



COURT REPORTING

LEGAL VIDEOGRAPHY

VIDEOCONFERENCING

TRIAL PRESENTATION

MOCK JURY SERVICES

LEGAL TRANSCRIPTION

COPYING AND SCANNING

LANGUAGE INTERPRETERS



**NAEGELI**  
DEPOSITION & TRIAL



(800) 528-3335

[NAEGELIUSA.COM](http://NAEGELIUSA.COM)

**STATE OF HAWAII**  
**LAND USE COMMISSION**  
Meeting held on April 26, 2023  
Commencing at 9:15 a.m.

Held at  
Airport Conference Center  
Hawaiian Airlines Terminal Building  
400 Rodgers Boulevard, Seventh Floor,  
IIT Suite 700, Room 1  
Honolulu, Hawaii 96819

**I. CALL TO ORDER**

**II. ADOPTION OF MINUTES**

April 12, 2023

**III. TENTATIVE MEETING SCHEDULE**

**IV. SP23-415 WAIAWA CORRECTIONAL FACILITY (Oahu)**

To consider Special Permit Application for an after-the-fact State Special Use Permit (SUP)

Department of Accounting and General Services (Petitioner)], for the Waiawa Correctional Facility to bring the facility into compliance with the State Land Use Law, Chapter 205, Hawaii Revised Statutes (Petition). The Petition includes approximately 23.7 acres of land in the State Agricultural District identified by Tax Map Key (TMK) No. (1)9-6-005:011 in the Ewa District of Oahu, Hawaii.

**V. DISCUSSION ON ELECTION OF COMMISSION OFFICERS AND ACTION (IF NECESSARY)**

**VI. EXECUTIVE SESSION**

Pursuant to HRS Section 92-5(a)(2) to consult with the Commissioners' Attorney regarding LUC personnel matters where considerations of matters affecting privacy will be involved.

**VII. ADJOURNMENT**

**BEFORE :**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**PARTICIPANTS**

**LUC COMMISSIONERS:**

Dan Giovanni, Chair

Nancy Cabral

Lee Ohigashi

Gary Okuda

George Atta

Kuike Kamakea-Ohelo

Melvin Kahele

**LUC STAFF:**

Daniel Orodener, Executive Officer

Scott Derrickson, Chief Planner

Riley Hakoda, Staff Planner

Martina Segura, Staff Planner

Ariana Kwan, Chief Clerk

Julie China, Esq., Deputy Attorney General

**OPSD:**

Allison Kato, Esq., Deputy Attorney General

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**PARTICIPANTS (CONTINUED)**

**Petitioners:**

Linda Chow, Esq., Counsel, Department of Accounting  
and General Services (DAGS)

Lance Maja, Planner, DAGS

Ivan Lee, Project Manager, SSFM

1                   **CHAIRMAN GIOVANNI:** Aloha mai kakou. Good  
2 morning, everyone.

3                   This is the April 26th, 2023 Land Use  
4 Commission meeting. This is an in-person meeting  
5 being held at the Honolulu Airport Conference  
6 Center, 400 Rodgers Boulevard, Seventh Floor, Suite  
7 IIT, Suite 700, Room number 1, Honolulu, 96819.

8                   Court reporting transcriptions are being  
9 done from the Zoom recording of this meeting. Can I  
10 get confirmation that the Zoom recording is  
11 operating correctly? It is.

12                  For all meeting participants, I would like  
13 to stress to everyone the importance of speaking  
14 slowly, clearly, and directly into your microphone.  
15 And before speaking, please state your name and  
16 identify yourself for the record.

17                  Even though this is an in-person meeting,  
18 please be aware that all meeting participants are  
19 being recorded on the digital record of this Zoom  
20 meeting. This is for court reporting purposes.  
21 Your continued participation is your implied  
22 consent. I know that everybody is happy about that.  
23 Yeah.

24                  Your continued participation is your  
25 implied consent to be part of a public record of

1 this event. If you do not wish to be part of a  
2 public record, you should exit the meeting now.

3 My name is Dan Giovanni, and I have the  
4 pleasure to serve as the LUC Chair. We currently  
5 have eight seated commissioners. Along with me,  
6 Commissioners Lee Ohigashi of Maui, Commissioner  
7 Kuike Kamakea-Ohelo, Commissioner Melvin Kahele,  
8 Commissioner George Atta, Commissioner Gary Okuda,  
9 all from Oahu, Commissioner Nancy Cabral from Hawaii  
10 Island. Excused today are our new Commissioner  
11 Brian Lee and Mr. -- Commissioner Michael Yamane.  
12 They are excused from today's meeting.

13 Also here from staff we have the LUC  
14 Executive Officer Daniel Orodener, LUC Chief  
15 Planner Scott Derrickson, LUC Staff Planner Riley  
16 Hakoda, LUC Staff Planner Martina Segura, LUC Chief  
17 Clerk Ariana Kwan. And joining us by Zoom is LUC  
18 Attorney General Dan Morris -- correction, Julie  
19 China.

20 Julie, can you see us and hear us?

21 **MS. CHINA:** Yes, I can.

22 **CHAIRMAN GIOVANNI:** Thank you for  
23 confirming and sorry for the confusion.

24 Our first order of business is the  
25 adoption of the April 12th, 2023 minutes.

1 Ms. Kwan, has there been any written  
2 testimony submitted on this matter?

3 **MS. KWAN:** No, Mr. Chair.

4 **CHAIRMAN GIOVANNI:** Ms. Kwan, is there any  
5 members of the public signed up to testify on the  
6 adoption of minutes?

7 **MS. KWAN:** No, Mr. Chair.

8 **CHAIRMAN GIOVANNI:** Thank you, Ms. Kwan.  
9 Commissioners, are there any corrections  
10 or comments on the minutes?

11 Commissioner Cabral?

12 **COMMISSIONER CABRAL:** I have just notified  
13 the staff that Jeffrey Darrow, from Hawaii County  
14 Planning Department, was also present, and then  
15 there's one little typo I found, so just to be  
16 picky, so thank you. I would recommend that we --  
17 move that we approve the minutes with those -- that  
18 change or that addition of the name.

19 **CHAIRMAN GIOVANNI:** I will take that as a  
20 motion to approve the minutes from the April 12th,  
21 2023 meeting, subject to those two corrections.

22 **COMMISSIONER OHIGASHI:** Seconded.

23 **CHAIRMAN GIOVANNI:** Seconded by  
24 Commissioner Ohigashi. So a motion has been made by  
25 Commissioner Cabral and seconded by Commissioner

1 Ohigashi. I was absent at that meeting and will not  
2 -- and will abstain from voting. But otherwise, can  
3 I have a -- all in favor of the adoption of the  
4 minutes, please signify by saying, "aye."

5 **(All replied with "aye.")**

6 **CHAIRMAN GIOVANNI:** Any opposed?

7 And again, I abstain.

8 The minutes are adopted. Thank you.

9 The next agenda item is the tentative  
10 meeting schedule.

11 And I'll call on Mr. Orodenger to update  
12 us.

13 **MR. ORODENKER:** Thank you, Mr. Chair.

14 On June 7th, we will be on Maui for the  
15 Emmanuel Lutheran matter -- May 7th.

16 **CHAIRMAN GIOVANNI:** June 7th.

17 **MR. ORODENKER:** June 7th. There are no  
18 meetings currently for May, as Commissioner Atta  
19 just pointed out. We would ask the commissioners to  
20 hold the 24th and the 25th of May just in case  
21 something happens.

22 On June 21st and 22nd, we will be in Hilo.  
23 On the 21st, we will be on -- taking up the  
24 Kamehameha Schools status report. And on the 22nd,  
25 we will be doing the Bencorp status report.

1 In July, we do not have anything currently  
2 scheduled, although I would urge the commissioners  
3 to leave those dates open as well.

4 **CHAIRMAN GIOVANNI:** Can you confirm the  
5 dates?

6 **MR. ORODENKER:** That is July 12th and 13th  
7 and July 26th and 27th. August is also open, and  
8 that is July 9th and -- August 9th and 10th and  
9 August 23rd and 24th.

10 I would also note that on May 15th through  
11 18th, that myself and two commissioners will be  
12 attending the ULI spring meeting. And that is all  
13 that we have on the calendar.

14 **CHAIRMAN GIOVANNI:** Thank you. ULI spring  
15 meeting is in Toronto, is that correct?

16 **MR. ORODENKER:** That's correct.

17 **CHAIRMAN GIOVANNI:** Thank you.

18 Commissioners, any questions on the  
19 tentative schedule? Hearing none, we'll proceed.

20 Our fourth order of business is action on  
21 SP23- 415 Waiawa Correctional Facility, Oahu. To  
22 consider Special Permit Application for an after-  
23 the-fact Special Use Permit (SUP Number 2022/SUP-3),  
24 filed by the State of Hawaii, Department of  
25 Accounting and General Services -- that's the



1 petitioner -- for the Waiawa Correctional Facility  
2 to bring the facility into compliance with State  
3 Land Use Law, Chapter 205, Hawaii Revised Statutes.  
4 The Petition includes approximately 23.7 acres of  
5 land in the State Agricultural District identified  
6 by Tax Map Key Number (1)9-6-005: 011 in the Ewa  
7 District of Oahu, Hawaii.

8 Will the parties please identify  
9 themselves for the record, starting with  
10 petitioner.

11 **MS. CHOW:** Good morning, Chair Giovanni.  
12 Good morning, Chair Giovanni, and Commissioners. My  
13 name is Deputy Attorney General Linda Chow. Thank  
14 you. I'm representing DAGS, the Department of  
15 Accounting and General Services.

16 With me here today is Lance Maja, who is  
17 Planner with the Department of Accounting and  
18 General Services, and Ivan Lee, who's with SSFM,  
19 who's our -- who is our consultant on this  
20 petition.

21 **CHAIRMAN GIOVANNI:** Thank you very much.

22 So I received an email just a short time  
23 ago, a copy of an email from City and County of  
24 Honolulu that indicated that they will not be in  
25 attendance in person today.

1 Office of Planning and Sustainable  
2 Development, Ms. Kato.

3 **MS. KATO:** I don't have a button. Sorry.  
4 Allison Kato, Deputy Attorney General for  
5 the Office of Planning and Sustainable Development.

6 **CHAIRMAN GIOVANNI:** Thank you, Ms. Kato.  
7 Sir, can you identify yourself for the  
8 record?

9 **MR. LEE:** My name is Ivan Lee. I'm with  
10 Linda Chow and Lance Maja for --

11 **CHAIRMAN GIOVANNI:** Thank you for the  
12 clarification.

13 **MR. LEE:** Okay.

14 **CHAIRMAN GIOVANNI:** Disclosures. Do any  
15 of the commissioners have any disclosures to make at  
16 this time regarding this matter? Hearing none,  
17 we'll proceed. Reference of the record.

18 Please be informed that the relevant  
19 records and documents pertaining to this matter can  
20 be accessed for review on the LUC website at  
21 [luc.hawaii.gov/sp23-415](http://luc.hawaii.gov/sp23-415). Specifically under the,  
22 quote, "pending dockets," end quote tab. Interested  
23 parties are welcome to review the documents at their  
24 convenience.

25 Public testimony. I will now recognize

1 written public testimony submitted in this matter,  
 2 identifying the persons and organizations submitting  
 3 the testimony.

4 Ms. Kwan, has there been any written  
 5 public testimony submitted on this matter?

6 **MS. KWAN:** No, Mr. Chair.

7 **CHAIRMAN GIOVANNI:** Thank you, Ms. Kwan.

8 Ms. Kwan, has there been any members of  
 9 the public that have signed up for public testimony  
 10 on SP23-415 Waiawa Correctional?

11 **MS. KWAN:** No, Mr. Chair.

12 **CHAIRMAN GIOVANNI:** Okay.

13 Proceedings. Before we go any further,  
 14 I'd like to note that it is my understanding that  
 15 the petitioner has filed a stipulated agreement to  
 16 remand the petition back to the Planning  
 17 Commission.

18 Petitioner, would you please clarify if  
 19 that is correct, and will you elaborate on the  
 20 status of this stipulated agreement?

21 **MS. CHOW:** That is correct. So --

22 **CHAIRMAN GIOVANNI:** Would you state your  
 23 name for the record, please?

24 **MS. CHOW:** Yes, I will. I'm Deputy  
 25 Attorney General Linda Chow. And yes, that is

1 correct, we did file a stipulation with the  
2 Department of -- the Office of Planning and  
3 Sustainable Development, as well as the corporation  
4 counsel representing the Department of Planning and  
5 Permitting.

6           And we are all in agreement that this  
7 matter should be remanded back to the Planning  
8 Commission, so that we can supplement the record.  
9 We do understand, you know, that under the statutes  
10 and the rules, that for a special use permit, that  
11 the Land Use Commission can only consider evidence  
12 that was put in below before the Planning  
13 Commission, and that there can be no  
14 supplementation of the record at the Land Use  
15 Commission level.

16           We believe that there are cogent and  
17 relevant information and evidence that should be put  
18 in and considered by the Land Use Commission that  
19 was not put in below, and so we would like the  
20 opportunity to supplement the record with that  
21 information and to bring it back to the Land Use  
22 Commission.

23           **CHAIRMAN GIOVANNI:** So if I understand  
24 correctly, you want to go back to the -- you intend  
25 to go back to the Planning Commission and supplement

1 the record with cogent information that will then  
2 come forward at a subsequent time to the State Land  
3 Use Commission as part of the record, is that  
4 correct?

5 **MS. CHOW:** That is correct.

6 **CHAIRMAN GIOVANNI:** Okay. Thank you.

7 So I did receive notice by email this  
8 morning from the County that they have agreed and  
9 signed off on the stipulation. Is that your  
10 understanding as well?

11 **MS. CHOW:** That is my understanding.

12 **CHAIRMAN GIOVANNI:** Thank you.

13 So now I turn to OPSD. Do you have any  
14 objections, comments regarding the stipulated  
15 agreement to remand the petition?

16 **MS. KATO:** OPSD has no objections. We  
17 believe that it would be good for petitioner to  
18 provide more for the record to give a better  
19 presentation to you.

20 **CHAIRMAN GIOVANNI:** So is OPSD a party to  
21 the stipulated agreement?

22 **MS. KATO:** Yes.

23 **CHAIRMAN GIOVANNI:** Very good.

24 Any questions, commissioners, for the  
25 petitioner or any of the parties?

1 Commissioner Okuda.

2 **COMMISSIONER OKUDA:** Thank you, Mr. Chair.

3 This is Gary Okuda.

4 Let me frame my questions so that you see  
5 where we're going and, you know, this is not to trap  
6 anyone or anything like that. And this goes to the  
7 issue or the matter about the cogent information  
8 which will be supplemented or intended to be  
9 supplemented.

10 There's two areas I wanted to ask you  
11 about as far as supplementation. One is the scope  
12 of a special permit and the information which you  
13 might consider in supplementing the record. And the  
14 second area is whether or not the record as it  
15 stands now needs to be supplemented with cogent  
16 information required by Chapter 343.

17 So let me take the second element first  
18 and go over that. Now, I'm only going to ask the  
19 questions. It's up to you folks whether you think  
20 this type of information needs to be presented or  
21 not presented. The reason why I'm raising it is  
22 just so that if and when this matter comes back  
23 before us, it won't be a surprise or it won't look  
24 like an ambush. Because I don't think, you know, we  
25 -- we accomplish anything by trying to ambush

1 anybody, so I'm trying to show you what, at least,  
2 just my concerns are. I don't speak for anyone  
3 else, okay?

4 But taking first the issue of a Chapter  
5 343 compliance. Chapter 343, as we know, deals with  
6 environmental assessments, environmental impact  
7 statements, correct?

8 **MS. CHOW:** Correct.

9 **COMMISSIONER OKUDA:** Okay. Let me read  
10 you a sentence from this Hawaii Supreme Court case,  
11 Sierra Club versus Department of Transportation,  
12 found at 115 Haw. 239. What I'm going to read is a  
13 sentence found at page 306. The P.3d citation is  
14 167 P.3d 292, at page 299. That's a 2007 Hawaii  
15 Supreme Court case. And the case is better known or  
16 known by other people as the "Superferry" case.

17 And this is what the Supreme Court ruled  
18 at that location in the case, and I quote, "The law  
19 requires that government give systematic  
20 consideration to the environmental, social, and  
21 economic consequences of proposed development  
22 projects prior to allowing construction to begin,"  
23 close quote.

24 Is that an accurate statement of the law?

25 **MS. CHOW:** I believe it is.

1           **COMMISSIONER OKUDA:** Okay. Do you folks  
 2 agree that prisons and, in fact, the type of prison  
 3 can have social impacts?

4           **MS. CHOW:** Yes, we do.

5           **COMMISSIONER OKUDA:** Okay. And along this  
 6 line, the Hawaii Legislature created a commission  
 7 called The Hawaii Correctional System Oversight  
 8 Commission to Help Guide Hawaii's Policies Regarding  
 9 Prisons, isn't that correct?

10          **MS. CHOW:** I -- I'm not sure. I don't --  
 11 I've not been advising Public Safety Department, but  
 12 --

13          **COMMISSIONER OKUDA:** Yeah. Well, that's  
 14 fair. Let me just tell you where you might want to  
 15 look --

16          **MS. CHOW:** Sure.

17          **COMMISSIONER OKUDA:** -- at, and again, I'm  
 18 not saying that my view of the law or what I'm going  
 19 over is correct or not. This is just to give you a  
 20 heads-up on something to look at. You make the  
 21 independent decision whether you believe these  
 22 matters require supplementation or not. You know,  
 23 it may not require supplementation, and it might not  
 24 have any outcome on the ultimate outcome.

25                 But please look at HRS Section 353L-3,



1 which sets forth the duties, the powers of the  
2 Hawaii Correctional System Oversight Commission.  
3 And what it says in 353L-3(b)(1), it says, "The  
4 commission shall," and it's (1), "oversee the  
5 State's correctional system and have jurisdiction  
6 over investigating complaints at correctional  
7 facilities and facilitating a correctional system  
8 transition to a rehabilitative and therapeutic  
9 model." And then the statute continues on regarding  
10 other duties of the commission.

11 And this commission consists, correct, of  
12 five commissioners, right? Well, anyway, take a  
13 look at the statute because the five commissioners,  
14 one is appointed from each of the following entities  
15 or people. For example, the Office of Hawaiian  
16 Affairs selects one commissioner, the Speaker of the  
17 House selects another commissioner, the President of  
18 the Senate selects another commissioner, the  
19 Governor selects another commissioner, and the Chief  
20 Justice selects the final commissioner.

21 Do you have any idea or knowledge of why  
22 the Office of Hawaiian Affairs selects a  
23 commissioner on this commission? Because, for  
24 example, like us on the Land Use Commission, I  
25 don't think the Office of Hawaiian Affairs

1 automatically selects anyone, you know, on the  
2 commission.

3 Do you have any idea or understanding of  
4 why the Office of Hawaiian Affairs would select a  
5 commissioner?

6 **MS. CHOW:** No, I do not.

7 **COMMISSIONER OKUDA:** Okay. But you might  
8 look at who's appointed to the commission right now,  
9 five individuals. They seem actually really  
10 experienced in the area of corrections and prisons.  
11 And I wouldn't take any of these people as being  
12 people who are like, oh, wow, we really don't need  
13 any prisons at all.

14 I mean, one of the people on the  
15 commission is retired Judge Ronald Ibarra, who I  
16 believe when he was Chief Judge of the Third  
17 Circuit, which covered the County of Hawaii, he set  
18 up the Veteran's Court, the Drug Court. I know I'm  
19 not testifying here, but my recollection of being  
20 in his courtroom is he's a law-and-order kind of  
21 guy.

22 You had -- you have Retired Judge Michael  
23 Town. You have a couple former prison  
24 administrators. So these people seem to have a lot  
25 of, you know, knowledge and information about, you

1 know, about prisons.

2 Is there anything in the record right now  
3 which indicates the input of the Hawaii Correctional  
4 System Oversight Commission was included in any of  
5 the 343 HRS chapter assessments or reviews? Did  
6 they weigh in on anything dealing with the Waiawa  
7 Correctional Facility or anything related to the  
8 special permit that is brought before us today,  
9 which is going to be remanded?

10 **MS. CHOW:** In my review of the record, I  
11 did not see anything from that commission.

12 **COMMISSIONER OKUDA:** Okay. And my only  
13 suggestion is this: if you will, you know, consider  
14 what I hope is just a humble request, that you look  
15 at whether or not input from the Hawaii Correctional  
16 System Oversight Commission might be relevant in  
17 this case to determine social impacts.

18 Now, again, you know, I've never really  
19 practiced criminal law, so I'm definitely not an  
20 expert in that, but that's the reason why we have a  
21 343 HRS chapter review whether it's an environmental  
22 assessment or an environmental impact statement, so  
23 that we will have the information to determine what  
24 might be the social impacts of the government  
25 decision here.

1 And let me tell you one of my concerns of  
2 why I personally would like input from the Hawaii  
3 Correctional System Oversight Commission, and it's  
4 because of the -- I want to make sure that whatever  
5 we do or whatever I vote is consistent with what the  
6 commission and other experts, in addition to the  
7 commission, believe should be the -- the outlook or  
8 the goal of the prison system here.

9 And again, I'm not the expert, so that's  
10 why we rely on the Chapter 343 reports and  
11 submissions. But one of the things that concerns me  
12 is a report that I found on the United States  
13 Department of Justice list of studies and reports.

14 And just so that the record is clear here,  
15 let me just quote a very short sentence. It's  
16 actually a run-on sentence, but it summarizes this  
17 report called Disparate Treatment of Native  
18 Hawaiians in the Criminal Justice System. And the  
19 NCJ number is 242614. The date that the report was  
20 published is 2010, and it consists of 104 pages.

21 Now, I'm not going to read all the 104  
22 pages of submitted in the record. I'm just raising  
23 this so that maybe you can see why -- at least just  
24 me personally, I would like to see input from the  
25 commission. But this is what, for example, the

1 abstract of that report says.

2           It says, and I quote, "Native Hawaiians  
3 bear a disproportionate burden of punitive responses  
4 to drug use; and Native Hawaiians do not use drugs  
5 at a drastically different rate from other races or  
6 ethnicities but go to prison for drug offenses more  
7 often than people of other races or ethnicities; and  
8 Native Hawaiians are charged with the majority of  
9 offenses related to methamphetamine, but report  
10 using this drug at only slightly higher rates than  
11 people of other races or ethnicities."

12           So I'm not saying -- so again, to repeat  
13 myself, you know, at least me personally, I would  
14 like to see the record supplemented to be sure we  
15 satisfy the requirements of Chapter 343, and that  
16 social impacts, if anything, are addressed by the  
17 record if and when it comes back up to us. And I  
18 personally believe input from the commission, which,  
19 as far as I can tell, consists of very, very  
20 experienced people from -- who have been involved in  
21 the criminal justice system, that that input be  
22 included so we on the commission, who are not  
23 experts in corrections or social impacts of the  
24 correctional system, are fully educated. So please  
25 consider my request, okay?

1 The second point about whether or not the  
2 issue regarding special permits is addressed versus  
3 district boundary amendment is please also have  
4 addressed in the record whether or not a special  
5 permit will in fact comply with what the Supreme  
6 Court has laid out as far as limitations of the use  
7 of the special permit, an example of what the  
8 Supreme Court has said is this case called  
9 Neighborhood Board Number 24 (Waianae Coast) versus  
10 State Land Use Commission, which is found at 64 Haw.  
11 265, and I'm sorry I don't have the Pacific Reporter  
12 section, but that -- citation, but that's the  
13 official reporter citation, which is a 1982 Hawaii  
14 Supreme Court case which dealt with what we all know  
15 as the Kapolei Waterpark.

16 So if the record, when it comes back up  
17 here, if it does, makes clear why a special permit  
18 is appropriate and satisfies the requirements of the  
19 case I cited.

20 So Mr. Chair, that's basically my  
21 commentary at this point in time. Thank you.

22 **CHAIRMAN GIOVANNI:** Thank you,  
23 Commissioner Okuda. I think your points are on  
24 point and to be well taken by petitioner as they  
25 proceed back through the process before they return

1 here. So thank you, Commissioner Okuda.

2 **MS. CHOW:** Yes, thank you.

3 **CHAIRMAN GIOVANNI:** Commissioners, any  
4 further comments or questions?

5 Okay. Given the circumstances, and in  
6 accordance with our procedural process, I'm going to  
7 ask again a second time if there's any public  
8 testimony on this matter.

9 Ms. Kwan, is there anybody that would like  
10 to give public testimony at this time?

11 **MS. KWAN:** No, Mr. Chair.

12 **CHAIRMAN GIOVANNI:** Thank you, Ms. Kwan.

13 Petitioner, any final comments you'd like  
14 to make at this time?

15 **MS. CHOW:** Not at this time. Thank you.

16 **CHAIRMAN GIOVANNI:** Thank you.

17 Commissioners, what is your pleasure, with  
18 the understanding that there's a stipulated  
19 agreement to remand this petition. Is there a  
20 motion to remand the petition back to the Honolulu  
21 Planning Commission?

22 Commissioner Ohigashi?

23 **COMMISSIONER OHIGASHI:** I move to remand  
24 this matter back to the Honolulu Planning Commission  
25 under the terms of the stipulation that has been

1 filed by the parties.

2 **CHAIRMAN GIOVANNI:** Thank you,  
3 Commissioner.

4 Is there a second to the motion?

5 **MR. OKUDA:** Chair, I second the motion.

6 **CHAIRMAN GIOVANNI:** There's a motion that  
7 has been moved by Commissioner Ohigashi and seconded  
8 by Commissioner Okuda.

9 Commissioner Ohigashi, would you like to  
10 speak to your motion?

11 **COMMISSIONER OHIGASHI:** No, because my  
12 microphone -- I would echo Mr. Okuda's statements --  
13 Commissioner Okuda's statements. And I think that  
14 given -- given that it's one of my pet peeves about  
15 special use permits, I would hope that the State of  
16 the Hawaii agencies would really look at whether or  
17 not they should determine whether this should be  
18 done as a DBA. Thank you.

19 **CHAIRMAN GIOVANNI:** Thank you,  
20 Commissioner Ohigashi.

21 Commissioner Okuda, would you like to  
22 speak to your second?

23 **COMMISSIONER OKUDA:** This is Gary Okuda.  
24 Thank you, Mr. Chair. I think my reasons and my  
25 questions have already been laid out. I do believe



1 more input from -- and I hate to use the word  
2 "stakeholders" because everyone in the community has  
3 a stake in what the outcome is. But it also might  
4 be helpful or relevant if the Office of Hawaiian  
5 Affairs is consulted with what their view is because  
6 this is more than just simply building a prison.  
7 Okay?

8           And we're not talking about just simply  
9 putting up a government building. This facility has  
10 social impacts, and we need guidance here from  
11 people who are -- have expertise in the area about  
12 what the social impacts are. Easy to put up a  
13 building; hard later to fix negative social  
14 impacts.

15           So I would ask everyone to vote in favor  
16 of remanding this and approving the stipulation.  
17 Thank you.

18           **CHAIRMAN GIOVANNI:** Thank you,  
19 Commissioner.

20           Commissioners, any other comments?

21           **MS. CHOW:** May I clarify?

22           **CHAIRMAN GIOVANNI:** Yes, please. The  
23 Chair recognizes the petitioner.

24           **MS. CHOW:** Hi. Deputy Attorney General  
25 Linda Chow again. And I just want to clarify that

1 this petition is not for the erection of any new  
2 structures. This is only for an after-the-fact  
3 permit for the existing facilities that are already  
4 there.

5 **CHAIRMAN GIOVANNI:** Thank you for the  
6 clarification. I think the record reflects that.

7 **MS. CHOW:** Yes. Thank you.

8 **CHAIRMAN GIOVANNI:** Commissioners, further  
9 comment?

10 Commissioner Cabral?

11 **COMMISSIONER CABRAL:** Thank you. I  
12 actually want to support the motion and  
13 particularly thank Commissioner Okuda for his input  
14 in the fact that these are things that most of us  
15 don't think about when a building goes up and when  
16 the streets go in and the stop lights are there and  
17 that, but it is clearly something that, as in the  
18 big picture in a community, we need to put more  
19 thought into.

20 And so I appreciate that this has come  
21 forward and absolutely support that recommendation  
22 so that maybe things could become different, and,  
23 you know, you add more acreage for -- to raise  
24 cattle or something good. Thank you.

25 **CHAIRMAN GIOVANNI:** Thank you,

1 Commissioner Cabral.

2 The Chair will also support the motion;  
3 although, I also want to add my commentary behind  
4 that to Commissioner Ohigashi regarding the special  
5 use permit versus a DBA.

6 The trouble that we have as commissioners,  
7 and it's come up recently and several times, is that  
8 special use permits on agricultural land for  
9 developments that have permanence, as if this prison  
10 is going to disappear at the end of a certain fixed  
11 term, is troublesome to us. It just seems that when  
12 a development of agricultural land is as a never-  
13 ending cycle to it, it doesn't have a fixed term  
14 that will return that land to agriculture; that a  
15 DBA may be more appropriate.

16 So we ask you to take that to heart. And  
17 if you do come forward under the terms of the  
18 special permit, please have a good story for why  
19 it's not a DBA request.

20 So with that, I'll turn to Mr. Orodener  
21 to -- for a vote of the commission.

22 **MR. ORODENKER:** Thank you, Mr. Chair.

23 The motion is to remand this matter back  
24 to the Honolulu Planning Commission under the terms  
25 of the stipulation signed by the parties.

1 Commissioner Ohigashi?  
2 **COMMISSIONER OHIGASHI:** Aye.  
3 **MR. ORODENKER:** Commissioner Okuda?  
4 **COMMISSIONER OKUDA:** Yes.  
5 **MR. ORODENKER:** Commissioner Atta?  
6 **COMMISSIONER ATTA:** Aye.  
7 **MR. ORODENKER:** Commissioner Cabral?  
8 **COMMISSIONER CABRAL:** Yes.  
9 **MR. ORODENKER:** Commissioner Kahele?  
10 **COMMISSIONER KAHELE:** Aye.  
11 **MR. ORODENKER:** Commissioner Kamakea-  
12 Ohelo?  
13 **COMMISSIONER KAMAKEA-OHELO:** Aye.  
14 **MR. ORODENKER:** Commissioners Yamane and  
15 Lee are excused.  
16 Chair Giovanni?  
17 **CHAIRMAN GIOVANNI:** Aye.  
18 **MR. ORODENKER:** Thank you, Mr. Chair. The  
19 motion passes unanimously.  
20 **CHAIRMAN GIOVANNI:** Thank you.  
21 **MS. CHOW:** Thank you.  
22 **CHAIRMAN GIOVANNI:** Yeah.  
23 **MR. ORODENKER:** Chair?  
24 **CHAIRMAN GIOVANNI:** Please -- the Chair  
25 recognizes Mr. Orodenker.

1           **MR. ORODENKER:** If I may, I would like to  
 2 thank the commissioners for their patience with our  
 3 antiquated microphone system. Our Chief Clerk and  
 4 I have finally received clarification and  
 5 notification that we are able to purchase new  
 6 systems which will be much superior to the ones that  
 7 we currently have. But I thank the commissioners  
 8 for their patience.

9           **CHAIRMAN GIOVANNI:** We would appreciate  
 10 that.

11           Okay. We now move on to the next agenda  
 12 item, which has to do with elections of officers of  
 13 the commission for our next term.

14           Ms. Kwan, has there been any written  
 15 testimony submitted on this matter?

16           **MS. KWAN:** No, Mr. Chair.

17           **CHAIRMAN GIOVANNI:** Are there any members  
 18 of the public who wish to testify on this matter?

19           **MS. KWAN:** No, Mr. Chair.

20           **CHAIRMAN GIOVANNI:** Thank you, Ms. Kwan.

21           **(Inaudible Crosstalk.)**

22           **CHAIRMAN GIOVANNI:** Let the record show  
 23 that Ms. Kwan does not need a microphone.

24           Okay. There is some consideration about  
 25 whether or not we need to form a committee to make

1 recommendations to the full commission regarding  
2 election of officers.

3 So Chair recognizes Commissioner Okuda to  
4 speak on this topic.

5 **COMMISSIONER OKUDA:** Thank you. This is  
6 Gary Okuda. Mr. Chair, I would make a motion that  
7 we nominate and thereafter elect yourself, Dan  
8 Giovanni, as Chairperson of the Land Use Commission;  
9 Commissioner Ohigashi as First Vice-Chair; and  
10 Commissioner Michael Yamane, who is not here, but I  
11 understand that he would not have any objection, as  
12 Second Vice-Chair.

13 If necessary, I'll speak the reasons for  
14 that motion, but that would be my motion. I don't  
15 believe a nominating committee is necessary.

16 **CHAIRMAN GIOVANNI:** Thank you,  
17 Commissioner Okuda.

18 Do I have a second to that motion?  
19 Commissioner Cabral?

20 **COMMISSIONER CABRAL:** I'll second that.

21 **CHAIRMAN GIOVANNI:** Thank you.

22 Commissioner Ohigashi, you can speak.

23 You'll be given an opportunity, Commissioner  
24 Ohigashi, to speak for or against the motion.

25 Okay.

1 So let me ask Commissioner Okuda to speak  
2 in support of his motion.

3 **COMMISSIONER OKUDA:** This is Gary Okuda.  
4 Thank you, Mr. Chair.

5 I think the legal principle involved is if  
6 it's not broken, don't fix it. And I don't think we  
7 need to go over why things aren't broken here. And  
8 in fact, I think it's -- that that's an  
9 understatement of how things have progressed. And  
10 so I believe that we haven't faced any criticism  
11 mainly because of the calm leadership and calm way  
12 that the hearings have been run so far.

13 And so for those reasons and the history  
14 of what took place, I would ask that my motion be  
15 supported. Thank you.

16 **CHAIRMAN GIOVANNI:** Commissioner Cabral?

17 **COMMISSIONER CABRAL:** Yes. I would like  
18 to also praise, I think, our commission and the  
19 commission since I've been involved, and also the  
20 staff for their preparation, the really what I think  
21 is an excellent job on preparing our information and  
22 trying to help make me look good even when I can't  
23 hear and speak properly. So I want to thank  
24 everybody, so -- you know, it's a real team effort,  
25 and I appreciate the teamwork. Thank you.

1           **CHAIRMAN GIOVANNI:** Thank you,  
2 Commissioner Cabral.

3           Commissioners, any further -- anybody else  
4 want to speak to this?

5           Commissioner Ohigashi.

6           **COMMISSIONER OHIGASHI:** Yeah. My comment  
7 is simply this, is don't be surprised if I  
8 (inaudible). Don't be surprised if I had the same  
9 schedule (inaudible).

10          **COMMISSIONER CABRAL:** Mine's not here, so  
11 --

12          **CHAIRMAN GIOVANNI:** My comment is one of  
13 sadness with the loss of our current Vice-Chair,  
14 Nancy Cabral.

15          So Commissioner Cabral, I want to  
16 acknowledge and thank you for serving as First Vice-  
17 Chair and for serving on this commission for several  
18 years.

19          **COMMISSIONER CABRAL:** I'm not gone yet.

20          **CHAIRMAN GIOVANNI:** You're not done yet.  
21 But we are -- but this motion is prospective until  
22 after, so I just want the record to show that even  
23 if we adopt this -- if we pass this motion, that Ms.  
24 Cabral will continue as First Vice-Chair, thereby  
25 relieving our Second Vice-Chair of the risk of



1 having to sit (inaudible).

2 **COMMISSIONER CABRAL:** He needs practice.

3 **CHAIRMAN GIOVANNI:** Until such time that  
4 she -- her term is fully finished.

5 Okay. Let's have a roll call on this  
6 motion.

7 By the way, I am willing to serve. Thank  
8 you for your support.

9 **MR. ORODENKER:** Thank you, Mr. Chair.

10 The motion is to elect Chair Giovanni to  
11 another term, elect Commissioner Ohigashi to First  
12 Vice-Chair, and Commissioner Yamane as Second Vice-  
13 Chair.

14 Commissioner Okuda?

15 **COMMISSIONER OKUDA:** Yes.

16 **MR. ORODENKER:** Commissioner Cabral?

17 **COMMISSIONER CABRAL:** Yes.

18 **MR. ORODENKER:** Commissioner Ohigashi?

19 **COMMISSIONER OHIGASHI:** Abstain.

20 **MR. ORODENKER:** Commissioner Kamakeha-  
21 Ohelo?

22 **(Audio disruption.)**

23 **(Recess taken from 9:56 - 10:01 a.m.)**

24 **CHAIRMAN GIOVANNI:** So let the record show  
25 that we lost the Zoom connection for a short period

1 of time. My understanding is that it was during the  
2 vote on the last agenda item, so I'm going to call  
3 on Mr. Orodenker.

4 Mr. Orodenker, will you summarize the vote  
5 of the last motion?

6 Julie, can you confirm what the last thing  
7 you saw and heard was?

8 **MS. CHINA:** You were getting ready to  
9 vote, and so we lost the connection right before we  
10 heard what the votes were.

11 **CHAIRMAN GIOVANNI:** Okay. So this is the  
12 vote on the motion that a committee was not required  
13 for election of officers, and there was actually a  
14 nomination of three commissioners, myself as the --  
15 continuing as the Chair, Commissioner Ohigashi to  
16 serve as First Vice-Chair, and Commissioner Michael  
17 Yamane to proceed as Second Vice-Chair in the new  
18 term. And a vote was taken.

19 And I'm going to call on Mr. Orodenker to  
20 re-summarize that vote.

21 **MR. ORODENKER:** Thank you, Mr. Chair. The  
22 vote was six affirmative votes and one abstention by  
23 Commissioner Ohigashi.

24 **CHAIRMAN GIOVANNI:** So it passed?

25 **MR. ORODENKER:** So the motion passed,

1 yes.

2 **CHAIRMAN GIOVANNI:** Is that sufficient,  
3 Julie?

4 **MS. CHINA:** Yes, it is. Thank you very  
5 much.

6 **CHAIRMAN GIOVANNI:** Thank you. Thank you  
7 very much.

8 Okay. Now, we're going to consider  
9 personnel matters, and I'm going to turn to  
10 Commissioner Ohigashi on recommendations of how we  
11 might proceed. There is general consensus here, and  
12 the Chair agrees, that we do not need an executive  
13 session for this since we're going to be talking  
14 about the process and procedure as opposed to any  
15 specific recommendations.

16 **COMMISSIONER OHIGASHI:** So what I intend  
17 to do is to follow Arnold Wong's -- Commissioner  
18 Wong's format in the evaluation of our director.  
19 What he did was he gathered information concerning  
20 the director and compiled it and submitted it at a  
21 formal meeting during an executive session to deal  
22 with the -- to deal with our evaluation of the  
23 director in this matter.

24 And my proposal is that we start -- that  
25 I start -- that you authorize me to start

1 transmitting requests for information and  
2 information gathering, and that we would have  
3 something prepared by the -- I think it was June 7th  
4 meeting regarding the evaluation of our director and  
5 permit me to just give some deadlines so that  
6 responses can be --

7           **CHAIRMAN GIOVANNI:** So the Chair believes  
8 this is an excellent recommendation, so let me  
9 summarize my understanding. So Commissioner  
10 Ohigashi will take the lead to informally update a  
11 survey that prior Commissioner Arnold Wong had used  
12 in prior sessions for the evaluation of the  
13 director of the commission to be made by  
14 commissioner staff.

15           So he will update the forms, have them  
16 distributed to each of the commissioners. Each of  
17 the commissioners will be asked by email to respond  
18 to Commissioner Ohigashi.

19           Commissioner Ohigashi, please be sure you  
20 give a deadline for those responses when you send  
21 them to us. Commissioner Wong always gave us a  
22 deadline. And then based on the completed forms  
23 that you receive, you'll prepare a summary and  
24 present that to the commission at our next meeting  
25 on June 7th, at that time.

1 Let me also state that it's my  
2 understanding that in advance of the June 7th  
3 meeting, we expect to get clarification on the  
4 budget, the State budget, and what allocations might  
5 be made for the commission, which are still not  
6 clear to us, again, for that next term. So there  
7 may be also at that June 7th meeting considerations  
8 for financial considerations that prior to that  
9 (inaudible).

10 So again, that would be a business item to  
11 be handled in executive session, and it should be  
12 agendized as such for our June 7th meeting.

13 Commissioner Cabral, please.

14 **COMMISSIONER CABRAL:** Having been on the  
15 commission now several years and being the senior  
16 senior here, I would like to support this motion or  
17 this movement forward to take care of this and  
18 really encourage that we do it on an annual basis.

19 Early on, when I was on, it wasn't done  
20 annually, and it made catching up, in terms of what  
21 goes on with state budgets, and that really  
22 difficult, and I think we're always kind of behind  
23 the eight-ball for that for our executive director.  
24 So I highly recommend we proceed with this, and I  
25 thank our -- my Co-Commissioner/Director Ohigashi

1 for taking this on and following the good job that  
2 Arnold did setting it up several years ago. Thank  
3 you.

4 **CHAIRMAN GIOVANNI:** Thank you,  
5 Commissioner Cabral.

6 Quick question. Is there any  
7 clarification on the annual increase for the  
8 unionized state workers?

9 Mr. Orodenker?

10 **MR. ORODENKER:** Short answer, no.

11 **CHAIRMAN GIOVANNI:** I expect we will have  
12 clarification of that by our next meeting?

13 **MR. ORODENKER:** Yes. Yes. Where -- there  
14 are two sides to that coin. Number one is I'm not  
15 sure I know exactly how much the negotiated  
16 increases we'll be paying to our entire budget.  
17 Second of all, I'm unclear as to what the state  
18 budget, which was just passed by the legislature,  
19 contains with regards to that.

20 **CHAIRMAN GIOVANNI:** But you expect  
21 clarification --

22 **MR. ORODENKER:** Yes, we expect the work on  
23 the budget to come out in about end of May. Yeah.  
24 Two or three weeks.

25 **CHAIRMAN GIOVANNI:** So the Chair would

1 just like to state for the record that, you know,  
2 the historical trends prior to the current year have  
3 been relatively modest, as in -- as interest rates  
4 were low and inflation rates were low. But there  
5 has been a substantial change in that recognized by  
6 everyone over the last 12 months.

7 So I am particularly interested in how the  
8 State Legislature and the Governor's Office will  
9 take that into account, and I look forward to those  
10 clarifications.

11 **MR. ORODENKER:** Thank you, Mr. Chair.

12 Before we adjourn, I would like to -- I  
13 just realized that I may not have been in with  
14 everyone with regard to this, but there has been an  
15 appointment approved by the Senate to replace  
16 Commissioner Tan (phonetic), and that is Brian Lee  
17 who currently serves on the Planning Commission and  
18 sitting (inaudible).

19 He is a member or represents the unions,  
20 the Carpenter's Union, on various matters. And he  
21 will be joining us once he has extricated himself  
22 from the other commissions that he currently sits  
23 on. We're expecting him in the June meeting.

24 **CHAIRMAN GIOVANNI:** Commissioner  
25 Ohigashi?

1           **COMMISSIONER OHIGASHI:** Can you give me  
2 his email so that --

3           **MR. ORODENKER:** Most certainly.

4           **CHAIRMAN GIOVANNI:** He is a little  
5 confused, so --

6           **MR. ORODENKER:** He's gone through our  
7 advisor. He's been approved.

8           **CHAIRMAN GIOVANNI:** He's been approved,  
9 but he cannot speak -- he cannot sit on the  
10 commission until he has extricated himself? What do  
11 you mean by that, extricated?

12           **MR. ORODENKER:** State law is --

13           **CHAIRMAN GIOVANNI:** Extricated?

14           **MR. ORODENKER:** Yeah, he's got to quit.  
15 He's got to quit.

16           **(Inaudible Crosstalk.)**

17           **MR. ORODENKER:** We've got a plan to break  
18 him out and -- no.

19           The way I understand State law with regard  
20 to commissioners is that you can only serve on one  
21 board or commission at a time. And so he was -- he  
22 had resigned from the Planning Commission, and they  
23 asked him to stay on because they had some things  
24 that they had not finished when -- that they needed  
25 him to complete with them, so he agreed to stay on



1 for an amount of months. Otherwise, he would have  
2 been resigned and then at this meeting.

3 **CHAIRMAN GIOVANNI:** Okay. So he has  
4 agreed to serve an additional month on Honolulu  
5 Planning Commission, which is conflicted with  
6 today's meeting, which is why he's not here.

7 **MR. ORODENKER:** That's correct.

8 **CHAIRMAN GIOVANNI:** But if the month -- if  
9 he doesn't extend beyond the current month, he will  
10 have cleared up -- he will have effectively  
11 extricated himself from everything he needs to  
12 extricate himself from. He'll be here in June.

13 **MR. ORODENKER:** That is correct, Mr.  
14 Chair.

15 **CHAIRMAN GIOVANNI:** All right. Got it.  
16 Commissioner Cabral.

17 **COMMISSIONER CABRAL:** I'd also like to ask  
18 -- I know we are not doing -- not allowing the  
19 commissioners to be on Zoom to attend, and we, of  
20 course, did that a lot during Covid, and then for a  
21 while we were doing a combination of live and  
22 potentially on Zoom combination meetings. I  
23 particularly thought that was somewhat advantageous  
24 to busy schedules.

25 But I am going to be out of town and out

1 of the country on June 7th, and that's the only date  
 2 of all the dates you have moving forward that I will  
 3 not be available, so I'm wondering if for the full  
 4 hearing or potentially for that portion of it, if  
 5 I'm able to find a Zoom connection in Australia and  
 6 New Zealand where I'll be, then I could attend that  
 7 portion of it on Zoom. So just an inquiry there.  
 8 Thank you.

9 **MR. ORODENKER:** We will attempt to make  
 10 (inaudible) Commissioner Cabral, but you have to  
 11 keep track of the dates because it's --

12 **COMMISSIONER CABRAL:** That's right. Okay.  
 13 That's true.

14 **CHAIRMAN GIOVANNI:** Wait. Let me get it  
 15 straight. So this is the -- so you will be  
 16 available the --

17 **COMMISSIONER CABRAL:** 21st and 22nd.

18 **CHAIRMAN GIOVANNI:** In Hilo?

19 **COMMISSIONER CABRAL:** Yes, yes.

20 **CHAIRMAN GIOVANNI:** But you're asking for  
 21 a special accommodation for the June 7 meeting?

22 **COMMISSIONER CABRAL:** Yes.

23 **CHAIRMAN GIOVANNI:** You'll be in  
 24 Australia?

25 **COMMISSIONER CABRAL:** Yes. Or New

1 Zealand, yes. I'm not sure what day it is. I'll  
2 have to figure that out.

3 **CHAIRMAN GIOVANNI:** So let me -- let me  
4 encourage LUC staff to see if accommodation can be  
5 made.

6 **COMMISSIONER CABRAL:** Thank you.

7 **MR. ORODENKER:** We will do so.

8 **CHAIRMAN GIOVANNI:** Thank you. Any other  
9 business, anyone?

10 This meeting is adjourned. Thank you,  
11 all.

12 **(Meeting adjourned at 10:13 a.m.)**

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE

2  
3 I, Jodi Dean, do hereby certify that the  
4 proceeding named herein was professionally transcribed on  
5 the date set forth in the certificate herein; that I  
6 transcribed all testimony adduced and other oral  
7 proceedings had in the foregoing matter; and that the  
8 foregoing transcript pages constitute a full, true, and  
9 correct record of such testimony adduced and oral  
10 proceeding had and of the whole thereof.

11  
12 IN WITNESS HEREOF, I have hereunto set my  
13 hand this 13th day of June, 2023.

14  
15  
16  
17 

18  
19 \_\_\_\_\_  
20 Jodi Dean  
21  
22  
23  
24  
25