

LAND USE COMMISSION
MEETING MINUTES

September 22, 2011
Kauai Grand Hyatt Resort
Kauai Ballroom 165
157 Poipu Road, Koloa, Kauai 96756

COMMISSIONERS PRESENT: Normand Lezy
Thomas Contrades
Kyle Chock
Ronald Heller
Ernest Matsumura
Chad McDonald

COMMISSIONERS EXCUSED: Napua Makua
Nicholas Teves, Jr.
Lisa Judge

STAFF PRESENT: Orlando Davidson, Executive Officer
Diane Erickson, Deputy Attorney General
Scott Derrickson, Staff Planner
Riley Hakoda, Staff Planner/Acting Chief Clerk

COURT REPORTER: Holly Hackett

CALL TO ORDER

Chair Lezy called the meeting to order at 5:11 p.m.

APPROVAL OF MINUTES

Chair Lezy asked if there were any corrections or additions to the September 8-9, 2011 minutes. There were none. Commissioner Contrades moved to approve the minutes. Commissioner Heller seconded the motion. The minutes were unanimously approved by a voice vote (6-0).

TENTATIVE MEETING SCHEDULE

Executive Officer Davidson provided the following:

- The regular tentative meeting schedule for the calendar year 2011 was distributed in the handout material for the Commissioners.
- The upcoming one-day October 7, 2011 meeting will include considering a late petition to intervene for Docket No. A06-771 in the morning and a site visit to the Petition Area in the afternoon. The hearing on the merits for A06-771 will begin on October 20-21, 2011.
- The November 3-4, 2011 LUC meeting will involve travel to Maui for a variety of matters including A11-790 Kula Ridge LLC.

Any questions or concerns- please contact LUC staff

ACTION

A03-743 HAWAII ELECTRIC LIGHT COMPANY, INC.

Chair Lezy announced that this was an action meeting to consider Docket No. A03-743 -Hawaii Electric Light Company, Inc.'s Motion for Modification of Condition No. 5 contained in the Findings of Fact, Conclusions of Law, and Decision and Order entered by the State Land Use Commission on November 7, 2005.

APPEARANCES

Robert Marks, Esq., represented Hawaii Electric Light Company, Inc.
Norman Verbanic, Mgr., Production Department, Hawaii Electric Light Company, Inc.

Bobbie Jean Leithead-Todd, Director, Hawai'i County Planning Department

Bryan Yee, Esq., represented State Office of Planning

Chair Lezy updated the record and asked if Petitioner was willing to abide by the Commission's policy on reimbursement of hearing expenses. Mr. Marks replied that Petitioner would comply. Chair Lezy stated the procedures to be followed for the hearing and there were no questions about them.

Commissioner Heller disclosed that his firm had represented the Petitioner in legal matters and that he did not feel that his participation would be affected by the relationship that his firm had with Petitioner and was making the disclosure to the Parties to allow them to object if they chose to.

Chair Lezy asked the Parties if there were any objections to Commissioner Heller's continued participation in the proceedings. Petitioner, County of Hawaii and the State Office of Planning had no objections.

PUBLIC WITNESSES

There were no public witnesses.

PRESENTATIONS

Mr. Marks provided argument why the Motion to Amend Condition 5 should be granted.

Ms. Leithead-Todd stated that Hawaii County had no opposition to the Motion.

Mr. Yee stated that the Office of Planning had no opposition to the Motion and thanked the Petitioner for clarifying OP's understanding of the Petitioner's motion during the discussions in preparation for the LUC hearing.

Chair Lezy asked if the Parties had anything further to add to the record. Mr. Marks responded that he did not. Hawai'i County and OP replied that they would stand on their written comments.

There were no further questions or discussion.

Commissioner Chock moved to grant the Motion. Commissioner Matsumura seconded Commissioner Chock's motion.

The Commission was polled as follows:

Ayes: Commissioners Chock, Matsumura, Contrades, McDonald, Lezy, Heller and Chair Lezy.

Nays: None

Excused: Commissioners Judge, Makua, and Teves.

The Motion passed 6-0 with 3 excused.

DISCUSSION ON ADMINISTRATIVE RULES

APPEARANCES

There were no public witnesses

LUC Executive Officer Davidson

Mr. Davidson provided background information on the LUC's work regarding Administrative Rule amendment proposals.

Commissioner Heller requested clarification on which version of the proposed Administrative Rules needed to be reviewed. Executive Officer Davidson responded that the current public draft would be used and that only proposed changes would be highlighted.

Commissioner Chock suggested clarifying LUC's proposed voting procedures and reviewing the time requirements for responding to requests for reconsideration. Executive Officer Davidson described possible procedural changes that could be made.

Chair Lezy requested a hard copy of the entire Ramsayered proposed Administrative Rule changes. Executive Officer Davidson acknowledged his request and stated that he expected that the entire proposed changes would be ready in early November, 2011.

There were no further questions, comments or discussion regarding the Administrative Rules.

There being no further business, the meeting was adjourned at 5:32 p.m.