

LAND USE COMMISSION
MEETING MINUTES

June 4, 2010 – 9:30 a.m.

The Meeting was held at the following Video Conference Centers simultaneously:
O`ahu- Keoni Ana Building, 1177 Alakea Street, Room 302, Honolulu, Hawai`i, 96813
Kaua`i – Līhu`e State Office Building, 3060 `Eiwa Street, Basement, Līhu`e, Hawai`i, 96766
Maui- Wailuku Judiciary Building, 2145 Main Street, First Floor, Wailuku, HI, 96793

COMMISSIONERS PRESENT:

On Oahu Duane Kanuha
Nicholas Teves, Jr.
Vladimir Devens
Reuben Wong (arrived at 9:31 a.m.)

On Kauai Thomas Contrades

On Maui Lisa Judge
Ransom Piltz

COMMISSIONERS ABSENT: Normand Lezy
Kyle Chock

STAFF PRESENT:

On Oahu Orlando Davidson, Executive Officer
Diane Erickson, Deputy Attorney General
Riley Hakoda, Staff Planner/Acting Chief Clerk

On Maui Bert Saruwatari, Staff Planner

COURT REPORTER:

On Oahu Holly Hackett

CALL TO ORDER

Chair Piltz called the meeting to order at 9:30 a.m.

APPROVAL OF MINUTES

Chair Piltz asked if there were any corrections or additions to the minutes. Commissioner Contrades moved to approve the minutes. Commissioner Judge seconded the motion... The minutes were unanimously approved by voice votes (7-0 with 2 excused).

TENTATIVE MEETING SCHEDULE

Executive Davidson provided the following:

- The tentative meeting schedule for the calendar year had been circulated.
- July's first meeting is scheduled on Thursday and Friday, July 1 and 2.
- June 16 and 17 will be in Kona, and additional forecasting had been done looking forward into September- any questions/problems, please contact LUC staff.

ACTION

A09-786 Olowalu Town LLC, Olowalu Ekolu LLC

Chair Piltz announced that this was an action meeting:

- To determine whether the Land Use Commission is the appropriate accepting authority pursuant to Chapter 343, Hawaii Revised Statutes, of an environmental impact statement relating to the development and reclassification of approximately 320 acres from the Agricultural District to the Rural and Urban Districts, Portions of Tax Map Key Nos. (2) 4-8-003:084, 098-118 and 124 and
- To determine whether the proposed action may have a "significant effect" to warrant the preparation of an Environmental Impact Statement pursuant to Chapter 343, Hawaii Revised Statute.

APPEARANCES

Blaine Kobayashi, Esq. represented Petitioner Olowalu Town LLC and Olowalu Ekolu LLC

William Frampton, Olowalu Town LLC

James Giroux, Esq., represented County of Maui

Jeff Hunt – Planning Department-County of Maui
Bryan Yee, Esq., represented State Office of Planning
Abbey Mayer, Director, State Office of Planning

Mr. Kobayashi confirmed that LUC staff had advised him of Commission's policy regarding the reimbursement of hearing expenses and that his client had no objections to the reimbursement of expenses.

PUBLIC WITNESSES

1. John Crinion

Mr. Crinion provided his reasons for objecting to the land use reclassification of Petition Area and shared his concerns about the project's developer. Chair Piltz stated that today's meeting was to focus on whether or not the Commission should be the accepting authority for the Environmental Impact Statement.

Commissioner Judge explained how the LUC process would progress if the EIS was accepted and that the LUC did not have any information on the Petition yet. Commissioner Judge encouraged Mr. Crinion to monitor the proceedings and return at the appropriate time with his comments.

Mr. Giroux commented that Mr. Crinion's testimony might be considered for its weight of whether or not there may be an effect for an EIS.

There were no further questions for Mr. Crinion.

2. Irene Bowie

Ms. Bowie stated that she was the Executive Director of the Maui Tomorrow Foundation and expressed that her organization supported the motion for the LUC to be the accepting authority for the EIS. There were no questions for Ms. Bowie.

3. Randy Ragon

Mr. Ragon stated that he agreed that the LUC should be the accepting

authority for the EIS and that he was part of a group that had filed a notice to intervene.

Mr. Kobayashi noted that the notice of the intent to intervene filed by Mr. Ragon's group was not in compliance with the Commission's rules.

Mr. Giroux stated that the Maui Planning Department had just received the notice of the intent to intervene and would review the document and advise the Commission on its findings.

Mr. Yee stated that OP did not receive a copy of the notice of intent to intervene and asked to obtain one.

Mr. Kobayashi further noted that his office had not been properly served with the notice of intent to intervene. There were no further questions for Mr. Ragon.

4. Lucienne de Naie

Ms. de Naie stated that she was testifying on behalf of the Sierra Club Maui Group and provided the history and background that her organization had with the Petition Area. Ms. de Naie commented that she supported the LUC being the accepting authority for the EIS. There were no further questions for Ms. de Naie.

Executive Officer Davidson stated that written correspondence had been received from former planning director Mike Foley just before the meeting and that it would be distributed to the Commission. Chair Piltz acknowledged that the Maui commissioners had received the correspondence. There were no questions for Mr. Davidson.

PETITIONER

Mr. Kobayashi described the project and the triggers the Petitioner had identified to warrant the preparation of an Environmental Impact Statement (EIS); and provided the reasons why the Commission should be the accepting authority for the EIS once it is prepared. There were no questions for Mr. Kobayashi.

COUNTY OF MAUI

Mr. Giroux stated that the County had no objection to the LUC being the accepting authority and explained the reasons for the County's position. There were no questions for Mr. Giroux.

OP

Mr. Yee stated that OP had no objection to the LUC being the accepting authority with the understanding that OP's position on the reclassification had not yet been determined. There were no questions for Mr. Yee.

Commissioner Judge made a motion that the Commission determine that the proposed action may have a "significant effect" to warrant the preparation of an Environmental Impact Statement pursuant to Chapter 343, HRS, and also determine that the LUC was the appropriate accepting authority pursuant to Chapter 343, HRS.

Commissioner Contrades seconded the motion and requested clarification on the docket number. The docket number was confirmed as A10-786.

The Commission was polled as follows:

Ayes: Commissioners Judge, Teves, Wong, Devens, Kanuha, Contrades and Chair Piltz.

Nayes: None

The motion passed 7-0 with 2 excused.

The Commission went into recess at 9:58 a.m. and reconvened at 10:04 a.m.

ACTION

BR09-784 State Office of Planning, State of Hawai'i

Chair Piltz announced that this was an action meeting on the State Office of Planning's Petition To Amend the State Land Use Urban District Boundary into the Conservation Land Use District For Approximately 215 Acres of Land Situated At Ka Iwi State Park and Queen's Beach, Maunaloa, Island of Oahu, State of Hawai'i. Identified by TMK 3-9-011:002 (por.)

APPEARANCES

Bryan Yee, Esq., represented State Office of Planning (Petitioner)
Abbey Mayer, Director, State Office of Planning
Dawn Takeuchi-Apuna, Esq., represented City and County of Honolulu
Department of Planning and Permitting
Timothy Hata, Department of Planning and Permitting

PUBLIC WITNESSES

1. State Representative Gene Ward

Representative Ward described his district's interests in having the Petition Area returned to the Conservation Land Use District. There were no questions for Mr. Ward.

OP

Mr. Yee described how OP had presented its evidence and how all parties had worked together and agreed on the outcome and specific wording of the Decision and Order. There were no questions for Mr. Yee.

CITY AND COUNTY OF HONOLULU

Ms. Takeuchi-Apuna stated that the City and County's suggested changes to OP's proposed Findings of Fact, Conclusions of Law and Decision and Order were stipulated to by OP.

Commissioner Wong moved to adopt the proposed Findings of Fact, Conclusions of Law and Decision and Order as stipulated to with two revisions:

- 1) That all the references be consistent to read "Ka Iwi State Scenic Shoreline" rather than Ka Iwi State Park and
- 2) that the Conclusions of Law include a paragraph 6 that would read: "Pursuant to chapter 183C, Hawaii Revised Statutes, the State Board of Land and Natural Resources and the State Department of Land and Natural Resources have the legal authority to establish and enforce land use regulations on Conservation District lands."

Commissioner Judge seconded the motion.

Commissioner Judge requested clarification on whether the motion included the acceptance of the County's proposed changes. Chair Piltz confirmed that it did. There were no further questions or discussion.

The Commission was polled as follows:

Ayes: Commissioners Wong, Judge, Teves, Contrades, Kanuha, Devens and Chair Piltz

Nays: None

The motion passed 7-0 with 2 excused.

Commissioner Devens noted that this meeting would be the last official meeting for Commissioner Wong. Discussion ensued to recognize and thank Commissioner Wong for his contributions. Commissioner Wong acknowledged the comments and stated his appreciation and gratitude for the efforts of his fellow Commissioners and the LUC staff.

There being no further business to discuss, the meeting was adjourned at 10:14 a.m.