

LAND USE COMMISSION
MINUTES OF MEETING

November 2, 2007

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

COMMISSIONERS PRESENT: Thomas Contrades
Vladimir Devens
Lisa Judge
Duane Kanuha
Normand Lezy
Ransom Piltz
Reuben Wong

COMMISSIONERS ABSENT: Kyle Chock
Nicholas Teves

STAFF PRESENT: Anthony Ching, Executive Officer
David Karlen, Special Deputy Attorney General
Diane Erickson, Deputy Attorney General
Cameron Lowry, Staff Planner
Bert Saruwatari, Staff Planner
Sandra Matsushima, Chief Clerk
Holly Hackett, Court Reporter
Ho Tai Zerba, Audio Technician

Chair Judge called the meeting to order at 8:45 a.m.

ADOPTION OF MINUTES

Commissioner Devens noted that on the minutes of October 4, 2007, page 6, first paragraph, the word "capacity" should be changed to "case."

Commissioner Wong then moved to adopt the amended minutes of October 4, 2007. Commissioner Piltz seconded the motion. The minutes were approved by voice votes.

Commissioner Devens then moved to adopt the minutes of October 5, 2007. Commissioner Piltz seconded the motion. The minutes were approved by voice votes.

Commissioners Contrades and Kanuha entered the meeting at this time.

Executive Officer Anthony Ching noted that the agenda also lists an executive session for Docket No. A89-649 Lanai Resort Partners. However, staff requested that this matter be deferred in order to gather additional information. The parties to this matter had previously been notified and each party had indicated that they would not be making appearances today.

EXECUTIVE SESSION

Commissioner Piltz 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 related to Docket No. DR06-32 Mark J. Bennett as Attorney General, State of Hawaii Civil No. 07-1-1715-09 Mark J. Bennett, as Attorney General, State of Hawaii vs. Richard W. Gushman, et al;. The motion was seconded by Commissioner Wong.

The Commission entered into executive session at 8:50 a.m.

The open meeting reconvened at 9:10 am.

Deputy Attorney General Diane Erickson entered the meeting at this time.

REVIEW OF STAFF PROPOSED ADMINISTRATIVE RULES

Mr. Ching provided a brief summary of the proposed LUC rules. Mr. Ching noted that some of the amendments were intended to address the comments from Commissioners Devens and Wong and to clarify some of the issues raised at the LURF presentation and the comments raised during previous LUC proceedings.

Public Witness

1. Mary Lou Kobayashi

Ms. Kobayashi noted that the OP had a brief chance to review the latest rules, however, they continued their support for these rules moving forward and will have the opportunity to comment during the public hearing process.

There were no question posed for Ms. Kobayashi by the Commission.

Mr. Ching described the amendments received from Commissioners Devens and Wong. Mr. Ching also discussed the comments received regarding the definitions section and the suggested language for Agribusiness; Farm dwelling; Subsistence farming; and Agricultural research; and the Non-conforming use section.

Commissioner Wong posed a few questions regarding the non-conforming use section, electronic filing, and the definition of Agribusiness.

Vice Chair Kanuha posed questions regarding the proposed definition of bonafide agribusiness and agricultural research. Vice Chair Kanuha also discussed the use of “nonconforming or lawfully allowed”.

After a discussion, Vice Chair Kanuha commented that some of these amendments significantly addressed the topics that he had concerns on, however, he was unsure whether he would like to move forward with this document as presented today.

Commissioner Devens added that he would also like to request for another meeting to take a last look as these are important changes. Commissioner Devens noted

that because these changes have the force and effect of law, he would prefer another meeting by the LUC on the matter before moving forward.

After a discussion, Chair Judge noted that the proposed rules would be ready for action on the December 6, 2007 meeting. Staff would provide a ramseyer copy and the LUC should send in their comments to Mr. Ching for incorporation.

The meeting adjourned at 10:25 a.m.

(Please refer to LUC Transcript of November 2, 2007 for more details on this matter.)