

ORIGINAL

LAND USE COMMISSION

STATE OF HAWAI'I

ACTION MEETING:

A13-797 CMBY 2011 INVESTMENT, LLC (Maui))

A10-787 MAUI R&T PARTNERS, LLC (Maui))

A84-585 MAUI DEVELOPMENT BOARD, INC. (Maui))

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TRANSCRIPT OF PROCEEDINGS

The above-entitled matters came on for an Action Meeting simultaneously at Video Conference Centers on O'ahu, Kaua'i, Maui and Hawai'i, commencing at 9:00 a.m. on November 22, 2013, pursuant to Notice.

REPORTED BY: HOLLY M. HACKETT, CSR #130, RPR
Certified Shorthand Reporter

LAND USE COMMISSION
STATE OF HAWAII
2013 DEC - 2 A 10:17

A P P E A R A N C E S

COMMISSIONERS:

SHELDON BIGA

KYLE CHOCK

DENNIS ESAKI

RONALD HELLER, CHAIRMAN

LANCE M. INOUE

ERNEST MATSUMURA

CHAD McDONALD

CAROL TORIGOE

EXECUTIVE OFFICER: DAN ORODENKER

CHIEF CLERK: RILEY HAKODA

STAFF PLANNER: SCOTT DERRICKSON

DEPUTY ATTORNEY GENERAL: DIANE ERICKSON, ESQ.

ADOPTION OF FORM OF ORDERS

Docket No. A13-797

For the Petitioner: JENNIFER BENCK, ESQ.

For the County: JAMES GIROUX, ESQ. (video)
Deputy Corporation Counsel
KURT WOLLENHAUPTFor the State: LORENE MAKI,
Office of Planning

A P P E A R A N C E S (cont'd)

Docket No. A10-787 Maui R&T Partners, LLC

For the Petitioner: CURTIS TABATA, ESQ.
WYETH MATSUBARA, ESQ.

For the County: JAMES GIROUX, ESQ. (video)
Deputy Corporation Counsel
KURT WOLLENHAUPT

For the State: LORENE MAKI
Office of Planning

Docket No. A84-555 Maui Development Board, Inc. (Maui)

For the Petitioner: CURTIS TABATA, ESQ.
WYETH MATSUBARA, ESQ.
STEVE PERKINS Dev. Rept.

For the County: JAMES GIROUX, ESQ. (video)
Deputy Corporation Counsel
KURT WOLLENHAUPT

For the State: LORENE MAKI
Office of Planning

1 CHAIRMAN HELLER: (gavel) Call the meeting
2 to order. The first order of business is adoption of
3 minutes from November 8th, 2013.

4 COMMISSIONER CHOCK: So moved.

5 CHAIRMAN HELLER: Is there a second?

6 COMMISSIONER McDONALD: Second.

7 CHAIRMAN HELLER: All in favor? (Aye) Any
8 opposed? Okay. Minutes are approved. Next order of
9 business is our tentative meeting schedule. Dan, will
10 you brief us.

11 MR. ORODENKER: Thank you, Mr. Chair.
12 December 11th and 12th at this point doesn't look like
13 we'll be holding a meeting. We don't have anything on
14 the agenda for those days. January 8, 2013 please
15 note that we're shifting over to our Wednesday/
16 Thursday schedule at that point.

17 The items on the agenda are to consider the
18 KSB Kaua'i IAL and consider approval for the LUC to
19 file a declaratory ruling for renewable energy
20 utilities on Class A agricultural lands.

21 We'll also be having a briefing on the
22 legislative activity prior to the legislative session
23 on the potential legislative activity regarding the
24 Land Use Commission.

25 January 22nd, 23rd -- oh, by the way that

1 meeting will be on Kauai -- January 22nd, 23rd, once
2 again a Wednesday and a Thursday we'll be taking up
3 the Ko Olina Development boat ramp status report. The
4 agenda from that point on is 'to be determined'
5 although we do have a meeting on February 26 and 27
6 assuming that the Commission approves the declaratory
7 ruling for a renewable energy utilities. That would
8 be the date that it would be heard.

9 CHAIRMAN HELLER: Thank you. Next order of
10 business is Docket No. A13-797. This is an action
11 meeting on CMBY 2011 Investment, LLC Maui to approve
12 the form of the order in this matter. Would the
13 Parties please identify themselves for the record.

14 MS. BENCK: This is Jennifer Benck rep --

15 COMMISSIONER ESAKI: Mr. Chairman?
16 Mr. Chairman, is this the one I recuse myself? Should
17 I leave the room?

18 CHAIRMAN HELLER: No. The public is
19 allowed to listen. I don't think you have to leave.

20 MS. BENCK: Thank you. This is Jennifer
21 Benck representing the Petitioner CMBY. And I believe
22 in the audience in the Maui location is the
23 Petitioner's representative Blanca LaFolette.

24 CHAIRMAN HELLER: Thank you.

25 MS. MAKI: Lorene Maki representing the

1 Office of Planning.

2 CHAIRMAN HELLER: Thank you. Okay. Is
3 there anyone present who wishes to provide public
4 testimony on this docket?

5 MR. ORODENKER: We have no one signed up,
6 Mr. Chair.

7 CHAIRMAN HELLER: Okay. Note for the
8 record there's no response. Commissioners, before you
9 is the Form of the Order granting the Petition in this
10 docket No. A13-979. The Chair will entertain a motion
11 to approve the Form of the Order in this matter.
12 Commissioners, what is your pleasure?

13 COMMISSIONER CHOCK: Move to approve,
14 Chair.

15 CHAIRMAN HELLER: Is there a second?

16 COMMISSIONER INOUE: I'll second it.

17 CHAIRMAN HELLER: Any discussion, comments
18 or questions? Will you call the vote please.

19 MR. ORODENKER: Thank you, Mr. Chair. The
20 motion is to approve the Form of the Order for item
21 No. A13-797. Commissioner Chock?

22 COMMISSIONER CHOCK: Yes.

23 MR. ORODENKER: Commissioner Inouye?

24 COMMISSIONER INOUE: Yes.

25 MR. ORODENKER: Commissioner Matsumura?

1 COMMISSIONER MATSUMURA: Yes.

2 MR. ORODENKER: Commissioner Biga?

3 COMMISSIONER BIGA: Yes.

4 MR. ORODENKER: Commissioner Torigoe?

5 COMMISSIONER TORIGOE: Yes.

6 MR. ORODENKER: Commissioner McDonald?

7 COMMISSIONER McDONALD: Yes.

8 MR. ORODENKER: Commissioner Esaki is
9 recused. Chair Heller?

10 CHAIRMAN HELLER: Yes.

11 MR. ORODENKER: Mr. Chair, the vote carries
12 unanimously. The motion carries.

13 CHAIRMAN HELLER: Thank you. Anything
14 further on this docket? Then let's move on to the
15 next items A10-787 and A84-585.

16 This is an action meeting on Maui
17 Development Board and Maui R&T Partners, LLC to
18 approve the Forms of the Order in their respective
19 matters. Will the Parties for this matter please
20 identify themselves for the record.

21 MR. TABATA: Good morning, Chair, Members
22 of the Commission. Curtis Tabata, Wyeth Matsubara
23 appearing on behalf of Petitioner Maui R&T Partners,
24 LLC. Also present is Steve Perkins, the project
25 manager for Maui R&T.

1 MS. MAKI: Lorene Maki from the Office of
2 Planning.

3 CHAIRMAN HELLER: Thank you.

4 MR. GIROUX: James Giroux with corporation
5 counsel on behalf of the Department of Planning. And
6 with me is Kurt Wollenhaupt.

7 CHAIRMAN HELLER: Thank you. Is there
8 anyone who wishes to provide public testimony on these
9 matters?

10 MR. ORODENKER: Mr. Chair, we don't have
11 anyone signed up.

12 CHAIRMAN HELLER: Okay. We'll note for the
13 record there is no response. Commissioners, we'll
14 address these two dockets separately. First, before
15 you is the Form of the Order granting the Petition in
16 Docket No. A84-585 Maui Economic Development Board.
17 The Chair will entertain a Motion to the Form of the
18 Order in this matter. Commissioners, what is your
19 pleasure?

20 COMMISSIONER BIGA: So moved.

21 COMMISSIONER McDONALD: Second.

22 CHAIRMAN HELLER: Any discussion? Please
23 call the roll.

24 MR. ORODENKER: The motion is to approve
25 the Form of the Order amending the amended Findings of

1 Fact, Conclusions of Law, Decision and Order filed
2 February 25, 1986 in A84-585.

3 Commissioner Biga?

4 COMMISSIONER BIGA: Yes.

5 MR. ORODENKER: Commissioner McDonald?

6 COMMISSIONER McDONALD: Yes.

7 MR. ORODENKER: Commissioner Matsumura?

8 COMMISSIONER MATSUMURA: Yes.

9 MR. ORODENKER: Commissioner Torigoe?

10 COMMISSIONER TORIGOE: Yes.

11 MR. ORODENKER: Commission Esaki?

12 COMMISSIONER ESAKI: Yes.

13 MR. ORODENKER: Commissioner Chock?

14 COMMISSIONER CHOCK: Yes.

15 MR. ORODENKER: Commissioner Inouye?

16 COMMISSIONER INOUE: Yes.

17 MR. ORODENKER: Chair Heller?

18 CHAIRMAN HELLER: Yes.

19 MR. ORODENKER: Mr. Chair, the motion
20 passes unanimously.

21 CHAIRMAN HELLER: Thank you. Next before
22 you is the Form of the Order granting the Petition in
23 Docket No. A10-787 Maui R&T Partners, LLC. The Chair
24 will entertain a Motion to Approve the Form of the
25 Order in this matter. Commissioners, what is your

1 pleasure?

2 COMMISSIONER BIGA: So moved.

3 COMMISSIONER McDONALD: I second.

4 CHAIRMAN HELLER: Any discussion? Please
5 call --

6 COMMISSIONER ESAKI: Yes, Mr. Chairman,
7 discussion?

8 CHAIRMAN HELLER: Yes, go ahead.

9 COMMISSIONER ESAKI: In as much as I had
10 questions about some utilities, namely water, a
11 resource, I wanted some assurance that it won't be
12 state resources being requested to provide such.

13 CHAIRMAN HELLER: Is that a question you're
14 addressing to the Petitioner?

15 COMMISSIONER ESAKI: Yes. Is that allowed?

16 CHAIRMAN HELLER: Yes.

17 MR. TABATA: Yes. In the Proposed Decision
18 and Order that we submitted there is a finding of fact
19 confirming that state resources will not be required
20 for this Project with respect to utilities or the
21 water resources. The water resources will be
22 privately developed, and no state resources are
23 anticipated to be required for that.

24 COMMISSIONER ESAKI: Okay. Thank you. And
25 another thing. Just wannabe sure on the timeframe.

1 We're not in the same situation like Kuilima where you
2 gonna come back many years from now, we're not
3 following the plan.

4 MR. TABATA: Correct.

5 COMMISSIONER ESAKI: So want some
6 assurances on that then.

7 MR. TABATA: Yes. Thank you for the
8 question. No. We are not planning on having an open
9 ended development schedule. We do have a development
10 schedule that's projected currently at 20 years. The
11 park is currently in the process of marketing and in
12 discussions with purchasers. So it's been growing and
13 it's currently growing. And we have hopes to complete
14 the Project on schedule.

15 COMMISSIONER ESAKI: Thank you.

16 CHAIRMAN HELLER: Any further discussion?
17 All right. Hearing none, we have a motion that's been
18 made and seconded so let's take the vote.

19 MR. ORODENKER: Thank you, Mr. Chair.
20 Commissioners, the motion is to approve the Form of
21 the Order for A10-787 Maui Partners R&T Petition to
22 Amend. Commissioner Biga?

23 COMMISSIONER BIGA: Yes.

24 MR. ORODENKER: Commissioner McDonald?

25 COMMISSIONER McDONALD: Yes.

1 MR. ORODENKER: Commissioner Inouye?

2 COMMISSIONER INOUE: Yes.

3 MR. ORODENKER: Commissioner Chock?

4 COMMISSIONER CHOCK: Yes.

5 MR. ORODENKER: Commissioner Esaki?

6 COMMISSIONER ESAKI: Yes.

7 MR. ORODENKER: Commissioner Torigoe?

8 COMMISSIONER TORIGOE: Yes.

9 MR. ORODENKER: Commissioner Matsumura?

10 COMMISSIONER MATSUMURA: Yes.

11 MR. ORODENKER: Chair Heller?

12 CHAIRMAN HELLER: Yes.

13 MR. ORODENKER: Thank you, Mr. Chair. The
14 motion passes unanimously.

15 CHAIRMAN HELLER: Okay. There's nothing
16 else on our agenda. Does anybody have any other
17 business they wish to bring up? All right. Is there
18 a motion to adjourn?

19 COMMISSIONER CHOCK: So moved.

20 COMMISSIONER MATSUMURA: I second.

21 CHAIRMAN HELLER: Okay. We're adjourned.

22 (The proceedings were adjourned at 9:15 a.m.)

23 --oo00oo--

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C E R T I F I C A T E

I, HOLLY HACKETT, CSR, RPR, in and for the State
of Hawai'i, do hereby certify;

That I was acting as court reporter in the
foregoing LUC matters on the 22nd day of November
2013;

That the proceedings were taken down in
computerized machine shorthand by me and were
thereafter reduced to print by me;

That the foregoing represents, to the best
of my ability, a true and correct transcript of the
proceedings had in the foregoing matters.

DATED: This 22 day of November 2013

Holly M. Hackett

HOLLY M. HACKETT, HI CSR #130, RPR #5910
Certified Shorthand Reporter