

LAND USE COMMISSION
MINUTES OF MEETING

March 7, 2008

Leiopapa A Kamehameha
4th Floor
Conference Room 405
235 So. Beretania Street
Honolulu, Hawaii

COMMISSIONERS PRESENT: Kyle Chock
Thomas Contrades
Lisa Judge
Duane Kanuha
Normand Lezy
Ransom Piltz
Nicholas Teves
Reuben Wong

COMMISSIONERS ABSENT: Vladimir Devens

STAFF PRESENT: Diane Erickson, Deputy Attorney General
Rodney A. Maile, Interim Executive Officer
Bert Saruwatari, Staff Planner
Sandra Matsushima, Chief Clerk
Holly Hackett, Court Reporter
Walter Mensching, Audio Technician

Chair Judge called the meeting to order at 9:45 a.m.

SP87-362 DEPT. OF ENVIRONMENTAL SERVICES, CITY & COUNTY OF HONOLULU – WAIMANALO GULCH (Oahu)

APPEARANCES

Gary Takeuchi, Esq., represented the City and County of Honolulu, Department of Environmental Services

Eric Takamura, City and County of Honolulu, Department of Environmental Services

Colleen Hanabusa, Esq., representing herself and the KOCA as Intervenors

Ken Williams, KOCA

Chair Judge noted that the LUC was in deliberation and would not be taking any public testimony on this matter.

Commissioner Wong moved that the LUC adopt the recommendations of the Planning Department with the exception that instead of the expiration date of May 1, 2010, that date be changed to November 1, 2009 for an 18-month extension. In addition, the city will provide a report to the LUC every six months with respect to the actions taken to alleviate the further use of the landfill. The motion was seconded by Commissioner Piltz.

Commissioner Piltz commented that given the discussion yesterday and going with home rule, he found this motion equitable.

EXECUTIVE SESSION

Commissioner Teves moved to go into executive session pursuant to § 92-5(a)(4), Hawaii Revised Statutes, to consult with the board's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities. Commissioner Contrades seconded the motion. The motion was approved by a show of hands.

The Commission entered into executive session at 9:50 a.m.

The open meeting reconvened at 10:25 a.m.

Commissioner Wong noted that he was concerned for the health and safety of the people of the City and County of Honolulu and the rights of the people living in the

Leeward Coast that are subjected to the problems from the landfill. Commissioner Wong suggested that the LUC find a way to make it clear that both the city administration and the city council find a resolution to solve this problem. Commissioner Wong proposed that there be thorough progress reports every six months to the LUC and in the event that the reports are inadequate, the LUC has the power to issue an Order to Show Cause. Commissioner Wong then urged his fellow commissioners to support this motion.

Commissioner Piltz commented that he supported Commissioner Wong's motion and added that this was an obligation to the city and that he did not want to see them return in another two years and request for another extension.

Commissioner Lezy noted that he believed that the appropriate course of action was to deny the application. Commissioner Lezy stated that his principal concern was that the motion pending creates no binding obligation for the DES to meet their obligations under the prior order and that in allowing this extension and granting the amendment, was contravening to the purpose of the LUC's 2003 order. Commissioner Lezy added that it was made clear by the applicant that they would return and seek an amendment to this special permit. The lack of a good faith effort by the city to adhere to the condition that required them to look at alternatives in dealing with the stream of waste. Commissioner Lezy asked that his fellow commissioners look carefully at what they were voting on and where this matter will end.

Commissioner Wong commented that he understood Commissioner Lezy's position. However, he believed that to totally deny this would be a draconian action and puts the city in a precarious position. The waste would still need to be picked up and placed somewhere. To totally deny is a catastrophic effect. Commissioner Wong added that he believed that to add additional land would be a question of whether the special permit process is the proper method. The district boundary amendment is a more lengthy and comprehensive process that would recognize all of these issues. Commissioner Wong urged his fellow commissioners to approve his motion.

Chair Judge commented that it was unfortunate that the LUC would find itself in this difficult position again with less than 60 days from the promised close date of the landfill to make a decision. The LUC has read the record, heard the concerns of the public, and seen the promises of the city's government. Chair Judge noted that it was hard to weigh in all the issues of the public's health and safety, and a need for the city to deposit the solid waste. Chair Judge wondered how the LUC could stop this history from repeating itself.

Chair Judge then repeated the motion to accept the Planning Commission's recommendation with the modification that the date of May 1, 2010 be modified to November 1, 2009 and a new condition be imposed that requires the applicant to report to the LUC every six months the actions that they have taken to alleviate further use of the landfill.

The Commission was polled as follows:

Ayes: Wong, Piltz, Contrades, Teves, Kanuha and Judge.

Nays: Chock and Lezy.

The motion passed with 6 yes, 2 no, and 1 absent.

Chair Judge noted that staff would prepare an order and circulate it to the LUC. The order would be signed in counterparts.

A recess break was taken at 10:45 a.m. The meeting reconvened at 10:55 a.m.

EXECUTIVE SESSION

Commissioner Wong moved to go into executive session pursuant to § 92-5(a)(4), Hawaii Revised Statutes, to consult with the board's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities regarding personnel matters. Commissioner Contrades seconded the motion. The motion was approved by a show of hands.

The Commission entered into executive session at 10:55 a.m.

The open meeting reconvened at 11:05 a.m.

Chair Judge stated that agenda Action item number 1 would be heard today. Agenda Action items 2 and 3 would be deferred until the next appropriate meeting.

UPDATE OF THE LUC REIMBURSEMENT POLICY

Chair Judge noted that this was an action meeting for the adoption of staff proposed update to the LUC's reimbursement policy.

Mr. Maile stated that the purpose for the update was to have the policy written in a way that would be more convenient to the parties. It accurately restates what the LUC's policy had been and was put in this fashion to be easily distributed in a more uniform format.

Chair Judge questioned how the policy had been communicated previously to the petitioners.

Mr. Maile stated that it was in the form of a PowerPoint file. This new form just restates the prior policy.

Commissioner Contrades moved to adopt the staff proposed update to the LUC's reimbursement policy, effective March 7, 2008. The motion was seconded by Commissioner Piltz.

The Commission was polled as follows:

Ayes: Contrades, Piltz, Chock, Lezy, Teves, Wong, Kanuha, and Judge.

The motion passed with 8 yes, and 1 absent.

LEGISLATION

Mr. Maile stated that he would be sending to the LUC an electronic spreadsheet file with links, text, and status on the various bills.

Mr. Maile briefly discussed S.B. 2997 S.D. 1, and the status of bills that have crossed over.

The meeting adjourned at 11:05 a.m.

(Please refer to LUC Transcript of March 7, 2008 for more details on this matter.)