

LAND USE COMMISSION
MEETING MINUTES
October 19, 2017 – 08:00 a.m.
Kulana O’iwi, DHHL / OHA Conference Room,
600 Maunaloa Highway, Kaunakakai, Molokai, Hawai‘i

COMMISSIONERS PRESENT: Lee Ohigashi
Arnold Wong
Nancy Cabral
Linda Estes
Jonathan Scheuer
Gary Okuda
Dawn Chang

COMMISSIONERS EXCUSED: Edmund Aczon
Aaron Mahi

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

COURT REPORTER: Jean McManus

CALL TO ORDER

Chair Wong called the meeting to order at 8:08 a.m.

HEARING AND ACTION (continued)

DR17-60 MONSANTO COMPANY-Molokai IAL (Molokai)

To Consider Petition for Declaratory Order to Designate Important Agricultural Lands for approximately 1,084.079 acres at Naiwa, Manowainui, Kahanui, Moloka‘i, identified by TMK No. (2) 5-2-012-004

APPEARANCES

Jennifer Lim, Esq. and Mark Murakami, Esq., attorneys for Petitioner Monsanto Company

Kathleen Aoki, Planner-County of Maui Planning Department (County)
Will Spence, Director (County)
Dawn Takeuchi Apuna, Esq. for State Office of Planning (“OP”)
Rodney Funakoshi, Land Use Administrator, OP

Chair Wong summarized the activities of the October 18, 2017 meeting and stated that he would re-open public testimony to recall public witness Lori Buchanan for additional questioning.

Ms. Buchanan stated that she wished to have a contested case hearing and provided her perspective of why she was entitled to request her action.

Ms. Buchanan responded to comments and questions from Commissioners Scheuer, Estes, Chang, Ohigashi, Okuda, Cabral and Ms. Lim to clarify her position.

Chair Wong declared a recess at 8:37 a.m. and reconvened the meeting at 8:49 a.m.

Chair Wong stated that since Ms. Buchanan had requested a contested case, and to keep within the Commission’s hearing schedule, that Ms. Buchanan should file her brief requesting a contested case hearing with the Commission with a copy to Monsanto Corporation as well as to County, OP and DOA by October 26, 2017, and that Ms. Lim file any opposition by November 2, 2017. Ms. Lim requested clarification on what legal authority allowed for Ms. Buchanan’s action. Ms. Erickson responded that Petitioner could address that matter in its response.

Commissioner Ohigashi requested additional clarification on what Ms. Buchanan’s brief should contain. Chair Wong acknowledged that Ms. Buchanan’s brief should address whether or not a contested case is permitted and whether or not Ms. Buchanan has standing in the matter; and that Petitioner could respond to those points.

Commissioner Okuda requested to see specific legal authorities that demonstrated the right to a contested case hearing and on the issue of standing included in Ms. Buchanan’s submittal. Commissioners Ohigashi and Chang requested further clarification on how Ms. Buchanan’s brief would be processed and what needed to be included in it.

Ms. Lim stated that she would like to include all prior IAL dockets as evidence. Discussion ensued and Ms. Erickson and Commissioners Okuda and Chang questioned and commented on details of Ms. Lim’s request. Ms. Lim summarized her understanding of what the Commission expected to see in her pleadings and Chair Wong acknowledged her comments and restated the filing dates for Ms. Buchanan and Ms. Lim for pleadings related to the contested case hearing request.

Commissioner Chang requested that the deadline for anyone wishing to intervene in Docket No. DR17-60 be October 26, 2017. Commissioner Okuda noted the proceedings had already advanced substantially and that requests to intervene should be limited to only Ms. Buchanan since she was an active participant and public testimony had concluded.

Chair Wong acknowledged Commissioner Okuda's comment and adjourned the meeting at 09:00 a.m.