

LAND USE COMMISSION
MEETING MINUTES

November 22, 2013 – 9:00 a.m.

The Meeting was held at the following Video Conference Centers simultaneously:
O`ahu- Kalanimoku Building, 1151 Punchbowl St., Room B10, Honolulu, Hawai`i, 96813
Kaua`i – Lihu`e State Office Bldg., 3060 `Eiwa Street, Basement, Lihu`e, Hawai`i, 96766
Maui- Wailuku Judiciary Bldg., 2145 Main Street, First Floor, Wailuku, Hawai`i, 96793
Hawai`i- Hilo State Office Bldg., 75 Aupuni Street, Hilo, Hawai`i, 96720

COMMISSIONERS PRESENT: Chad McDonald (on O`ahu)
Lance Inouye (on O`ahu)
Ronald Heller (on O`ahu)
Sheldon Biga (on Maui)
Ernest Matsumura (on Hawai`i)
Kyle Chock (on O`ahu)
Carol Torigoe (on O`ahu)
Dennis Esaki (on Kaua`i)

(There are currently 8 seated Commissioners with 1 vacant at-large seat)

COMMISSIONERS EXCUSED:

STAFF PRESENT: Daniel Orodener, Executive Officer (on O`ahu)
Bert Saruwatari, Staff Planner (on O`ahu)
Scott Derrickson, Staff Planner (on O`ahu)
Diane Erickson, Deputy Attorney General (on O`ahu)
Riley Hakoda, Staff Planner/Chief Clerk (on O`ahu)

COURT REPORTER: Holly Hackett (on O`ahu)

CALL TO ORDER

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

APPROVAL OF MINUTES

Chair Heller asked if there were any corrections or additions to the November 8, 2013, minutes. There were none. Commissioner Chock moved to approve the minutes.

Commissioner Inouye seconded the motion. The minutes were unanimously approved by a voice vote (8-0).

TENTATIVE MEETING SCHEDULE

Executive Officer Orodener provided the following:

- The regular tentative meeting schedule has been distributed in the handout material for the Commissioners.
- The December 11-12, 2013 meeting is open.
- The January 8-9, 2014 meeting is planned for (1) DR13-50 Kamehameha Schools Bishop Estate's Petition for an Important Agricultural Land on Kaua'i and (2) for a possible approval for the LUC to file for a Declaratory Ruling on Renewable Energy Utilities on Agricultural Land. There is also a planned briefing on the LUC's 2014 Legislative activities; and due to the tight time schedule that the Commission will be on, lunch will be provided to Commissioners and staff during the site visit to ensure that the meeting portion of the day can proceed on time.
- The January 22-23, 2014 meeting is planned for a status/update report on DR08-36 Ko Olina Boat Ramp on O'ahu
- February 13-14, 2014 is currently open.
- February 26-27, 2014 is when the Commission plans to hear its Petition for a Declaratory Ruling for Renewable Energy on Agricultural Land.
- If there are conflicts or problems with the scheduling, Commissioners should advise LUC staff

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

ACTION

A13-797 CMBY 2011 INVESTMENT, LLC (MAUI)

Chair Heller announced that this meeting was to adopt the form of the order regarding Docket No. A13-797 CMBY 2011 Investment, LLC (Maui)'s Petition to Amend the Land Use District Boundary of Certain Lands Situated at Pulehunui, Wailuku, Island of Maui, State of Hawai'i, consisting of approximately 86.03 acres from the Agricultural District to the Urban District, TMK Nos. 3-8-008:019.

Chair Heller confirmed with the Commissioners and meeting attendees that they were present and at what locale; updated the record and explained the procedures to be

followed for the proceedings. There were no questions, comments or objections to the procedures.

Commissioner Esaki stated that he had recused himself on this Petition. Chair Heller acknowledged Commissioner Esaki's recusal and proceeded with calling for the Parties to identify themselves. (7 Commissioners participated in A13-797. Commissioner Esaki did not participate in any of A13-797's proceedings and rejoined the meeting when this docket matter had concluded).

APPEARANCES

Jennifer Benck, Esq. represented CMBY 2011 Investment, LLC ("CMBY") (on O'ahu)
Blanca Lafolette, Representative CMBY (on Maui)
James Giroux, Deputy Corporation Counsel, represented County of Maui Planning Department (on Maui) ("County")
Kurt Wollenhaupt, Planner, County (on Maui)
Lorene Maki, OP (on O'ahu)

Chair Heller called for public witnesses.

PUBLIC WITNESSES

There were no public witnesses.

ADOPTION OF THE FORM OF THE ORDER

Chair Heller asked the Commission what its pleasure was regarding Docket No. A13-797. Commissioner Chock moved to approve the form of the order as presented by LUC staff. Commissioner Inouye seconded the motion. There was no discussion.

The Commission voted unanimously (7-0 with 1 recused) to approve the form of the order.

There were no further questions or comments regarding business on A13-797.

(Commissioner Esaki rejoined the meeting- 8 Commissioners participating for remainder of the hearing)

ACTION

A84-585 Maui Economic Development Board, Inc. (MAUI)

Chair Heller announced the Commission would next address the adoption of the form of the order regarding Docket No. A84-585 Petitioner's Motion for Order Amending the Amended Findings of Fact, Conclusions of Law and Decision and Order

filed February 25, 1986; and updated the record and explained the procedures to be followed for the proceedings. There were no questions, comments or objections to the procedures.

APPEARANCES

Curtis Tabata, Esq. and Wyeth Matsubara, Esq. , represented Petitioner Maui R&T Partners, LLC (on O`ahu)
Steve Perkins, Maui R&T Partners, LLC, Project Manager and Representative (O`ahu)
James Giroux, Deputy Corporation Counsel, represented County of Maui Planning Department (on Maui) (“County”)
Kurt Wollenhaupt, Planner, County (on Maui)
Lorene Maki, OP (on O`ahu)

Chair Heller called for public witnesses for dockets A84-585 and A10-787.

PUBLIC WITNESSES

There were no public witnesses.

ADOPTION OF THE FORM OF THE ORDER

Chair Heller stated that he would address the dockets separately and asked the Commission what its pleasure was regarding Docket No. A84-585. Commissioner Biga moved to approve the form of the order as presented by LUC staff. Commissioner McDonald seconded the motion. There was no discussion.

The Commission voted unanimously (8-0) to approve the form of the order. There were no further questions or comments regarding business on A84-585.

ACTION

A10-787 MAUI R&T PARTNERS, LLC (Maui)

APPEARANCES

Curtis Tabata, Esq., Wyeth Matsubara, Esq. and Benjamin Matsubara, Esq., represented Petitioner Maui R&T Partners, LLC (on O`ahu)
Steve Perkins, Maui R&T Partners, LLC, Project Manager and Representative (O`ahu)
James Giroux, Deputy Corporation Counsel, represented County of Maui Planning Department (on Maui) (“County”)
Kurt Wollenhaupt, Planner, County (on Maui)

Lorene Maki, OP (on O'ahu)

Chair Heller announced the Commission would next address the adoption of the form of the order regarding Docket No A10-787 Maui R&T Partners LLC's Petition To Amend the Land Use District Boundary of Certain Lands Situated at Kihei, Island of Maui, State of Hawaii, Consisting of 253.05 Acres from the Agricultural District to the Urban District, Tax Map Key Nos. (2) 2-2-024:016 and 017, and (2) 2-2-002-084(por); and updated the record and described the procedures to be followed.

There were no questions or comments regarding the procedures.

ADOPTION OF THE FORM OF THE ORDER

Chair Heller asked the Commission what its pleasure was regarding Docket No. A10-787. Commissioner Biga moved to approve the form of the order as presented by LUC staff. Commissioner McDonald seconded the motion.

Commissioner Esaki requested clarification on whether State resources would be needed to provide for the Petition Area; and what project completion timeframe the Petitioner would be using. Mr. Tabata responded that in the Petitioner's proposed Findings of Facts, Conclusions of Law and Decision and Order, there was a finding which specified that the Petitioner would privately develop water resources; and that no State resources were anticipated to be required. Mr. Tabata also stated that Petitioner did not have an open-ended development schedule but rather a plan with a twenty year projection for completion.

There was no further discussion.

The Commission voted unanimously (8-0) to approve the form of the order. There were no further questions or comments regarding business on A10-787.

Commissioner Chock moved to adjourn the meeting and Commissioner Matsumura seconded the motion. By a unanimous voice vote, the Commission elected to adjourn (8-0).

There being no further business and the Commission electing to adjourn, Chair Heller declared the meeting adjourned at 9:10 a.m.