

LAND USE COMMISSION
MEETING MINUTES

September 9, 2020 – 9:00 a.m.

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

PLACE: Zoom Webinar Virtual Meeting
Wednesday September 9, 2020 Meeting

https://us02web.zoom.us/webinar/register/WN_buU5S-XS_icA-VDBe5fXw

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 participate in the meeting via the “ZOOM” platform. Interested persons were also 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 and to register to testify during the ZOOM meeting using instructions circulated on the meeting agenda.

COMMISSIONERS PRESENT:

(Attending via ZOOM conference media)

Edmund Aczon
Gary Okuda
Jonathan Scheuer (arrived at 10:45 a.m.)
Arnold Wong
Dawn N. S. Chang
Lee Ohigashi
Dan Giovanni
Nancy Cabral

COMMISSIONERS EXCUSED:

(8 seated Commissioners as of 10/1/19)

STAFF PRESENT:

(Attending via ZOOM conference media)

Daniel Orodener, Executive Officer
Bill Wynhoff, Deputy Attorney General
Scott Derrickson, Staff Planner
Bert Saruwatari, Staff Planner
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER:

(Attending via ZOOM conference media)

Jean McManus

CALL TO ORDER

Vice Chair Aczon called the meeting to order at 9:00 a.m. and noted that the Commission would recess after the administrative portion of the meeting was handled to allow for Chair Scheuer to join the standing quorum. There were no objections to this procedural action.

The 7 Commissioners present acknowledged their presence and that they were able to communicate via the ZOOM program.

APPROVAL OF MINUTES

Vice Chair Aczon stated that the first agenda item was the approval of the August 12-13, 2020 minutes and asked if there had been any public testimony submitted and if there were any corrections to be made. There was no public testimony and no corrections to be made. Commissioner Ohigashi moved to approve the minutes. Commissioner Cabral seconded the motion. There was no discussion. By a roll call vote, the August 12-13, 2020 minutes were approved unanimously (7-0)

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

TENTATIVE MEETING SCHEDULE

Executive Officer Orodener provided the tentative meeting schedule from September 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.

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

Vice Chair Aczon declared a recess at 9:08 a.m.

Chair Scheuer arrived and reconvened the meeting at 10:45 a.m. and called for the first agenda item.

ACTION

A89-642 C. BREWER PROPERTIES, INC (Maui)

Consider PETITIONERS WAILUKU PLANTATION LLC, EDGAR SOMERA, FAY SOMERA, LARRY S. SKY, DAYONG ZHAO, XIU XIANG FANG; BONG HWA SHI JORDAN; WENXIAO LIU and ELISE TRAVIS' MOTION FOR ORDER BIFURCATING DOCKET NO. A89-642

APPEARANCES

Jason McFarlin, Esq. represented Wailuku Plantation LLC. ("WP")

Randall Sakumoto, Esq. represented current owner RCFC ("RCFC")

Michael Hopper, Esq., Deputy Corporation Counsel, represented County of Maui Planning Department ("County")

Jordan Hart, Deputy Director, County

Adam Parness, Zoning Inspector, County

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

Rodney Funakoshi, OP

Chair Scheuer updated the record and explained the procedures for the meeting. There were no questions on the procedures.

Chair Scheuer called public witnesses.

PUBLIC WITNESSES

1. James Buika

Mr. Buika stated that he had submitted written testimony and described a condition that he had crafted for the Commission to consider adopting in this matter.

There were no questions for Mr. Buika.

There was no further public testimony and Chair Scheuer called for Petitioner's presentation.

WP Presentation

Mr. McFarlin argued why his motion for bifurcation of Docket No. A89-642 should be granted and how the RCFC component of the Petition Area would cooperate and facilitate the process.

COMMISSIONER QUESTIONS

Commissioner Okuda, Ohigashi, Wong, Chang and Chair Scheuer requested clarification on WP's possible reactions or feeling prejudiced by various hypothetical situations or LUC actions under different outcome decisions; what specific conditions would apply to the Parties of the bifurcated Petition Areas; sales activity occurring within the WP portion of the Petition Area; how deed restrictions and the original Decision and Order Conditions would apply if the bifurcation were granted; the financial capabilities of WP to comply with the existing conditions and other development requirements involved with the bifurcation action; the costs associated with initiating WP's bifurcation motion; and to clarify and confirm that Mr. McFarlin was the authorized WP representative for this docket.

RCFC Presentation

Mr. Sakumoto described why RCFC had filed a joinder to the WP motion and argued why RCFC was in favor of the LUC granting the motion for bifurcation of Docket No. A89-642.

COMMISSIONER QUESTIONS

Commissioner Okuda, Chang, Wong and Chair Scheuer requested clarification on when RCFC acquired its interest in the Petition Area, how responsibilities and representations by the Petitioners would be handled if bifurcation was granted, how County zoning issues for each bifurcated portion would be handled, what proof of Petitioners' financial capability existed, and how the filing of annual reports implied tacit approval for various Petitioner actions.

Chair Scheuer declared a recess at 12:22 p.m. and reconvened the meeting at 1:01 p.m. and called for County's presentation.

County Presentation

Mr. Hopper described the considerations and analysis that had been made to determine County's position on this matter and argued why a deferral might be in order due to the new information being presented by Petitioners to allow further resolution of the discussed differences and issues; and to obtain better

clarification on which bifurcated entity would specifically be responsible for certain items for future enforcement considerations.

COMMISSIONER QUESTIONS

Commissioners Ohigashi, Okuda, Chang, and Chair Scheuer requested clarification on how a possible stipulated proposed Findings of Fact, Conclusions of Law and Decision and Order (“D&O”) on this matter might be helpful in working out the County’s concerns, how future and current lot owners in the Petition Area might be impacted if the motion for bifurcation was granted, how County zoning and permitting enforcement issues would be handled, how various hypothetical circumstances might be resolved between the Petitioners, LUC, OP and County authorities, how much time the County estimated should be allowed by the LUC for the preparation of a proposed stipulated D&O, whether an Order to Show Cause (“OSC”) action might be a future consideration if no “substantial compliance or commencement” is determined for the newly bifurcated portion of the Petition Area, how separate reviews of the respective bifurcated portions might be handled, if County would facilitate action on preparing a proposed stipulated D&O, whether County affordable housing conditions had been met in the developed Kehalani portion of the Petition Area, and how the original Decision and Order Conditions would be reflected if the proposed D&O if it was prepared.

OP Presentation

Ms. Apuna argued OP’s position on this matter and shared why OP had initially recommended approval of the bifurcation, but after hearing the concerns of the County and the Commission, was agreeable to defer the matter or bifurcate the docket and then work on the items brought up during the hearing.

COMMISSIONER QUESTIONS

Commissioners Cabral and Chang requested clarification on the change in OP’s position, how the issue of “substantial compliance” might be addressed if a bifurcation was granted, and whether a stipulation on the allocation of responsibilities was possible.

Discussion ensued to determine on how a deferral of this matter might be in order and Mr. Orodener described how the Commission might benefit from

further resolution of the discussed differences and issues between the Parties and allow the Parties demonstrate their financial capability to comply with conditions and provide a timeline on expected future progress. Mr. Hopper noted that the ownership of the properties within the Petition Area had already changed hands and proposed a tentative timeline.

Chair Scheuer summarized the points made during the discussion and sought the position of the Parties regarding deferring this matter.

Mr. McFarlin stated the WP was open to working on the stipulation and would seek assistance from the LUC, if needed, to move forward.

Mr. Sakumoto stated that RCFC was also open to a stipulation. Commissioner Okuda suggested that a proposed order be prepared to solidify the understanding between the Parties.

Mr. Hopper noted that the County had made its position clear.

Ms. Apuna had nothing further to add.

Commissioners Cabral and Wong requested clarification on the amount of time that the Parties might need to work on all the issues that had been brought up during the hearing. Chair Scheuer deferred to Mr. Orodener on what LUC meeting calendar days might be available. Mr. Orodener responded that it might serve the Commission better for the Parties to estimate their time needs.

Mr. McFarlin estimated that he might need 60-90 days.

Mr. Sakumoto estimated that he might need 30 days for his initial draft and additional time to circulate it for review, comment and discussion.

Mr. Hopper described how County might initially need 30 days, but could separately file if a stipulation was not achieved.

Ms. Apuna responded that 30 days was reasonable.

Commissioner Ohigashi suggested a continuance of 2 months (60 days) initially and that the Commission be advised if additional time was needed.

Commissioner Giovanni requested that the Parties share their perspectives of their time requirements to ensure that there would be no

misunderstanding. The Parties complied and provided differing opinions of the amount of time they required. Commissioner Giovanni noted the disparities in time requirements and sought a common benchmark date to set calendar deadlines.

Chair Scheuer entertained a motion to defer this agenda item.

Commissioner Wong moved to defer the matter with new position statements and associated documents being filed on November 5, 2020 with another hearing on this matter on November 21, 2020 and the Chair being authorized to sign the order. Commissioner Cabral seconded the motion and offered a friendly amendment to include an additional 60-day extension beyond November 21, 2020 if requested by the Parties.

Discussion ensued to better clarify the initial motion and the friendly amendment being made. Commissioner Ohigashi suggested the use of “an additional 60-day extension at Chair’s discretion” to be more specific on handling any extension request by the Parties. Commissioners Wong and Cabral agreed to the language of the amended Motion.

Chair Scheuer opened the floor to discussion on the amended Motion.

Commissioner Wong acknowledged the Parties willingness to work on their differences.

Commissioner Cabral expressed how the additional time could benefit the Parties.

Commissioner Chang requested clarification on how the Chair’s signature for the proposed deferral order would be handled. Chair Scheuer explained how his signature would be used in the event an extension was requested and for any order for deferral of this matter.

Mr. Orodener noted that the proposed LUC meeting date to continue this matter was incorrect and should be stated as November 19, 2020. Both Commissioner Wong and Cabral agreed to the date correction in the stated motion.

Commissioners Okuda, Chang and Giovanni were agreeable with the proposed motion and opined on the additional information they would like to have included in the renewed position statements or stipulation order to address their concerns regarding financial capabilities, timeline considerations, and fulfillment of conditions.

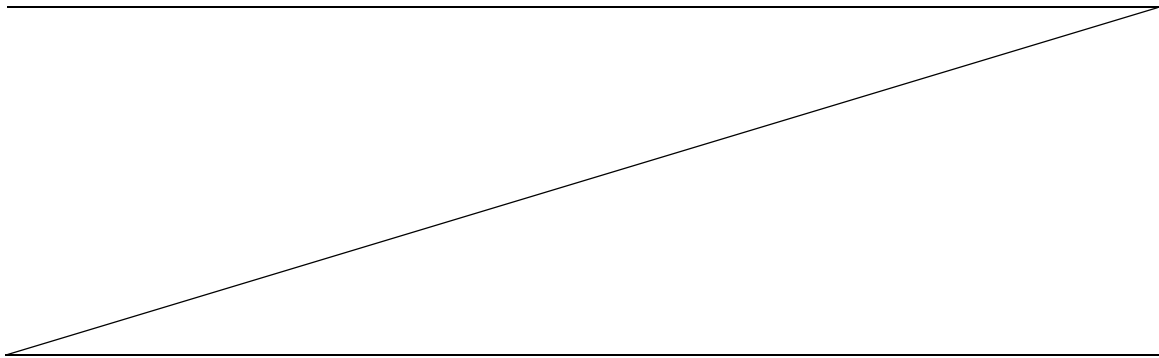
Chair Scheuer added his concerns for Petitioners providing the promised housing units that were part of the original D&O.

There was no further discussion.

Chair Scheuer called for Mr. Orodener to poll the Commission.

The Commission voted unanimously (8-0) to defer this matter till November 19, 2020 with position statements filed by November 5, 2020 and the Chair authorized to sign the deferral order and to approve any extension request at Chair's discretion.

Chair Scheuer declared a recess at 2:21 p.m. and stated that agenda item VII-Docket No. A11-794 Department of Education would be addressed via a ZOOM meeting starting at 9 a.m. September 10, 2020.



LAND USE COMMISSION
MEETING MINUTES

September 10, 2020 – 9:00 a.m.

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

PLACE: Zoom Webinar Virtual Meeting registration-use link below

Thursday September 10, 2020 Meeting

https://us02web.zoom.us/webinar/register/WN_A4hBBWQCThiyIhHrEGp1vA

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 participate in the meeting via the “ZOOM” platform. Interested persons were also 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 and to register to testify during the ZOOM meeting using instructions circulated on the meeting agenda.

COMMISSIONERS PRESENT:

(Attending via ZOOM conference media)

Edmund Aczon

Nancy Cabral

Gary Okuda

Jonathan Scheuer

Arnold Wong

Dawn N. S. Chang

Lee Ohigashi

Dan Giovanni

COMMISSIONERS EXCUSED:

(8 seated Commissioners as of 10/1/19)

STAFF PRESENT:

(Attending via ZOOM conference media)

Daniel Orodener, Executive Officer

Bill Wynhoff, Deputy Attorney General

Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER:

(Attending via ZOOM conference media)

Jean McManus

***Due to technical difficulties with launching the “ZOOM” meeting, the start of the meeting was delayed. The public, LUC staff and Parties had gathered for the 9 a.m. start.**

CALL TO ORDER

Chair Scheuer called the meeting to order at 9:51 a.m. and confirmed that all Commissioners were in attendance for the record. All Commissioners acknowledged that they were present and able to communicate via the ZOOM program.

Chair Scheuer moved on to the next agenda item and reviewed the procedures for the meeting.

There were no objections to or questions on the procedures.

ACTION

A11-794 STATE OF HAWAII, DEPT. OF EDUCATION – (Kihei High School) (Maui)

Consider Petitioner State of Hawaii, Dept. of Education's Motion to Amend the Land Use Commission's Findings of Fact, Conclusions of Law and Decision and Order Filed July 29, 2013

APPEARANCES

Randall Tanaka, State of Hawai'i Department of Education ("DOE")

Stuart Fujioka, Esq., Deputy Attorney General, represented DOE

Gaylyn Nakatsuka, Architect, DOE

Michael Hopper, Esq., Deputy Corporation Counsel, represented County of Maui Planning Department ("County")

Michele McClean, Director, County

Dawn Takeuchi-Apuna, Deputy Attorney General, represented State Office of Planning ("OP")

Rodney Funakoshi, OP

DISCLOSURES

Commissioner Okuda disclosed that he was involved in a litigation matter with DOE, but had no financial interest in the matter; and could remain fair and impartial during the proceedings. There were no objections to Commissioner Okuda's continued participation.

There were no further disclosures.

Chair Scheuer updated the record and described the procedures for the hearing. There were no questions, objections or comments on the procedures.

Chair Scheuer asked if there were any registered public witnesses. LUC staff identified the public witnesses who had submitted written testimony for the record.

Chair Scheuer asked if there were any public witnesses in the audience who wished to testify.

PUBLIC WITNESSES (Registered)

1. Mike Moran, President, Kihei Community Association (“KCA”)

Mr. Moran provided his background information and stated KCA’s position of retaining the Kihei High School D&O condition that DOE was trying to amend and how KCA had been working for years to secure a safe pedestrian passageway across the Piilani Highway.

Mr. Fujioka requested additional historical background information on KCA’s involvement with this docket. Chair Scheuer noted that the Commission was already familiar with this docket’s history and that the LUC administrative record was available from the LUC for review for Mr. Fujioka if he needed it. Mr. Fujioka moved on and requested clarification on other points of KCA’s testimony.

There were no questions for Mr. Moran from County or OP.

Commission Okuda requested clarification on the amount of communication KCA had with DOE over the years. Mr. Moran shared that he had served as KCA President for 8 or 9 years and that the KCA had little communication with DOE during his tenure and deferred to Andy Beerer to respond to the question.

Chair Scheuer inquired if Mr. Moran was compensated for his appearance at the hearing. Mr. Moran responded that his involvement was voluntary with no compensation.

There were no further questions for Mr. Moran.

2. Dr. Mary Trotto

Dr. Trott identified herself as a KCA Board member and shared her perspective of how the future Kihei High School could serve the community and why she supported the use of an underpass to cross the highway.

Petitioner, County and OP had no questions.

Commissioner Okuda requested additional background information on a Dr. Trotto and clarification on whether she had communicated with DOE and was willing to work with DOE on resolving this matter. Dr. Trotto responded that she had not communicated with DOE and was open to assisting with achieving a solution to this pedestrian traffic problem.

Commissioner Chang requested clarification on Dr. Trotto's position on the proposed roundabout for the area. Dr. Trotto stated that she did not oppose the roundabout.

There were no further questions for Dr. Trotto.

3. Andrew Beerer – Community Advocate

Mr. Beerer stated that he had previously testified before the Commission on this matter and reemphasized his concerns about pedestrian safety and how just having a roundabout installed in the area was insufficient to deal with the safety concerns that he had testified to the Commission about.

Mr. Fujioka requested clarification on Mr. Beerer's pedestrian traffic concerns and his stance on the traffic roundabout.

There were no questions from County or OP.

Commission Okuda requested clarification on the amount of communication KCA had with DOE over the years. Mr. Beerer responded that he had little recent communication with DOE and had been surprised by the

news that DOE was still attempting to amend the D&O conditions after the Commission had a Declaratory Ruling on the matter in 2019.

Chair Scheuer inquired if Mr. Beerer was compensated for his appearance at the hearing. Mr. Beerer responded that his long-time involvement was voluntary with no compensation and quantified the amount of time he had committed to protect the residents of Kihei and the future students of the high school.

There were no further questions for Mr. Beerer.

4. Randy Wagner – Architect and KCA member

Ms. Wagner provided her professional credentials and described why she thought a highway underpass was a feasible solution to provide a safe pedestrian passageway to cross Piilani Highway.

Mr. Fujioka requested clarification on which gulch photograph Ms. Wagner was referring to during her testimony.

County and OP had no questions.

Commissioner Giovanni inquired if the photo was part of the record. Ms. Wagner responded that it had been submitted with her written testimony. Commissioner Wong confirmed that he had seen it in the record.

Chair Scheuer declared a recess at 1050 a.m. and reconvened the meeting at 11:00 a.m.

A brief discussion ensued to determine how many public testifiers remained and Chair Scheuer called for the next witness.

5. State Representative Tina Wildberger

Representative Wildberger stated her support for an underpass and shared the concerns of her constituents in this matter.

Mr. Fujioka requested clarification on Ms. Wildberger's familiarity with the photo that Ms. Wagner had submitted to the Commission. Ms. Wildberger identified it as a photo of the Waikalani Gulch and described the surrounding area nearby it.

County and OP had no questions.

Commissioners Okuda, Ohigashi, Giovanni, Wong, Aczon and Chair Scheuer requested clarification on whether the DOE had attempted to communicate with Ms. Wildberger, what her level of awareness was for any Legislative funding efforts for the traffic infrastructure for the high school, how different progressive steps to achieve development of a roundabout and an underpass might be considered, how prioritizing the development of traffic infrastructure might be helpful, and what the complexities of attempting to achieve all the infrastructure desired by the community might involve.

Ms. Wildberger shared her perspectives on the various questions posed by the Commissioners and qualified that she was still new to her elected position and not fully versed on technical finance and project funding issues yet.

There were no further questions for Representative Wildberger.

6. Daniel Kanahale

Mr. Kanahale shared his personal background and expressed his concerns about safety and how he supported an under/overpass feature to cross the highway.

Petitioner, County and OP had no questions.

Chair Scheuer requested clarification on Mr. Kanahale's perspective as a cultural practitioner on the traditional/cultural matters associated with the proposed project. Mr. Kanahale shared what the two gulch names meant and described why he felt that designs for the under/overpass feature should be mindful of that significance.

PUBLIC WITNESSES (General Audience)

7. Rob Weltman

Mr. Weltman stated that he was a KCA member and supported a grade separated crossing.

There were no questions for Mr. Weltman.

8. Laura Dunham

Ms. Dunham submitted written testimony and summarized her concerns regarding community sustainability and how she supported an underpass.

There were no questions for Ms. Dunham.

There were no further Public Witnesses.

Chair Scheuer asked if the Parties had any exhibits to enter into the record. Mr. Fujioka responded that he had exhibits, County and OP had none. Discussion ensued to assess the time required for presentations and to confirm what exhibits DOE was submitting.

Chair Scheuer declared a recess at 11:30 a.m. and reconvened the meeting at 12:45 p.m.

Chair Scheuer inquired if DOE had exhibits to submit. Mr. Fujioka responded that DOE had determined that no exhibits needed to be added to the record.

Chair Scheuer called for DOE's presentation.

DOE

Mr. Fujioka described DOE's position on Grade Separated Pedestrian Crossings ("GSPCs") and argued why the Commission should grant DOE's Petition. Mr. Fujioka stated that he had two witnesses Randall Tanaka, DOE and Ed Sniffen, DOT to provide testimony.

County and OP had no objections to the witnesses.

Petitioner Witnesses

1. Randall Tanaka, Assistant Superintendent DOE

Mr. Tanaka described his DOE role with the Office of Facilities and Operations and shared the issues and concerns that DOE had with the LUC Decision and Order requiring an under/overpass feature for the high school and apologized for the lack of communication between the DOE and the community.

Mr. Tanaka also described the funding difficulties that he anticipated might develop by altering project plans for the high school at this point in time and how the DOT roundabout proposal figured into the development plans for the area.

There were no questions for Mr. Tanaka from County or OP.

Commissioners Okuda extensively questioned Mr. Tanaka on DOE's response to the "will of the community" and the financial and liability concerns associated with overlooking community input. Discussion ensued regarding the liability issues and responsibilities associated with them. Mr. Wynhoff voiced his opinion on the line of questioning Commissioner Okuda was tracking on.

Chair Scheuer declared a recess at 1:14 p.m. and reconvened the meeting at 1:24 p.m.

Mr. Fujioka stated his objection to the line of questioning and Commissioner Okuda moved on to question whether DOE funding included GSPCs. Mr. Tanaka responded that he was unsure.

Commissioner Ohigashi requested clarification on funding for various pedestrian and roundabout scenarios. Mr. Tanaka deferred to Mr. Sniffen to provide the funding and project work information. Discussion ensued on whether Mr. Tanaka could be recalled to follow-up on information not provided by Mr. Sniffen. Chair Scheuer described how he would provide for recalling Mr. Tanaka if necessary.

Commissioners Ohigashi, Chang, Giovanni, Cabral and Chair Scheuer requested clarification on the timeliness of the DOE motion, how DOE would deal with community outreach for the proposed project, how DOE would deal with

waterway/pedestrian issues to control the underpass areas, the funding for liability expense issues, why DOE requires additional LUC attention for the same issue discussed in a previously decided Declaratory Ruling, and whether DOE should consider deferring its motion to sort community issues out. (Mr. Fujioka objected to Commissioner Cabral line of questioning on liability issues and she moved on to focus on the DOE's oversight of the LUC declaratory ruling.)

Chair Scheuer declared a recess at 1:50 p.m. and announced that questioning of Mr. Tanaka would resume when the Commission reconvened.

Chair Scheuer reconvened the meeting at 2:00 p.m.

Chair Scheuer requested clarification on how DOE was attempting to organizationally restructure itself to better address facility construction demands and questioned how the Kihei High School might be impacted by decisions being made by the State Legislature. Mr. Tanaka provided his perspective and stated that the Kihei High School project was possibly past that initial phase of development.

Before beginning his redirect, Mr. Fujioka requested clarification on whether the DOE could request a deferral on hearing its motion to pursue resolving the concerns raised by the community. Discussion ensued to consider Mr. Fujioka's inquiry and determine how proceedings might advance.

Commissioners Ohigashi, Chang and Aczon commented that they would prefer to hear DOT's testimony before any deferral action was taken. Mr. Orodenerker stated that deferral was possible but a withdrawal of the motion was not. Chair Scheuer sought clarity on the procedural process that the Commission should follow to handle a deferral request. Mr. Wynhoff noted the applicable "Sunshine Law" requirements to be considered and the public was assured by Chair Scheuer that public testimony would be allowed at the rescheduled hearing on this matter.

Mr. Fujioka began his redirect and Mr. Tanaka described how the DOE needed to reassess and strengthen communication with the community, consider future traffic infrastructure construction possibilities, and try to address the community's outcry for an over/underpass and roundabout.

Mr., Fujioka called on his next witness, Ed Sniffen, DOT Deputy Director-Highways.

2. Ed Sniffen – DOT

Mr. Sniffen provided his professional background and summarized DOT's position on the Kihei High School- Pi'ilani Highway area traffic infrastructure needs for flow and speed controls, vehicular and pedestrian safety, construction and implementation cost concerns and feasibility and effectiveness of a roundabout and any over/underpass.

Mr. Sniffen also described the considerations, analysis and evaluations that DOT used when studying various traffic problems and determining alternatives to eliminate or mitigate issues

Mr. Hopper requested clarification on the requirements involved for the DOT to deal with the community's suggested over/underpass suggestion. Mr. Sniffen provided his understanding of the government standards and design requirements that were involved which made it difficult to approve an underpass in a low-lying flood hazard area as suggested and how studies and statistics indicated that overpasses were costly, ineffective and under-used.

Ms. Apuna requested clarification on how DOT developed and implemented its new traffic schemes. Mr. Sniffen described how DOT professional traffic engineers worked with other department professionals and government agencies to seek feasible solutions and used community training campaigns to implement them.

Commissioner Giovanni requested clarification on the elevation clearances that had to be considered when assessing the underpass area in the gulch. Mr. Sniffen provided the range of clearances involved and described how important it was to not impede waterflow when considering denying access to the underpass area.

Chair Scheuer declared a recess at 3:00 p.m. and reconvened the meeting at 3:10 p.m.

Chair Scheuer allowed continued Commissioner questioning.

Commissioners Ohigashi, Chang, Okuda, Cabral, Giovanni, Aczon and Chair Scheuer sought clarification on what was involved in funding the DOT traffic improvements and how the DOE component for the high school factored into the plans, how the DOT might lead the effort to handle traffic and pedestrian concerns, how effective roundabouts were for calming traffic, what design concerns were involved for the current roundabout under consideration, what pedestrian controls were associated with the planned roundabout, how the phased development of the high school would impact the proposed roundabout, other considerations that needed to be made for future vehicular and pedestrian traffic, the construction and completion timetables involved for the traffic improvements and what alternatives were available in the current situation.

There was no redirect.

Chair Scheuer called for the County's presentation.

County Presentation

Mr. Hopper summarized County's position on this matter and argued why County needed more clarification on the DOT position statement and how DOT would react in various future situations regarding traffic safety and the development of the high school, how DOT would address providing more information to the community, and why providing written confirmation of the prohibitive challenges to using the currently suggested underpass area without proper design and engineering would be helpful.

Commissioner Ohigashi and Chair Scheuer sought clarification on how DOT could supplement the record to address County's concerns and how the record could better reflect the representations exchanged during the hearing to solidify understandings and expectations for the Parties and the public.

There were no further questions or comments. Chair Scheuer called for OP's presentation.

OP Presentation

Ms. Apuna summarized OP's position and argued why OP supported DOE's request and described the safety concerns associated with utilizing the underpass without costly and extensive design and engineering work to meet required safety guidelines.

Commissioner Giovanni asked OP supported the DOE motion. Ms. Apuna acknowledged that OP did and qualified that the language of the motion might need to be more specific.

Chair Scheuer observed that OP's position was evident but the absent communication between DOE and the community could have been more robust.

Commissioner Wong inquired if consideration of a deferral was appropriate.

Commissioner Ohigashi moved to defer hearing the motion to allow the gathering of more information. Commissioner Wong seconded the motion.

Commissioners Cabral, Giovanni, Chang, Aczon, Wong and Chair Scheuer spoke in favor of the Motion.

Additional discussion on the Motion ensued to determine the timeline for action to apply to this docket. Mr. Orodener suggested that the Parties remain in contact with LUC staff in regards to their progress and to allow a review of the LUC scheduling calendar to decide on a future hearing date.

Chair Scheuer reviewed his expectations for more considerate treatment of public witnesses by Mr. Fujioka and called for Mr. Orodener to poll the Commission.

The Commission unanimously voted to defer this matter. (8-0)

Chair Scheuer asked if there was any further business to discuss. There was none and Chair Scheuer adjourned the meeting at 4:26 p.m.