

LAND USE COMMISSION  
MINUTES OF MEETING

January 15, 2003

Conference Room 405  
Leiopapa A Kamehameha  
235 So. Beretania Street  
Honolulu, Hawaii

COMMISSIONERS PRESENT: P. Roy Catalani  
Bruce Coppa  
Pravin Desai  
Lawrence Ing  
Steven Montgomery  
Randall Sakumoto  
Peter Yukimura  
Isaac Fiesta  
Kyong-Su Im

COMMISSIONERS ABSENT: None

STAFF PRESENT: Diane Erickson, Deputy Attorney General  
Anthony Ching, Executive Officer  
Russell Kumabe, Staff Planner  
Bert Saruwatari, Staff Planner  
Sandra Matsushima, Chief Clerk  
Holly Hackett, Court Reporter

Vice Chair Catalani called the meeting to order at 9:35 a.m.

Vice-Chair Catalani made a few announcements. In reference to the agenda for January 16, 2004, under section IV Miscellaneous, the Commission will meet in Executive Session to consult with legal counsel. The subject of the legal consultation would be Civil No. 02-1-1759-07 The Sierra Club v. the Land Use Commission of the State of Hawaii. The LUC docket in question is more commonly known as the Koa Ridge Project.

Vice Chair Catalani also noted some entry errors in the description of the second agenda item. Docket No. A03-744 Hiluhilu Development LLC involves the petition for land use reclassification of approximately 725.2 acres at Kau, District of North Kona, TMK: (3) 7-5-002:001 and not as noted on the agenda.

## ADOPTION OF MINUTES

Commissioner Fiesta moved to adopt the Land Use Commission meeting minutes of December 4, 2003 and December 5, 2003. Commissioner Ing seconded the motion. Said motion was unanimously approved by voice votes.

## TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported that changes on Maui Bus Park determination/consideration of special permit of landfill expansion. Addition to Feb to include Waihee Oceanside. The pace of filings has increased and there will be some changes as previously thought.

Mr. Ching stated that in reference to travel, staff needs to do electronic ticketing and will need to pursue group travel which offers preferential rates and allows changes on return flights without additional costs. There is a challenge now with electronic ticketing – likely combine our travel –

## A03-743 HAWAIIAN ELECTRIC LIGHT COMPANY

Vice Chair Catalani announced that this was an action meeting on Docket No. A03-743 Hawaii Electric Light Company to determine whether an environmental impact statement is required pursuant to Chapter 343, HRS, for the reclassification of approximately 15.643 acres of land currently in the Conservation District into the Urban District at Keahole, North Kona, Hawaii Tax Map Key: (3) 7-3-049: 036 and 037.

On November 25, 2003, the Commission received Petitioner's Petition for Land Use District Boundary Amendment and Environmental Impact Statement preparation Notice.

On December 22, 2003, the Commission received the Notice of Intent to Intervene from Deborah S. Jackson, attorney for Albert S.N. Hee and Waimana Enterprises, Inc.

## APPEARANCES

Naomi Kuwaye, Esq., represented Petitioner  
Norman Hayashi, represented County of Hawaii Planning Department  
John Chang, Esq., represented State Office of Planning  
Abe Mitsuda, State Office of Planning

## Staff Report

### 1. Russell Kumabe

Mr. Kumabe, staff planner, provided a GIS map orientation of the area and briefly summarized the staff report before the Commissioners. There were no questions by the parties and the Commission.

Commissioner Coppa moved to accept the requirement of Section 343-5 (c) HAR, that Petitioner should pursue an EIS as required for Docket A03-743. Commissioner Fiesta seconded the motion.

The commission was polled as follows:

Ayes: Commissioners Coppa, Fiesta, Yukimura, Desai, Sakumoto, Ing, Im, and Catalani.

The motion passed with a vote of 8 ayes, and 1 absent.

A recess break was taken at 9:50 a.m. The proceedings reconvened at 10:00 a.m.

## A03-744 HILUHILU DEVELOPMENT, LLC

Vice Chair Catalani announced that this was an action meeting on Docket No. A03-744 Hiluhilu Development, LLC to determine whether an environmental impact statement is required pursuant to Chapter 343, HRS, for the reclassification of approximately 725.2 acres of land currently in the Conservation District into the Urban District at Kau, North Kona, Hawaii Tax Map Key: (3) 7-2-5-1.

On December 23, 2003, the Commission received Petitioner's Petition for Land use District Boundary Amendment and Draft Environmental Impact Statement.

## APPEARANCES

Alan Okamoto, Esq., represented the Petitioner  
Roger Harris, Project Planner  
Norman Hayashi, represented County of Hawaii Planning Department  
John Chang, Esq., represented State Office of Planning  
Abe Mitsuda, State Office of Planning  
Judith Henry, State Office of Planning

## Staff Report

1. Russell Kumabe

Mr. Kumabe, staff planner, provided a GIS map orientation of the area and briefly summarized the staff report before the Commissioners. There were no questions by the parties and the Commission.

Commissioner Coppa moved to accept the requirement of Section 343-5 (c) HAR, that Petitioner should pursue an EIS as required for Docket A03-744. Commissioner Fiesta seconded the motion.

The commission was polled as follows:

Ayes: Commissioners Coppa, Fiesta, Yukimura, Desai, Sakumoto, Ing, Im, and Catalani.

The motion passed with a vote of 8 ayes, and 1 absent.

A92-683 HALEKUA DEVELOPMENT CORPORATION (OAHU)

Vice Chair Catalani announced that this was an action meeting on Docket No. A92-683 Halekua Development Corporation (Oahu) to consider the Motion to Exempt HRT, Ltd.'s property from the order to Show Cause Granted on February 26, 2003, Pursuant to the Stipulation Filed on December 30, 2003.

On December 30, 2003, the Commission received from Rueben Wong, Attorney for HRT, Ltd., 300 Corporation and Honolulu Limited, Stipulation and Exhibits A to D.

On January 12, 2004, the Commission received the Office of Planning's Motion to Exempt HRT, Ltd., property from the Order to Show Cause Granted on February 26, 2003, Pursuant to the Stipulation filed on December 30, 2003.

APPEARANCES

Reuben Wong, Esq., represented HRT, Ltd., 300 Corporation and Honolulu Limited  
John Chang, Esq., represented State Office of Planning  
Abe Mitsuda, State Office of Planning  
Mike Watkins, represented the Department of Planning and Permitting

Commissioner Sakumoto moved to enter into executive session to consult with counsel regarding the legal aspects of the Commission's decision on relieving the obligations of the imposed LUC condition(s). Vice Chair Coppa seconded the motion and said motion was unanimously approved by voice votes.

The Commission exited regular session at 10:10 a.m. and entered executive session. The meeting reconvened at 10:30 a.m.

Commissioner Montgomery attended the proceedings at 11:15 a.m.

Mr. Ching noted that earlier in the week, he received a telephone call from Petitioner Herbert Horita requesting the nature of action to be taken at this meeting. After explanation, Mr. Horita stated that he and his attorney, Jonathan Durrett, would not make an appearance at today's meeting.

PUBLIC WITNESSES (Please refer to the LUC transcript for additional details.)

1. Richard Mirikitani

Mr. Mirikitani stated that he is the Senior Vice president and Counsel for Castle & Cooke Hawaii.

Mr. Mirikitani testified that Kunia Residential Partners, developers of Royal Kunia Phase 1 and Kunia Phase 2, and also the hold of mortgage on the Petition lands. Mr. Mirikitani stated that Castle & Cooke is supportive of getting things moving and seeing the development of Phase 2 as beneficial to the community and residents. He added that although he did not fully analyze the impact of the Kunia community and adjacent landowners, he commended HRT in purchasing the land.

After discussion, there were no further questions by the Commission and the parties.

2. Walter Davison

Mr. Davidson stated that he is an attorney with Goodsill Anderson Quinn and Stifel and counsel for Castle & Cooke Hawaii.

Mr. Davidson stated that he has not found time to analyze the Petitioner's Chapter 11 bankruptcy case and does not know the basis of the issue. He further stated that Halekua has few or no assets except Phase 2 lands. The developer will not be able to move forward or does not have the resources to move forward. His concern is that Halekua may not be able to move ahead with increased obligations and added that he does not know the severity of the impact at this point.

Mr. Mirikitani clarified that the stipulation to excuse HRT from having to perform the imposed conditions, since HRT is now the owner of some to the Petition lands, is that the conditions run with the land and the obligation is with HRT, the owners. If HRT is being excused from having to perform certain obligations, then it is unclear on the

magnitude of the impact. It is also a question as to the basis upon whether it would be fair to the community to excuse certain obligations, which already exist.

After discussion, there were no further questions by the Commission and the parties.

Mr. Chang explained that the Office of Planning was the Movant for the Order to Show Cause on the basis that the Petitioner, Halekua, had not fulfilled their obligation under condition 19 to purchase the 150 acres and build the infrastructure.

Commissioner Montgomery entered the meeting at 11:15am

Mr. Randy Teruya of the State's Department of Agriculture stated that they have met with Mr. Chang and Mr. Wong. Mr. Teruya noted that they have all come to an agreement to the stipulation of the 150 acres.

Mr. Wong stated that HRT will buy the land then convey by February 28, this conveyance would satisfy condition 19, of which the state shall acquire the 150 acres. The stipulation and the motion have other conditions, all of the conditions will continue in full force and in effect. The LUC can act today with no impact on the bankruptcy court as there is an urgency to close by February 28. This land is outside of the petition area and has nothing to do with the bankruptcy.

The City & County requested for clarification in reference to the infrastructure and if that obligation will remain with Halekua.

Mr. Wong stated that they are fulfilling only one condition, as there are all the other remaining conditions in place.

Mr. Chang had no objections and will amend OP's request to HRT's proposal. Mr. Chang added that for condition 19, the conveyance of the 150 acres is only a portion of the condition and the infrastructure obligation still remains in full force and in effect.

The Commission recessed for lunch at 11:45 a.m. The proceedings reconvened at 12:50 p.m.

Commissioner Im requested for clarification of the mortgagee and questioned the nature of the mortgage.

Mr. Wong explained that it was a settlement of HRT's claim. The land came with the mortgages from Mr. Horita, who persuaded HRT to loan him the money without the deed. The land cannot be conveyed to HRT until the land is properly subdivided. Mr. Horita was to also put in the infrastructure.

Commissioner Im questioned if this matter could be recognized in the bankruptcy court and if the LUC should postpone their matter until the bankruptcy court's decision.

Mr. Wong stated that they have discussed with counsel and could make a claim in the bankruptcy matter. Mr. Wong added that there is an urgency to close by February 28, as Robinson is threatening to sell.

Commissioner Im questioned if HRT was proposing to purchase the property and then convey the land to the Department of Agriculture, and that the LUC will not change the property's designation to agricultural again. Commissioner Im also questioned if there was a time frame and what if HRT does not comply with the other conditions?

Mr. Wong explained that it will only apply to one land and all other conditions will still apply. The land is empty; no sewer, water, roadways, etc.

Commissioner Coppa moved to accept the HRT's proposal under condition 19 to release the sale of the land only and upon the conveyance of the land to the State, that portion of the condition is deemed satisfied. This commission will not downzone this specific property within this petition. Commissioner Montgomery seconded the motion.

Commissioner Sakumoto questioned if Mr. Wong agreed with the proposal as stated by Commissioner Coppa? Commissioner Sakumoto noted that his concern was that there are so many unfulfilled conditions remaining.

Mr. Wong agreed that the proposal as stated by Commissioner Coppa is correct.

Commissioner Coppa noted that the infrastructure still remains in condition 19 and added that he would like to request some reporting requirement or briefing be provided to the LUC within 6 months regarding the bankruptcy status.

Mr. Wong replied that he would be glad to report back to the LUC as to the status of the bankruptcy.

Commissioner Fiesta stated that he was in favor of this motion because the state will benefit from the conveyance of the 150 acres and the conditions will still remain.

Commissioner Im noted that his concern is if the Halekua property gets down zoned, HRT's property is land locked. He added that he would not want to have a situation where a portion is urban and the other is forever zoned agricultural.

Commissioner Sakumoto questioned if HRT's land should not ever be reclassified or even its successors?

Commissioner Im moved that the commission meet in executive session to discuss with counsel the legal aspects of the Commission's decision regarding HRT's proposal. Chairman Ing seconded the motion.

The open meeting resumed at 2:00 p.m.

Mr. Ching restated the motion for clarification. Should Halekua not comply with condition 19, with respect to the conveyance of the 150 acre agricultural park to the State, and HRT convey the same by February 28, 2004, that HRT Holdings, in the petition at the time of the filing of the motion, be excused from reversion to agricultural. Also, to accept the Office of Planning's motion as amended by HRT to proceed with conveyance to the Department of Agriculture by February 28, 2004. Condition 19 is released with note that the portion of the condition relating to the provision of infrastructure be not released. Unless requested by HRT or its successors and interests, or HRT violates the conditions other than by condition of approval. HRT will also report back to the LUC in 6 months and all conditions will be in effect and run with the land.

Commissioner Coppa moved to accept the amended motion, seconded by Commissioner Montgomery.

The commission was polled as follows:

Ayes: Commissioners Coppa, Montgomery, Fiesta, Yukimura, Desai, Sakumoto, Ing, Im, and Catalani.

The motion passed unanimously with a vote of 9 ayes.

A recess break was taken at 2:05 p.m. and the meeting reconvened at 2:20 p.m.

#### DOCKET NO. A89-635 SHIGEKANE REVOCABLE TRUST, Et. Al

Vice Chair Catalani announced that this was an action meeting on Docket No. A89-635 Shigekane Revocable Trust, et. al. on Aha Hui Malama O Kaniakapupu's Motion for an Order to Show Cause regarding enforcement of conditions, representations or commitments. The Commission is being asked by the Movant to consider whether there is a reason to believe that the original Petitioners have failed to perform according to the conditions imposed by the Commission's order in this docket. Should a simple majority of the Commission make that determination, an order to Show Cause Hearing will be set. At that time the Commission will determine why the property should not revert to its former land use classification or be changed to a more appropriate classification.

On April 21, 2003, the Commission received Aha Hui Malama O Kaniakapupu's Motion for an Order to Show Cause Hearing.

On January 7, 2004,. The Commission received Shigekanes' Memorandum in Opposition of Motion for an Order to Show Cause.

On January 7 and 9, 2004, the Commission received Status Report of Elizabeth Midkiff Myers (fka Elizabeth M. Morris); Memorandum in Opposition to Motion for Order to Show Cause Filed by Aha Hui Malama O Kaniakapupu on April 21, 2003; Declaration of Cheryl Palesh; Declaration of Elizabeth Midkiff Myers; Declaration of Robert R. Midkiff; Declaration of Donna Y. L. Leong, Esq.; Exhibits 1-8.

On January 7, 2004, the Commission received joinder/correspondence from Robert R. Midkiff regarding SLUC Docket No. A89-635 Shigekane Revocable Trust, et al; TMK: (1) 2-2-55:02 and 04 (Nuuanu, Oahu).

On January 14, 2004, the Commission received the Office of Planning's Memorandum regarding the Motion for an Order to Show Cause.

### APPEARANCES

Gerard Jervis, Esq., represented Aha Hui Malama O Kaniakapupu  
Melvin Kalahiki, President, Aha Hui Malama O Kaniakapupu

Dickson Lee, Esq., represented the Shigekane Family

Donna Leong, represented Elizabeth Midkiff Myers, and Robert and Rita Midkiff

Raymond Young, represented the Department of Planning and Permitting

John Chang, Esq., represented State Office of Planning

Abe Mitsuda, State Office of Planning

### Staff Report

#### 1. Russell Kumabe

Mr. Kumabe, staff planner, provided a GIS map orientation of the area and briefly summarized the staff report before the Commissioners. There were no questions by the parties and the Commission.

Mr. Ching provided some video footage of the property, showing the particular boundary and the adjacent property.

### PUBLIC WITNESSES

#### 1. Michelle Matson

Ms. Matson stated that she is familiar with this property and the Bishop Museum would know the significance of the area. Ms. Matson added that she will send her comments in writing.

There were no questions by the Commissioners and the parties.

Mr. Lee indicated that he had previously met with Mr. Jervis before this meeting and that the Shige kanes were relieved from the matters to be heard today regarding the Midkiff property. Mr. Lee requested to be excused from the hearing.

The Commission, Mr. Jervis, and all other parties had no objections.

Mr. Jervis stated that Kaniakapupu is the ruins of the summer palace of Kamehameha III and that this cultural site has significance. Mr. Jervis explained that Kaniakapupu is the boundary parcel.

Vice Chair Catalani noted to mark the photos as Exhibits 1 and 2.

Ms. Leong noted that on a procedural basis, show would also appreciate copies of the exhibits.

Mr. Jervis stated that the Hui is here today because this Commission maintains as the gatekeeper to see that conditions and representations have been conformed to. The map shows that three (3) of these lots above the Kaniakapupu property (it is the intention to restore Kaniakapupu with grant monies in process) part of the restoration would be clearing the bamboo to the property line. When these lots are sold on the open market to people, who are not necessarily sensitive to what Kaniakapupu is – not only to the Hawaiian people but – once that bamboo has been cleared – those families and children can easily enter the Kaniakapupu property and Kaniakapupu would be in jeopardy. Bob Midkiff's family has been there for 118 years and is the stewards of the land.

A recess break was taken at 3:20 p.m. The meeting reconvened at 3:40 p.m.

Commissioner Sakumoto noted that the docket reflects records for the 89 proceedings and questioned if they were in the records at that time the Commission issued its order or if Kaniakapupu was considered regarding the impacts this decision would have.

Mr. Jervis replied that he has not found anything in the record, but added that the Bishop Museum has reference to Kaniakapupu.

Commissioner Sakumoto noted that the concern is about new families buying into the property and questioned if there currently is a public access to the area.

Mr. Jervis stated that most local people are not aware that Kaniakapupu is there. The dense bamboo landscape is helpful in limiting access.

Commissioner Coppa suggested a fence or higher wall to prevent access and questioned what is the hui seeking?

Mr. Jervis replied that the hui has no money and are not willing to pay for a fence. Mr. Jervis added that they are here today on a motion to show cause. The hui believes that the Commission has the ability to reclassify or declassify. There have been several attempts to come to a resolution but they have been completely ignored.

Commissioner Im noted that under condition 4, it states that Midkiff should offer to sell to their family members first. He questioned the hui's interpretation of that condition whether it meant that a offer is made and no family members accept, then it could be sold to third parties?

Mr. Jervis replied that conditions 4 and 5 were an attempt on the part of the LUC as an attempt to seek assurance to sell to family members. The basis of the promise was for family use; children, grandchildren, great grandchildren. This depends if everything they do is alright, then after 20 years they can sell.

Vice Chair Catalani stated that he believed the past Commission based its decision on the contention for reclassification on the promise to keep the property in the family and that placed a condition on the property owners on a right of first refusal. Vice Chair Catalani questioned what limitation should be put on this property, assuming the right of first refusal?

Mr. Jervis stated that there is evidence in a MLS listing, indicating a declaration that they were going to sell their property, although the representation was that this land would stay with the children and grandchildren.

Chairman Ing stated that the language in condition 4 is a bit confusing regarding the right of first refusal after the sale, as it could easily be construed that they do not have the right to sell. He added that it appears after the 20 year period they do have the right to sell. Chairman Ing suggested that a wall or fence could be the buffer zone.

Commissioner Montgomery commented that the hui should approach others from the state with interest in this historical site.

Mr. Jervis stated that they have been in contact with DLNR and added that he was told that the stream on the Waikiki side is called "Lulumahu" where burial mounds have been found. Mr. Jervis then introduced photos to the Commission.

Vice Chair Catalani admitted the photos into evidence as Exhibit 3.

Ms. Leong requested that items being presented at the meeting should be introduced as exhibits and also copies provided to her. Mr. Leong stated that there was no indication that these are on the property and nothing on the record. She questioned who took the photos and the dates taken.

Mr. Kalahiki stated that Kaniakapupu was the site of the battle of Nuuanu and there are burials around. He believed the photos were taken last year in April.

Ms. Leong referred to an aerial photograph submitted by OP and asked Mr. Kalahiki to point to the site where the burial grounds are located.

Mr. Kalahiki pointed to an area after the waterfall, above to the right of the Shigekane property, not on the Midkiff Myers parcel.

Commissioner Desai questioned if there was a trail head or any public access that leads to the site?

Mr. Jervis explained that there is an access trail which the Kamehameha students, Hawaiian groups, and hula halaus use. These people with specific intent to teach, access Kaniakapupu.

Commissioner Desai stated that if there are many who already access the property, why is there concern over a few who will purchase to live on the property.

Commissioner Coppa noted that this is state land and questioned if the hui has met with DLNR?

Mr. Jervis replied that Kaniakapupu was not previously jeopardized, until their intent to sell. The hui has gone to DLNR and they are aware.

Ms. Leong stated that she believes that Hui Malama does not own the property and that Kaniakapupu is a separate issue, as it is with the state and not under this jurisdiction. Ms. Leong requested that the Commission focus on conditions 4 and 8 of the decision and order. Based on the conditions, Ms. Myers has complied with condition 4 before she put her property up for sale. To meet a financial obligation to her brother, she offered it to her brother and he refused to purchase it, then she withdrew the notice to sell. Her children cannot afford it or is not interested in buying the property. There is no one in this world who would like to keep the property in family then Ms. Myers. This family property is dear to her heart and the whole purpose is to give it to her children, but she is not able to do that because of her limited financial status and the extensive cost of the infrastructure.

Mr. Young indicated that he would need to leave the proceedings at this time due to family obligations. He added that the City and County had no presentation and no objections in the proceeding. Mr. Young was excused.

A recess break was taken at 4:55 p.m. and the meeting reconvened at 5:00 p.m.

Mr. Chang stated that the Office of Planning opposed the reclassification at the time it came up. It is believed that there was a 20 year limitation on the sale of the property to an outside party, based upon the representations of the Petitioners at that time. Our position is that there is a restriction of 20 years and Petitioners are saying they need to sell the property, but none of the children want the property or have means to pay for

half of the improvements. Mr. Chang added that perhaps instead of selling the property the additional lots could be given to cover the extensive costs of the infrastructure. The property was listed as \$12 million. The Office of Planning felt that perhaps at this time the motion is premature and that it remain in urban until it becomes ripe for the commission to re-visit.

Chairman Ing noted that in Exhibit 1, page 89, numbers 26 to 27 shows despairing between the two families and appears that Ms. Myers would have difficulty meeting her half of the obligation.

Ms. Leong replied that back in 1989, Bob and Betty did not know that the infrastructure would cost over a million dollars today.

Commissioner Coppa noted that although Ms. Myers indicated a desire to pass this property on to her children, she had the opportunity to gain \$12 million. He asked what is the value and if an assessment was made of the property?

Mr. Leong replied \$2 million dollars and the real property tax assessment is approximately \$3 million.

Commissioner Montgomery noted that Mr. Chang previously indicated that in 1989 the Office of Planning recommended denial of the reclassification and asked for an explanation for this denial.

Mr. Mitsuda explained that as stated in their testimony, the Office of Planning opposed the reclassification because the area was in a watershed area in a vast conversation district. These lots were subdivided and can be sold at high prices. The land is already urban and subdivided and zoned. The Petitioners are paying for the costs to develop a subdivision; connecting sewer, water lines, etc. For the state to place it back to conservation does not make sense. We would like to see that this property is not sold for at least 20 years till 2009, to live up to the condition.

Commissioner Desai noted that the taxes on this property, which is half, is \$1 million and questioned if the property was appraised before the \$12 million listing.

Ms. Leong stated that the appraisal would have been the \$1 to \$2 million. Ms. Leong was unclear if there was an appraisal prior to the listing but that it was Ms. Myer's belief of the value of her property.

Commissioner Desai questioned if her offer was a sincere offer and a sincere denial? Mr. Leong explained that they are brother and sister and have their own families to take care of. She believes that it was a sincere offer and a sincere objection.

Commissioner Desai noted that there is no property that is assessed for \$1 million; appraised at \$2 million, then sells for 12 million. He added that the realistic

nature of the offer and first right of refusal, whether the nature of the offer was sincere, has to be offered to the family, then if rejected, it goes to the market.

Ms. Leong explained that they would not know the fair market value for these 6 lots until there possibly was a third party, a willing buyer, to make that determination.

Chairman Ing noted that he finds that movant has not met their burden and deny the motion for an order to show cause. He added that he does understand what the movant was trying to accomplish and hopefully there is a resolution or agreement to a buffer or fence to protect the king's summer home. Commissioner Coppa seconded the motion.

Mr. Jervis stated that there was testimony by Ms. Leong regarding an appraisal and requested that they be added to the record and copies provided to him.

Ms. Leong stated that she could provide the real property tax notices as the appraisal is a confidential document. She added that she could enclose pages that do not disclose confidential information.

The commission was polled as follows:

Ayes: Commissioners Coppa, Yukimura, Desai, Sakumoto, Ing, Im, and Catalani.

Nay(s) Montgomery

The motion passed with a vote of 7 ayes, 1 nay, and 1 absent.

The proceedings recessed at 5:40 p.m.