

LAND USE COMMISSION

MEETING MINUTES

May 6, 2020 – 9:00 a.m.

Pursuant to HRS § 92-3.5, the Commission conducted its meeting using interactive conference technology.

PLACE: YouTube -using link below

https://www.youtube.com/channel/UCgkF71wneW9rJm_pggXFyxw

Due to the COVID-19 pandemic, the meeting was held remotely with Commission members, Staff and Applicants participating via an online meeting venue. The public could listen to the meeting via an audio/visual YOUTUBE stream internet link listed above. Interested persons were advised to submit written testimony no later than 24 hours in advance of the meeting to allow for distribution to Commission members prior to the meeting.

COMMISSIONERS PRESENT: Edmund Aczon
(Attending via ZOOM conference media) Nancy Cabral
Gary Okuda
Jonathan Scheuer
Arnold Wong
Dawn N. S. Chang
Lee Ohigashi

COMMISSIONERS EXCUSED: Dan Giovanni
(8 seated Commissioners as of 10/1/19)

STAFF PRESENT: Daniel Orodener, Executive Officer
(Attending via ZOOM conference media) Linda Chow, Deputy Attorney General
Scott Derrickson, Staff Planner
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Jean McManus
(Attending via ZOOM conference media)

CALL TO ORDER

Chair Scheuer called the meeting to order at 9:05 a.m.

Chair Scheuer had Mr. Orodener verbally do a roll call to confirm Commissioner attendance for the record. All present Commissioners (Commission Giovanni excused) acknowledged that they were present and able to communicate via the ZOOM program.

APPROVAL OF MINUTES

Chair Scheuer stated that the first agenda item was the approval of the February 5, 2020 minutes. Chair Scheuer asked and the staff confirmed there was no public testimony submitted regarding the minutes. There were no comments or corrections to the minutes. Commissioner Cabral moved to adopt the minutes.

Commissioner Okuda seconded the motion. There was no discussion on the motion. By a roll call vote, the Commission unanimously approved the minutes. (7-0)

Chair Scheuer called for Mr. Orodener to provide the Tentative Meeting Schedule.

TENTATIVE MEETING SCHEDULE

Executive Officer Orodener provided the tentative meeting schedule from May to December for the Commissioners and cautioned that it was subject to change based on the pandemic impacts. Commissioners were advised to contact LUC staff if there were any questions or conflicts. Commissioner Cabral suggested that a copy of the upcoming calendar be circulated to the Commissioners. Mr. Orodener affirmed that the calendar would be made available.

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

Chair Scheuer assessed whether the digital transmission of the meeting was being received on the advertised YOUTUBE channel, and moved on to the next agenda item.

ACTION

A17-804 Hawaiian Memorial Life Plan, Ltd.

To consider a Time Extension for Decision-Making for an additional Ninety Days for Docket No. A17-804 Petition To Amend The Conservation Land Use District

Boundary Into The Urban Land Use District for Approximately 53.449 acres of Land at Kāneʻohe, Island of Oʻahu, State of Hawaiʻi TMK (1) 4-5-033: por . 001

APPEARANCES (Attending via ZOOM conference media)

Curtis Tabata, Esq. and Benjamin Matsubara, Esq., represented Hawaii Memorial Life Plan, Ltd., (“HMP”)

Ray Young, Planner, DPP

Dawn Takeuchi Apuna, Esq., Deputy Attorney General, for State Office of Planning (“OP”)

Grant Yoshimori- Spokesperson for Intervenor Hui O Pikoiloa (“HOP”)

Chair Scheuer updated the record and reviewed the procedures for the meeting.

There were no questions on the procedures.

DISCLOSURES

Commissioner Chang disclosed that Petitioner had provided funeral services for her recently deceased father but felt that it would not affect her decision-making and her ability to remain fair and impartial during the proceedings.

There were no objections to Commissioner Chang’s continued participation. Chair Scheuer expressed his condolences and noted that Commissioners had made initial disclosures at the earlier January meeting and asked if there were any more recent disclosures to be made. There were none.

Chair Scheuer asked if any written testimony had been submitted by Public Witnesses. LUC staff responded that no written testimony had been received.

Chair Scheuer declared that the Public Testimony portion of the meeting was closed and moved on to hear the comments of the Parties regarding the Ninety-Day Extension.

PRESENTATIONS

HMP

Mr. Tabata stated that Petitioner agreed with the stipulation and recognized the necessity of the time-extension.

There were no questions for Mr. Tabata.

OP

Ms. Apuna stated that OP had no objections to the time-extension stipulation. There were no questions for Ms. Apuna.

DPP

Mr. Young stated that DPP had no questions.

Commissioner Okuda asked if DPP agreed with the stipulation. Mr. Young responded that DPP agreed with the time-extension stipulation.

There were no further questions for Mr. Young.

HOP

Mr. Yoshimori stated that Intervenor agreed with the time-extension stipulation. There were no questions for Mr. Yoshimori.

Chair Scheuer sought final comments or questions from the Parties. There were none.

Chair Scheuer sought the pleasure of the Commission.

Commissioner Okuda moved to grant the time extension and noted that the Parties had agreed on the stipulation in reaction to the current pandemic situation and in accordance with the Governor's emergency proclamation.

Commissioner Ohigashi seconded the motion. There was no discussion on the motion. By a roll call vote, the Commission unanimously approved the minutes. (7-0).

Chair Scheuer thanked the Parties for their participation and moved on to the next agenda item, Discussion and Action (if necessary) on LUC operations during the COVID19 Health Crisis.

Commissioner Wong inquired whether the Docket No. A17-804 Parties could be excused from the video call for the remaining agenda items. Chair Scheuer offered the Parties the opportunity to leave the ZOOM meeting. None of the Parties accepted the offer to leave the meeting.

Chair Scheuer called for Mr. Orodenker to provide LUC staff plans for continued operations during the health crisis.

Mr. Orodenker proposed an idea of the Commission approving a panel of 3 Commissioners to specifically handle an anticipated influx of Petitions for Time Extension as a result of the pandemic's crippling effect on the global economy.

Discussion ensued with Commissioner Cabral approving of the idea and adding that besides appointing 3 Commissioners, that alternates be also appointed to ensure that business could be transacted without interruption.

Commissioner Wong expressed his concerns about whether administrative rules would allow for the proposed idea. Ms. Chow advised that the finalized proposal could be reviewed for legalities and might require Small Business Regulatory Review Board involvement. Mr. Orodenker noted that the proposed idea was to expedite the hearing process for the Petitioners and enable Petitioners to obtain time extensions without incurring expensive processing costs.

Commissioner Okuda added considerations that he felt the appointed Commissioners should make so that achievement goals for the time extensions be included and that transparency and fair treatment of the Petitioners reinforce faith and trust in the government.

Commissioner Ohigashi questioned what LUC actions the appointed Commissioners would be expected to handle, what power or authority they would be assigned and what standards they would be operating by. Mr. Orodenker provided his perception of how the appointed panel would operate subject to review by the Commission, the DAG and other entities.

Commissioner Chang described her concerns about the application of the "Sunshine Rule", public involvement and comments, and how the actions taken by the proposed panel would be reported to the full Commission.

Chair Scheuer thanked LUC staff for its efforts and added how the proposed idea would be helpful in providing an efficient process to aid LUC petitioners and clarify projects that were not meeting deadlines due to economic impacts.

Commissioner Wong requested confirmation that it was permissible for LUC staff to pursue developing its proposed idea for Commission consideration.

Chair Scheuer acknowledged that it was.

Chair Scheuer asked if there were any further questions or comments on LUC operations. There were none.

Chair Scheuer asked if there was any further business to discuss. There was none.

Chair Scheuer adjourned the meeting at 9:52 a.m.