

LAND USE COMMISSION
MEETING MINUTES
March 5, 2015 - 9:30 a.m.
Airport Conference Center
400 Rodgers Blvd. Suite 700, Room #3
(In Hawaiian Airlines Terminal Building)
Honolulu, HI 96819

COMMISSIONERS PRESENT: Chad McDonald
Arnold Wong
Edmund Aczon
Kent Hiranaga
Brandon Ahakuelo
Neil Clendeninn
Sandra Song
Aaron Mahi

COMMISSIONERS EXCUSED: Jonathan Scheuer

LUC STAFF PRESENT: Daniel Orodener, Executive Officer
Diane Erickson, Deputy Attorney General
Bert Saruwatari, Staff Planner
Scott Derrickson, Staff Planner
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Holly Hackett

CALL TO ORDER

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

APPROVAL OF MINUTES

Chair McDonald asked if there were any corrections or additions to the February 18, 2015 minutes. There were no corrections or comments. Commissioner Wong moved to approve the minutes. Commissioner Ahakuelo seconded the motion. The minutes were unanimously approved by 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 March 4, 2015 meetings for A89-643 McClean Honokohau Motion to remove, discharge and/or delete conditions has been rescheduled to May 28, 2015, in Kona on the Big Island, at the West Hawaii Civic Center.
- March 25, 2015 is scheduled to be a video conference linking Oahu and Maui to adopt the form of the order for SP15-405 Waiawa PV, LLC's Special Permit Application
- April and May are currently open with no LUC activity scheduled.
- June 10, 2015 is scheduled for A14-798 Island Charter School (Kaua`i)
- Above dates represent the tentative calendar of meetings and are subject to change.
- Any questions or conflicts, please contact LUC staff.

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

ADOPTION OF ORDER DR14-52

DR14-52 TRUSTEES OF BERNICE PAUAHI BISHOP dba KAMEHAMEHA SCHOOLS

Chair McDonald stated that this was a meeting to adopt the form of the order for Docket No. DR14-52 Trustees of Bernice Pauahi Bishop dba Kamehameha Schools' Petition For Declaratory Order to Designate Important Agricultural Lands ("IAL") for approximately 9,171.161 acres at Kawailoa, O'ahu identified by TMK Nos. (1) 6-1-005: 001 (por.); 6-1-006: 001 (por.); 6-1-007: 001; 6-2-009: 001 (por.); 6-2-010: 001 (por.); 6-2-011: 001 (por.); 6-2-011: 021 and approximately 420.887 acres at Punalu'u, O'ahu identified by TMK Nos. (1) 5-3-001: 041 (por.); 5-3-003: 001 (por.); 5-3-004: 005; 5-3-004:007; 5-3-004: 013; 5-3-004: 018 (por.); 5-3-004: 019; 5-3-007: 023 (por.).

Chair McDonald updated the record, and described the procedures for the hearing. There were no questions or comments on the procedures.

APPEARANCES

Calvert Chipchase, Esq., for Trustees of Bernice Pauahi Bishop dba Kamehameha Schools' ("KS")

Richard Lewallen, Esq., for City and County of Honolulu Department of Planning and Permitting ("DPP")

Randy Hara, DPP

Rodney Funakoshi, Land Use Administrator, State Office of Planning ("OP")

Lorene Maki, OP

PUBLIC TESTIMONY- DOCKET NO. DR14-52

Chair McDonald asked if there were any Public Witnesses who wished to testify.

PUBLIC WITNESSES

None

Chair McDonald asked if the Parties had any final comments. Mr. Chipchase thanked the Commission and LUC staff for their attention and work in processing and granting this Petition.

There were no further comments.

Commission Wong moved to approve the form of the order for Docket No. DR14-52, which was based upon the proposed order submitted by KS with technical and other amendments. Commissioner Mahi seconded the motion. There was no discussion.

The Commissioners voted as follows:

Ayes: Commissioners Wong, Mahi, Aczon, Hiranaga, Ahakuelo, Clendeninn, and Chair McDonald

Nays: None

Abstain: Commission Song

Excused: Commissioner Scheuer

By a vote of 7-0-1 abstain (Commissioner Song)- 1 excused (Commissioner Scheuer) the motion was approved.

Chair McDonald declared a recess at 9:38 a.m. and reconvened the meeting at 9:42 a.m.

HEARING AND ACTION

SP15-405 WAIAWA PV LLC (O`ahu)

Chair McDonald stated that this was a hearing and action meeting on Docket No. SP15-405 Waiawa PV, LLC To Consider a A New Special Permit Application (DPP SUP Application No., 2014/SUP-3) to Allow Development of a 47-megawatt photovoltaic (PV) Energy Generation Facility and Accessory Uses and Structures On Lands Rated Class B by the Land Study Bureau, Waipio, Ewa, Oahu, Hawai`i. Tax Map Key 9-5-003: Portion of Parcel 004.

Chair McDonald updated the record, and described the procedures for the hearing. There were no questions or comments on the procedures

APPEARANCES

Jennifer Lim, Esq., and Onaona Thoene, Esq., for Petitioner Waiawa PV LLC("LLC")

Wren Wescoatt, LLC Representative

Richard Lewallen, Esq., for City and County of Honolulu Department of Planning and Permitting ("DPP")

Rodney Funakoshi, Land Use Administrator , State Office of Planning ("OP")

Lorene Maki, Planner, OP

Chair McDonald asked if any of the Commissioners wished to make any disclosures regarding this docket. No Commissioners had any disclosures.

Chair McDonald stated that before beginning proceedings on the case in chief, he would address Petitioner's request that the Commission officially notice the change of name for the Petitioner based on correspondence received on February 27, 2015 and served on all the interested Parties.

Based upon the authority Section 15-15-63(k), Hawai'i Administrative Rules, and Hawai'i Rules of Evidence (HRE) 201 (f) Chair McDonald ruled that the Commission would take official notice of the change in name of Petitioner, to now be known as Waipi'o PV, LLC.

PUBLIC TESTIMONY- DOCKET NO. SP15-405

Chair McDonald asked if there were any Public Witnesses who wished to testify.

PUBLIC WITNESSES

None

PRESENTATIONS

Petitioner

Ms. Lim provided a background history and summary of the Petition and described that the passage of Act 55 required the Petitioner to seek a Special Permit Application. Ms. Lim argued why the Commission should grant the Petition and described the features of the proposed solar facility and why the Applicant's proposed Findings of Fact, Conclusions of Law and Decision and Order should be positively considered.

Commissioner Song requested clarification on how "unusual and reasonable" guidelines would be applied by the Petitioner and what criteria were involved. Ms. Lim provided her perception of how Petitioner's proposed use of the property would comply with "unusual and reasonable" use guidelines based on HAR 15-15-95 (c), HRS 205, 205 (a) and Act 55.

Commissioner Wong requested clarification on the status of State Historic Preservation Department ("SHPD") responses regarding the proposed project. Ms. Lim described the status of SHPD comments included in the Planning Commission records and stated that no determination by SHPD had been made at the time when the record closed at the City and County of Honolulu Department of Planning and Permitting Planning Commission in December, 2014.

Chair McDonald asked if a SHPD response had been received since December. Ms. Lim responded that a response had been received.

Commissioner Hiranaga requested clarification on the distances described between the Petition Area and Mililani Mauka, and what the proposed agricultural lease rates were. Ms. Lim provided additional details to address these questions.

Commissioner Mahi requested clarification on whether community groups opposed the proposed project. Ms. Lim referred to various exhibits that were part of the County Planning Commission record that documented the public testimony and community outreach that had been performed; and stated that there had been no opposition during the Planning Commission proceedings.

Commissioner Hiranaga requested clarification on how the viability for sheep grazing had been determined. Ms. Lim deferred to Mr. Westcoatt to provide the details on how the Applicant had investigated and determined that sheep farming was viable. Mr. Westcoatt described the proposed sheep grazing activity and other factors and considerations that were included in evaluating the agricultural feasibility for the Petition Area.

Commissioner Ahakuelo requested clarification on how the proposed Hawaiian Electric Company (“HECO”) switchyard factored into the proposed project. Ms. Lim stated that the switchyard would be built by HECO as part of the proposed project; and that current plans represented that HECO would continue to retain the switchyard after the project’s decommissioning.

The Commission went into recess at 10:42 a.m. and reconvened at 10:56 a.m.

Chair McDonald asked if DPP had any comments. Mr. Lewallen replied that he had none .

Chair McDonald asked if OP had any comments. Mr. Funakoshi, OP Land Use Division, presented OP’s position on the Petition and described how OP generally supported the Petition except for the conditions mentioned in its comment letter. Mr. Funakoshi stated that OP’s concerns had been brought to the Applicant’s attention and there were no objections to adopting OP’s conditions.

Chair McDonald asked if DPP or OP had any other comments. There were none.

Chair McDonald thanked the Applicant and DPP for providing a complete and detailed record to the Commission; and to OP for providing its worthy comments.

Commissioner Wong moved to:

1. Approve the recommendation of the County Planning Commission approving the Special Permit for a 47-megawatt solar farm on the subject property, subject

- to the nine conditions recommended by the Planning Commission;
2. Amend Condition 6 to include OP and the LUC;
 3. Include conditions as recommended by the Department of Transportation and by the Office of Planning; and
 4. Accept the Applicant's Proposed Findings of Fact, Conclusions of Law, and Decision and Order with changes to be made by LUC staff for style and procedural matters.

Commissioner Song seconded the motion. There was no discussion. The Commission unanimously voted (8-0-1 excused) to approve the motion.

The Commission went into recess at 11:04 a.m. and reconvened at 11:05 a.m.

Commissioner Aczon excused himself at 11:04 a.m. and returned after the conclusion of the meeting. (7 Commissioners in attendance till the meeting adjourned.)

LUC LEGISLATIVE COMMITTEE REPORT

Chair McDonald stated that the next agenda item was a report on Legislative matters pertinent to the Commission.

Executive Officer Orodenker provided a legislative update to the Commission on the status of various bills and other legislative activity of concern to the LUC; and described how LUC staff would continue to monitor active bills and notify the Commission if necessary.

There were no questions or comments regarding Mr. Orodenker's report.

There being no further business, the meeting was adjourned by Chair McDonald at 11:05 a.m.