

LAND USE COMMISSION
MEETING MINUTES

October 21, 2021 – 9:00 a.m.

Pursuant to Exhibit C of the Governor’s Emergency Proclamation Related to the COVID-19 Response, the Commission conducted its meeting using interactive conference technology.

PLACE: Zoom Webinar Virtual Meeting
Meeting Link for Thursday, October 21, 2021

https://us02web.zoom.us/webinar/register/WN_3HRIJsCrQGWxVp1AhBylPg

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: Jonathan Scheuer
(Attending via ZOOM conference media) Nancy Cabral
Gary Okuda (recused for IAL agenda matter)
Edmund Aczon
Dawn N. S. Chang
Lee Ohigashi
Arnold Wong
Dan Giovanni

COMMISSIONERS EXCUSED:

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

STAFF PRESENT: Daniel Orodener, Executive Officer
(Attending via ZOOM conference media) Dan Morris, Deputy Attorney General (DAG)
Scott Derrickson, Chief Planner
Riley Hakoda, Staff Planner
Natasha Quinones, Chief Clerk

COURT REPORTER: via Naegeli Deposition and Trial
(from recorded ZOOM conference media)

CALL TO ORDER

Chair Scheuer called the meeting to order at 9:00 a.m.

Attending Commissioners 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 September 8-9 and September 23, 2021 Minutes and asked if any public testimony had been submitted and if any corrections needed to be made.

Staff stated that written testimony had been received from Mr. Church in reference to the approval of the Minutes for September 8-9, 2021. Chair Scheuer acknowledged Mr. Church's testimony.

Chair Scheuer asked if there were any members in the audience who wished to testify regarding approval of the Minutes and there were none.

No objections or corrections were made to the minutes. Commissioner Cabral moved to adopt the Minutes. Commissioner Ohigashi seconded the motion. There was no discussion.

By a roll call, the September 8-9, 2021 and September 23, 2021 Minutes were approved unanimously (8-0).

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

TENTATIVE MEETING SCHEDULE

Executive Officer Dan Orodenker provided the tentative meeting schedule from October 2021 through December 2021 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.

Chair Scheuer moved to the next agenda item.

EXECUTIVE SESSION- IAL

Pursuant to HRS Section 92-5(a)(2) to consider Attorney General's confidential response to LUC inquiry regarding legal matters related to City and County of Honolulu recommendations for the designation of Important Agricultural Lands on the Island of Oahu complies with the requirements of Sections 205-47, 205-48 and 205-49 Hawaii Revised Statutes and whether the proper procedural, legal, statutory and public notice requirements were met in developing the recommendations.

Commissioner Okuda recused himself from this matter.

Chair Scheuer acknowledged Commissioner Okuda's recusal, and updated the record, described the procedures for the hearing and asked if there were any questions on the procedures.

Commissioner Okuda commented that he intended to rejoin the meeting for the 2nd Executive Session and exited the meeting with the Chair's permission.

Commissioner Cabral thanked the LUC staff for all their work in dealing with the cancelling and rescheduling of the October 13, 2021 meeting.

Chair Scheuer asked if there was any written testimony or if there were any members in the audience who wished to testify regarding the Executive Session. There was none.

Commissioner Wong moved to enter Executive Session to consider Attorney General's confidential response. Commissioner Cabral seconded the motion.

By a show of hands, the Commission unanimously voted to enter Executive Session.

The Commission left the regular public meeting at 9:15 a.m. and reconvened at 11:17 a.m.

Chair Scheuer announced that the Commission had concluded the Executive Session with LUC's counsel.

Commissioner Wong requested clarification on how the Commission would proceed on the matter regarding the Attorney General's opinion regarding the IAL matter. Chair Scheuer described his procedural intentions.

FORMAL DELIBERATIONS

Chair Scheuer confirmed with Mr. Orodenker that the Commission could proceed with deliberations on this matter without further acknowledgements and sought the pleasure of the Commission.

Commissioner Chang moved to waive the attorney/client privileges with respect to the Attorney General's opinion and to make it publicly available. The motion was seconded by Commissioner Ohigashi.

Commissioner Giovanni spoke in support of the motion.

Mr. Orodenker polled the Commission. By a roll call vote, the Motion to waive the attorney/client privileges with respect to the Attorney General's opinion passed unanimously (7-0).

Chair Scheuer noted that the Attorney General's opinion would be posted to LUC website and that the next meeting would probably be during the first quarter of 2022.

There was no further discussion on this matter.

Chair Scheuer moved to the next Agenda item, a second Executive Session.

EXECUTIVE SESSION

Pursuant to HRS Section 92-5(a)(2) to obtain Attorney General's guidance on dealing with unprofessional conduct by Petitioners.

Chair Scheuer asked for Staff to contact Commissioner Okuda to rejoin the meeting and asked if there was any written testimony or if there were any members in the audience who wished to testify regarding the Executive Session. There was none.

Commissioner Okuda rejoined the meeting at 11:26 a.m.

Commissioner Wong moved to enter Executive Session to obtain Attorney General's guidance on dealing with unprofessional conduct by Petitioners. Commissioner Cabral seconded the motion.

By a show of hands, the Commission voted to enter Executive Session.

The Commission exited the regular public meeting to enter Executive Session at 11:27 a.m. and reconvened into the regular meeting at 12:37 p.m.

Chair Scheuer stated that the Commission had concluded with the Second Executive Session and moved to the last Agenda item.

ACTION

To Consider authorization for the Chair to have ex-parte communication with Petitioners who display unprofessional conduct.

Commissioner Cabral moved to authorize Chair Scheuer to write a letter to the individual who had expressed dissatisfaction with LUC procedures. Commissioner Giovanni seconded the motion.

Commissioner Aczon offered a friendly amendment to the Motion adding that the Chair's letter be reviewed by the Attorney General prior to distribution.

There was no discussion and Commissioner Cabral and Giovanni approved the friendly amendment.

Commissioner Okuda and Chair Scheuer provided comments in favor of the motion prior to the vote on the Motion

By a roll call vote, the Motion passed and was unanimously approved (8-0).

There being no further business or items to discuss, Chair Scheuer adjourned the meeting at 12:41 p.m.