

21 VICE CHAIR WONG: I guess I'll volunteer.

22 COMMISSIONER MAHI: This is volunteering for
23 what now?

24 VICE CHAIR WONG: Just to nominate.

25 COMMISSIONER MAHI: I'll volunteer.

1 VICE CHAIR WONG: And because you're on the
2 other island, Linda, if you don't mind, just do it by
3 telephone or e-mail it.

4 COMMISSIONER ESTES: Oh, yeah. No, I think we
5 ought to have face to face.

6 (Laughter.)

7 MR. HAKODA: You need to learn how to use the
8 iPad.

9 VICE CHAIR WONG: So, yeah.

10 CHAIRMAN ACZON: Three is a good number?

11 COMMISSIONER CHANG: Yeah, that's good.

12 MR. ORODENKER: As long as it's odd numbers.

13 COMMISSIONER CABRAL: It rarely comes down to a
14 hard and fast vote.

15 Also, I'd like some clarification, and I think
16 it would be appropriate. I think -- I feel like I'm a
17 holdover tenant or something -- I'm sorry -- a holdover
18 member, or whatever, you know, because I don't know how
19 the terms -- if we haven't been replaced, we stayed on.
20 So if somebody can help explain that because I don't know
21 if I'm supposed to be leaving.

22 MR. ORODENKER: No. The way it works is that
23 your terms expire and begin at the change of the fiscal
24 year, which is the end of June, beginning of July. So
25 if -- your term will expire, in your case, the end of

1 June.

2 COMMISSIONER CABRAL: Yes.

3 MR. ORODENKER: Next month. You then can --
4 unless the Governor appoints somebody in your place, you
5 can remain as a holdover until the next session, when you
6 either have to be reconfirmed, or if they don't reconfirm
7 you by the end of session -- this is what happened to
8 Ken -- on the last day of session, you're a holdover.

9 COMMISSIONER CABRAL: Okay. Thank you. I just
10 wanted to figure out my vacation schedule, my non-vacation
11 schedule for the coming year. Okay. Thank you.

12 CHAIRMAN ACZON: So, for the record, we have
13 three volunteers to sit on the election of officers
14 committee: Commissioner Wong, Commissioner Estes and
15 Commissioner Mahi. Are there any objections?

16 Hearing none, congratulations.

17 So, Mr. Orodenker, is there any other business?

18 MR. ORODENKER: Mr. Chair, we had an executive
19 session on this agenda, but I don't believe it's necessary
20 at this time.

21 CHAIRMAN ACZON: Okay. So there being no
22 further business, I declare this meeting adjourned. Thank
23 you.

24 (The proceedings concluded at 10:02 a.m.)

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C E R T I F I C A T E

STATE OF HAWAII)
) SS:
CITY AND COUNTY OF HONOLULU)

I, CYNTHIA L. MURPHY, a Hawaii Certified
Shorthand Reporter, do hereby certify.

That on the 31st day of May, 2017, at 9:30 a.m.,
the foregoing hearing, Docket No. A89-649, was taken down
by me in computerized machine shorthand and was thereafter
reduced to print under my supervision;

That the foregoing represents, to the best of my
ability, a true and correct transcript of the proceedings
had in the foregoing matter.

I further certify that I am not an attorney for
any of the parties hereto, nor in any way concerned with
the cause.

Dated this 14th day of June, 2017, in Honolulu,
Hawaii.

Cynthia L. Murphy, RPR, CSR No. 167
Certified Shorthand Reporter
State of Hawaii