

LAND USE COMMISSION  
MEETING MINUTES  
December 2, 2010

Leiopapa A Kamehameha  
Conference Room 406, 4th Floor  
235 S. Beretania St.  
Honolulu, Hawai'i

COMMISSIONERS PRESENT: Vladimir Devens  
Duane Kanuha  
Ronald Heller  
Normand Lezy  
Charles Jencks  
Thomas Contrades  
Nicholas Teves, Jr.

COMMISSIONERS EXCUSED: Kyle Chock  
Lisa Judge

STAFF PRESENT: Orlando Davidson, Executive Officer  
Diane Erickson, Deputy Attorney General  
(present for Docket No. A07-774 only)  
Scott Derrickson, Staff Planner  
(present for Docket No. A07-774 only)  
Bert Saruwatari, Staff Planner  
(present for Dockets No. SP06-400 and A09-782  
only)  
Riley Hakoda, Staff Planner/Acting Chief Clerk

COURT REPORTER: Holly Hackett

AUDIO TECHNICIANS: Hotai Zerba

**CALL TO ORDER**

Chair Devens called the meeting to order at 9:48 a.m.

**APPROVAL OF MINUTES**

Chair Devens asked if there were any corrections or additions to the November 17-18, 2010, minutes. There were none. Commissioner Heller moved to adopt the minutes. Commissioner Jencks seconded the motion. The minutes were unanimously approved by a voice vote (7-0).

Commissioner Contrades excused himself at 9:50 a.m. and returned at 9:51 a.m.

### **TENTATIVE MEETING SCHEDULE**

Executive Officer Davidson provided the following:

- The regular tentative meeting schedule for the calendar year 2010 was distributed in the handout material for the Commissioners.
- The January 20-21, 2011 meeting will very likely be in Kona for Docket No. A87-617.
- Any questions or conflicts, please contact LUC staff.

There were no questions or comments regarding the tentative meeting schedule.

### **ACTION**

#### **A07-774 O'oma Beachside Village, LLC**

Chair Devens announced that this was an action meeting to consider Petitioner's Motion for Reconsideration of Findings of Fact, Conclusions of Law, and Decision and Order Issued November 22, 2010, Motion to Extend Time, Motion to Reopen Hearing in Docket No. A07-774 `O`oma Beachside Village, LLC.

### **APPEARANCES**

Stephen Lim, Esq., and Jennifer Benck, Esq., represented `O`oma Beachside Village, LLC

Dennis Moresco, `O`oma Beachside Village, LLC

William Brillhante, Esq., represented Hawai'i County Department of Planning

Bryan Yee, Esq., represented State Office of Planning

Abe Mitsuda, State Office of Planning

Ruby Edwards, State Office of Planning

Melia Lane-Kamahele, National Park Service

*(Please refer to LUC Transcript for more details on this matter.)*

December 2, 2010 LUC meeting minutes

## PUBLIC WITNESSES

### 1. Michelle Tomas

Ms. Tomas provided her reasons why she supported the Commission's November 22, 2010 decision and described why she disagreed with the Petitioner's Expert on Noise findings in the Petition Area, and why the Petition Area should remain in the Conservation District.

There were no questions for Ms. Tomas.

### 2. Robert Harris- Director, Hawai'i Chapter- Sierra Club

Mr. Harris provided his perception of the legal issues involved with the Petitioner's Motion for reconsideration; and described how he thought the LUC might consider adding more detail to the Findings of Fact, Conclusions of Law, and Decision and Order if the Motion for Reconsideration were granted.

There were no questions for Mr. Harris.

### 3. Stuart Coleman- Hawai'i Coordinator for the Surfrider Foundation.

Mr. Coleman described why his organization supported the LUC decision and provided his reasons why it should be upheld.

There were no questions for Mr. Coleman.

Chair Devens moved for Executive Session to discuss the Commission's powers and authorities. Commissioner Lezy seconded the Motion. By a unanimous voice vote, (7-0), the Commission entered Executive Session at 10:00 a.m. and reconvened at 10:26 a.m.

## PRESENTATIONS

### PETITIONER

Ms. Benck argued why the Commission should reconsider and grant Petitioner's Motion for Reconsideration of Findings of Fact, Conclusions of Law, and Decision and Order Issued November 22, 2010, and Motion to Extend Time, Motion to Reopen Hearing.

## HAWAII COUNTY

Mr. Brillhante stated that the County of Hawai'i Dept. of Planning had "No Position" on Petitioner's Motions and shared how he felt the proposed Project met the requirements of the General Plan and the Kona Community Development Plan and how the Decision and Order could benefit from additional Findings of Fact and Conclusions of Law.

Chair Devens requested clarification on what Mr. Brillhante felt was lacking in the document. Mr. Brillhante described the type of details and factual references that he thought should be added to FOF 112 of the Decision and Order.

## OP

Mr. Yee argued that although OP had originally supported the Petition, the matter was currently in a different procedural position and described how OP had reviewed the motion for reconsideration and had compared it to other past reconsideration requests by Hawai'ian Memorial Park on O`ahu and McCully on the island of Hawai'i and expressed why it might be prudent for the LUC to consider supplementing the Findings of Fact, Conclusions of Law, and Decision and Order for the record.

## National Park Service

Ms. Lane-Kamahahele stated that the National Park Service had "No Position" on the Petitioner's Request for Reconsideration.

Commissioner Lezy requested clarification from Mr. Yee on what OP felt needed to be included to supplement the Decision and Order. Mr. Yee provided his perception of what needed to be additionally included in the Decision and Order.

Commissioner Heller moved to grant in part and deny in part the Motion for Reconsideration and deny the motions to extend time and reopen the hearing. Commissioner Heller stated that his motion did not include changing the Decision and Order, and was intended to limit reconsidering the Motion to include supplemental information only and that no new evidence and no new arguments had been introduced that could not have been presented before and that there was no reason to change the substance of the LUC's decision. Commissioner Heller added that the Motion to Reconsider would be granted to the limited extent of supplementing the Findings of Fact and Conclusions of Law to provide more detail on the basis of the Decision and Order, and included but was not limited to traffic mitigation, access to the shoreline, potential adverse impacts on the airport or the community around it, preservation of the Conservation designation, and mitigation of the concerns of the public.

Commissioner Teves seconded the Motion.

There was no discussion.

The Commission was polled as follows:

Ayes: Commissioners Heller, Teves, Lezy, Kanuha, Jencks, and Chair Devens.

Nays: Commissioner Contrades.

Excused: Commissioners Chock and Judge.

The Motion passed 6-1 with 2 excused.

Chair Devens directed LUC staff to prepare the necessary supplemental Findings of Fact, Conclusions of Law, and Decision and Order. Discussion ensued to clarify the dates that would be used on the Findings of Fact, Conclusions of Laws, and Decision and Order for statute of limitation purposes. Chair Devens determined that the date that should be used for calendaring purposes would be the entry of the final Supplemental Findings of Fact, Conclusions of Laws, and Decision and Order.

Chair Devens continued the proceedings for this docket to December 3, 2010.

*(Please refer to LUC Transcript for more details on this matter.)*

December 2, 2010 LUC meeting minutes

The Commission recessed at 10:55 a.m. and reconvened at 11:13 a.m.

**SP06-400 WILLIAM HORNEMAN on behalf of Hawai`ian Cement (Maui)**

Chair Devens announced that this was an action meeting on SP06-400 WILLIAM HORNEMAN on behalf of Hawai`ian Cement (Maui) for a ten year extension of a Land Use Commission special permit to operate and expand the Pōhākea Quarry and base course operation on approximately 79.2 acres of land within the State Land Use Agricultural District at Mā`alaea, Maui, Hawai`i.

**APPEARANCES**

David Gomes, Hawai`ian Cement  
Karlynn Fukuda, Munekiyo & Hiraga,  
Michael Hopper represented Maui County Department of Planning  
Paul Fasi, Maui County Department of Planning  
Bryan Yee, Esq., represented State Office of Planning  
Abe Mitsuda, State Office of Planning

**PUBLIC WITNESSES**

None

**LUC STAFF PRESENTATION**

LUC staff planner Bert Saruwatari provided a map orientation and the historical background of the request for time extension to the Commission; and expressed LUC staff's recommendations in this matter. There were no questions for Mr. Saruwatari.

**PRESENTATIONS**

**PETITIONER**

Ms. Fukuda argued why the time extension for the Special Permit should be granted and Conditions 8, 10 and 16 should be deleted.

**MAUI COUNTY**

Mr. Fasi stated that Maui County had no objections to retaining Conditions 6 and 7, and the deletion of Conditions 8, 10 and 16 and expressed how this would bring the Conditions into conformity with current day conditions.

OP

Mr. Yee stated the concerns that OP had with Condition 8 regarding stormwater runoff onto the State highway right-of-way and that there were no objections to the other Conditions. Mr. Yee requested clarification on whether State Preservation area "T9" had been marked for preservation.

Chair Devens inquired if Petitioner had any objections to retaining the language in Condition 8 as argued by Mr. Yee.

Ms. Fukuda responded that Petitioner was agreeable with retaining Condition 8 (b).

Commissioner Lezy requested clarification on what Mr. Yee was requesting that the Petitioner obtain from SHPD. Mr. Yee replied that he had requested confirmation that "T9" had not been marked for preservation. Ms. Fukuda described the contents of a letter dated April 1, 2008 from SHPD in regards to archaeological surveys in the Petition Area.

Mr. Fasi clarified that the stormwater runoff condition was also contained in the Maui County Special Use Permit.

Mr. Yee requested further clarification that "T9" had not been marked for preservation by SHPD. Ms. Fukuda read an excerpt from the April 8, 2008 letter that confirmed that "T9" was not marked for preservation.

Mr. Saruwatari noted that Petitioner's request to delete Conditions 8, 10 and 16 had not been considered by the Maui Planning Commission and had not been included in the record before the LUC. Mr. Saruwatari stated that the Petitioner's request was for a time extension and the deletions of Conditions 6 and 7. Discussion ensued to determine what the Petitioner was intending to accomplish with their Petition. Ms. Fukuda responded that the Petitioner would continue their request for time extension and the deletion of Conditions 6&7 and would seek deletion of the other requested Conditions at a later date.

Commissioner Lezy moved that the Commission grant the time extension request, and delete Conditions 6 and 7 of the prior Special Use Permit. Commissioner Jencks seconded the Motion.

Commissioner Contrades inquired if the intent of the Motion was to adopt the LUC recommendation. Discussion ensued to clarify the contents of the Commissioner Lezy's Motion.

Commissioner Lezy withdrew his Motion and Commissioner Jencks withdrew his second.

Commissioner Contrades moved to grant the Petition for time extension as recommended by LUC staff - approve the ten-year time extension so that Condition No. 1 be amended to reflect the date of December 15, 2019, that Condition No. 7 and the remaining Conditions be retained and that Condition 6 be replaced by the following:

"6. On each anniversary date of this Decision and Order, the Applicant shall file annual reports to the LUC and the DP in connection with the status of the subject project and the Applicant' progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission."

Commissioner Jencks seconded the Motion.

The Commission was polled as follows:

Ayes: Commissioners Contrades, Jencks, Heller, Teves, Lezy, Kanuha, and Chair Devens.

Nays: None

Excused: Commissioners Chock and Judge.

The Motion passed 7-0 with 2 excused.

The Commission went into recess at 11:35 a.m. and reconvened at 11:37 a.m.

## **ACTION**

### **A09-782 Tropic Land LLC**

Chair Devens announced that this was a continued hearing on Docket No.A09-782 TROPIC LAND LLC to amend the Agricultural Land Use District Boundaries into the Urban Land Use District for approximately 96.0 acres in Lualualei, Wai`anae District, O`ahu, Hawai`i, Tax Map Key No. (1) 8-7-09:02 (por.)

## **APPEARANCES**



William Yuen, Esq., represented Tropic Land LLC  
Arick Yanagihara, Tropic Land LLC  
Dawn Takeuchi-Apuna, Esq., represented City and County of Honolulu, Department of  
Planning and Permitting  
Bryan Yee, Esq., represented State Office of Planning  
Abe Mitsuda, State Office of Planning  
Ruby Edwards, State Office of Planning  
Martha Townsend, Esq., Intervenor- Concerned Elders of Wai`anae  
Alice Greenwood, Concerned Elders of Wai`anae

PUBLIC WITNESSES

None

PRESENTATION OF EXHIBITS

Petitioner

Mr. Yuen offered Petitioner's Exhibits 64-70.

There were no objections to Petitioner's additional exhibits.

City and County

Ms. Takeuchi-Apuna offered no Exhibits.

State Office of Planning (OP)

Mr. Yee stated that he currently had no Exhibits, but would submit Exhibits when he begins his case.

Intervenor-Concerned Elders of Wai`anae

Ms. Townsend offered Intervenor's Exhibits 14-26, and stated that the amended Exhibit list clarified that Exhibits 14-19 were expert witness statements

Mr. Yuen objected to Exhibit 20, a magazine article and stated that he wished to question its author and that he also had concerns regarding the testimony of William Aila, a recent appointee to the Department of Land and Natural Resources.

Ms. Townsend replied that she had submitted Exhibit 20 for informational purposes only. Discussion ensued to clarify the objection and Chair Devens determined that he

would allow Exhibit 20 and that the Commissioners could weigh the substance of the article. Mr. Yuen stated that he would have no objection to substituting another witness for Mr. Aila if necessary.

There were no objections from City and County and OP to the stipulation of substituting another cultural practitioner witness for Mr. Aila. Chair Devens acknowledged receipt into evidence of Intervenor's Exhibits 14-26, with the exception of ruling on Mr. Aila's proposed testimony.

There were no further exhibit presentations.

Discussion over the order of appearance of Petitioner's Witnesses occurred and Mr. Yuen described how he intended to present his witnesses. Mr. Yee expressed his desire to cross-examine Mr. Yanagihara. Chair Devens noted that the request was to take a witness out of order to move the proceedings along.

#### PETITIONER WITNESSES

1. Alii Tampos- Site Manager, Tropic Land

Mr. Tampos described how he collected the soil sample that was submitted in a five gallon orange plastic bucket as Petitioner's Exhibit 67.

County and OP had no questions for the witness. Ms. Townsend requested clarification on Mr. Tampos' employment history and relationship with Tropic Land LLC. Discussion ensued over the scope of Mr. Tampos' testimony and Chair Devens determined that Mr. Yanagihara would be the appropriate witness to answer any questions about the Petition Area.

Chair Devens inquired about how long it took to collect the soil sample. Mr. Tampos responded that it took about two minutes.

There were no further questions for Mr. Tampos.

The Commission went into recess at 11:50 a.m. and reconvened at 1:28 p.m

2. Arick Yanagihara

Mr. Yee inquired if there were any updates, clarifications, supplements or corrections in Mr. Yanagihara's prior testimony before the Commission. Mr. Yanagihara described the changes that he had submitted to his attorney.

Mr. Yee inquired if mitigation provisions recommended by Petitioner's consultants in the final EIS would be implemented. Mr. Yanagihara acknowledged that they would be.

Mr. Yee asked if Mr. Yanagihara was aware that access to Lualualei Road was an important issue to OP. Mr. Yanagihara responded that he was and described his ongoing discussions and efforts with the Navy to secure a long-term agreement. Mr. Yuen stated that as Petitioner's representative, he had met with Randy Young regarding the Navy's proposal regarding a long-term access agreement.

Mr. Yanagihara stated the reasons why he had not agreed to the Navy's proposal for access to the Lualualei Road and described his plans and efforts to organize a users-group agreement to participate in the Navy access easement discussions.

Mr. Yee described the concerns that OP had regarding development of the Petition Area without having first secured an agreement with the Navy and posed different scenarios that could arise. Mr. Yanagihara provided his perception of how he envisioned dealing with each situation and described the challenges that he had been confronting with the Federal government to seek and obtain a long term easement.

Mr. Yee described the concerns that OP had regarding intrusion of commercial activities into the Petition Area. Mr. Yanagihara provided his perception of the types of activities that he envisioned would develop within the Petition Area.

Mr. Yee described the concerns that OP had regarding the proposed project's impact on agriculture in the area. Mr. Yanagihara shared how he perceived the proposed project would impact the area and what efforts were being undertaken to mitigate them.

Mr. Yee described the concerns that OP had regarding Ulehawa stream. Mr. Yanagihara provided his perception of how the proposed project would affect the stream and described the engineering measures that were planned to mitigate anticipated runoff problems.

Mr. Yee requested clarification on the Petitioner's proposed community benefits package. Mr. Yanagihara responded with how he perceived developing and administering the community benefits package.

Mr. Yee requested clarification on how wells in the Petition Area would be addressed. Mr. Yanagihara provided his perception of how wells in the Petition Area would be managed.

Mr. Yee requested clarification on how CC&Rs for the Petition Area would be handled. Mr. Yanagihara described how he envisioned the CC&Rs would be developed, operate and be enforced.

Mr. Yee requested clarification on how the Petitioner was prepared to deal with its land inside and outside the Petition Area. Mr. Yanagihara described the Petitioner's plans for its properties in the region.

Mr. Yee requested clarification on civil defense requirements for sirens in the Petition Area. Mr. Yanagihara provided his perception for what the requirements were and what Petitioner intended to do about it. Discussion ensued to clarify between what the Petitioner was committing to or intending to do for the Petition Area. Mr. Yanagihara stated that the Petitioner would install the sirens but was not clear on all the details for the installation.

Mr. Yee requested clarification on how Petitioner would deal with improvements/mitigation measures in the area where railway tracks were located in the Petition Area. Mr. Yanagihara provided his understanding of what would be done to improve the affected intersection areas.

Mr. Yee requested clarification on how lots in the proposed project would be developed for sale. Mr. Yanagihara responded that the intent was to sell graded lots but that further decisions needed to be made regarding how the lots would be improved for sale.

Mr. Yee requested clarification on Petitioner's ability to complete the proposed project within the required time frames. Mr. Yanagihara described how he envisioned the components of the proposed project would be completed within the prescribed time periods.

Ms. Townsend requested clarification on what the industrial park might look like when completed and how it compared to other industrial zoned properties in the Wai'anae Coast area. Mr. Yanagihara expressed his vision for how the proposed project would fit its "I1" LUO designation and described how future users might use their lots within the Petition Area and identified the industrial zoned properties that he was aware of and stated how his proposed project differed from them to be competitively viable.

Ms. Townsend inquired how much a lot might cost and what the anticipated project costs were. Mr. Yanagihara provided his cost estimates and explained the basis for them and stated that he felt the property owners had sufficient equity to cover the costs of the proposed project; and described how the prices of the lots would be determined.

The Commission went into recess at 2:15 p.m. and reconvened at 2:25 p.m.

Ms. Townsend requested clarification on how the condo association and CC&Rs for the proposed project would function. Mr. Yanagihara provided his perception of how the condo association and CC&Rs would operate and enforce/administer rules and manage the Petition Area.

Ms. Townsend inquired if any bus stops were planned along Lualualei Road. Mr. Yanagihara responded that there had been no discussions with mass transit authorities regarding bus stops or routes.

Ms. Townsend requested clarification on how traffic on Hakimo Road could be restricted. Discussion ensued to determine the specifics of the question. Mr. Yanagihara stated that it would be difficult to control the amount of traffic on Hakimo Road since it was a public roadway.

Ms. Townsend inquired what the "fair-share" portion of traffic improvements in the area might be. Mr. Yanagihara responded that his traffic consultant had estimated 15% and clarified the various costs to improve and maintain the Navy road that were being negotiated in the terms and conditions of the Navy lease agreement.

Ms. Townsend requested clarification on what each tenant might be expected to invest in improving each lot. Mr. Yanagihara replied that it would depend on what type of facility the tenant desired; and described what types of businesses he hoped to attract to the proposed project and how the collective group of businesses would function on the site.

Ms. Townsend inquired what Mr. Yanagihara's experience was with developing industrial parks. Mr. Yanagihara stated that this was his first industrial park development and described the common characteristics that he felt residential, commercial and industrial development shared.

Ms. Townsend requested clarification on the consideration that the Petitioner had given to the Navy's concerns about commercial activity near their munitions storage area. Mr. Yanagihara responded that provisions for security of the area were made but he was not aware of any specific concerns about munitions.

Ms. Townsend requested clarification on the employment narratives describing how the local area residents would be employed in the Petition Area and how outside area residents would be drawn to the Petition Area for employment. Mr. Yanagihara provided his perception of how the conclusions were made.

Ms. Townsend requested clarification on the community involvement and support for the proposed project; and on its community benefits package. Mr.

Yanagihara described his efforts working with the Neighborhood Boards in the area to obtain favorable resolutions from them, and provided his perception of how the community benefits package would be used for the neighborhood and that they had already committed to a \$1 million dollar amount.

Ms. Townsend requested clarification on the planned agricultural use of the properties owned by Petitioner. Mr. Yanagihara explained the reasoning used to make the decision to choose one section of land over the other.

Ms. Townsend requested clarification on the violations that Petitioner had received for stockpiling, grading and operating a baseyard and whether it was difficult to prevent such violations. Mr. Yanagihara described his role for overseeing the entitlement process as the project manager and the ultimate development of the project and stated that it was not difficult to prevent the violations.

Ms. Townsend inquired why \$4900 had not been paid for the 5 year lease for the interim use of the property. Mr. Yanagihara replied that the property was vacant and hardly used.

Ms. Townsend requested clarification on the installation of asphalt in the Petition Area for truck washing. Mr. Yanagihara stated that a "grubbing" permit had been obtained to facilitate truck washing and described how the road was used without the Navy license.

Ms. Townsend inquired about a recent fire in the Petition Area. Discussion ensued to determine the relevance of the question. Ms. Townsend expressed that she was seeking information regarding access for public fire fighting resources. Mr. Yanagihara described how the Petitioner had graded the area and received a citation that necessitated restoring it to its original condition.

Ms. Townsend inquired how the proposed Project CC&Rs would be enforced and when the studies for environmental assessments or environmental impact statements had been conducted in the Petition Area. Mr. Yanagihara shared his perception of how CC&Rs would be enforced in the Petition Area and, if violations occurred, what community members could do to remedy them; and stated that information regarding the environmental assessments or environmental impact statements had been posted to the OEQC website.

Mr. Yuen requested clarification on the contents of Petitioner's Exhibit 70 – a schedule of the signalized intersections along Farrington Highway and on Petitioner's willingness to adopt the recommendations of its traffic consultant. Mr.

Yanagihara stated that Petitioner had agreed to pay its fair share of the proposed project.

Mr. Yuen requested clarification on why Petitioner was reluctant to adopt LEED silver standards in the proposed project. Mr. Yanagihara responded that cost considerations made it difficult to impose conditions requiring LEED compliance.

Mr. Yee requested clarification on whether Petitioner would object to imposing a condition which included "installing LEED standards to the extent practicable". Mr. Yanagihara stated that Petitioner preferred to not impose any additional costs or constraints to the proposed project.

Mr. Yee requested clarification on what would happen to the dirt access road to Hakimo Road when the proposed project was completed and what assumptions were made in the TIAR about this roadway. Mr. Yanagihara responded that they would leave it in its present condition and have it available to the City and County to use for emergency access and provided his understanding of what the TIAR did or did not include about the access way to Hakimo Road.

Ms. Townsend requested clarification on whether the TIAR considered Hakimo Road and another access road in the area. Mr. Yanagihara responded that he believed the TIAR did not consider Hakimo Road and discussion ensued to identify the ownership and location of the other access road near the Petition Area.

Ms. Townsend requested clarification on why left-turn lanes had not been installed on Lualualei Access road by the Department of Transportation. Mr. Yanagihara could not respond to the question.

Ms. Townsend requested clarification on why a local park had not been considered in the TIAR. Mr. Yanagihara responded that the park may have been developed after the TIAR was conducted.

Commissioner Lezy requested an estimate of when a long-term agreement with the Navy regarding Lualualei Road was expected. Mr. Yanagihara described the difficulties that had been experienced in dealing with the Navy and stated that he was hopeful that it would be resolved by May 2011.

Commissioner Lezy requested clarification on whether it was possible to obtain financing for the proposed project without a long-term roadway easement and if the property owners had established a "drop-dead" date by when the roadway issue needed to be resolved. Mr. Yanagihara provided his perception on what the difficulties of obtaining financing were and stated that the property owners had anticipated a lengthy approval process in their development plans for the proposed project.

Commissioner Kanuha stated his concern about the Petition being premature without having a long-term agreement with the Navy and noted the importance of securing an agreement with the Navy before filing the Petition before the Commission. Mr. Yanagihara replied that the receipt of a formal letter from the Navy was a benchmark event and the two remaining issues of improving the roadway to county standards and a 10 year term limitation were being negotiated.

There were no further questions for Mr. Yanagihara.

Chair Devens announced that A07-774 `O`oma would be the first item discussed on December 3, 2010 and that the proceedings would recess for the day and reconvene at 9:30 a.m., December 3, 2010.

The meeting was recessed at 3:28 p.m.