

Minutes of Meeting

Approved  
10/19/00

King Kamehameha's Kona Beach Hotel  
Ekolu and Eha Rooms  
75-5660 Palani Road  
Kailua-Kona, Hawaii

September 29, 2000

COMMISSIONERS PRESENT: P. Roy Catalani  
Bruce Coppa  
Isaac Fiesta, Jr.  
M. Casey Jarman  
Stanley Roehrig  
Peter Yukimura

COMMISSIONERS ABSENT: Pravin Desai  
Lawrence N.C. Ing  
Merle A. K. Kelai

STAFF PRESENT: Esther Ueda, Executive Officer  
Presley Pang, Esq., Deputy Attorney  
General  
Bert Saruwatari, Staff Planner  
Teri Hee, Chief Clerk

Michelle Kauth, Court Reporter

Presiding Officer Roehrig called the meeting to order at 8:45 a.m. with a few words in Hawaiian and translated in English.

ACTION

SP89-371 - CHRISTIAN BROADCASTING ASSOCIATION (Maui)

Presiding Officer Roehrig announced that this matter before the Commission is an action to consider a time extension and transfer of special use permit to Salem Media of Hawaii, Inc. for continued operation of a radio transmitting facility on approximately 30 acres of land within the Agricultural District at Kaluakoi, Molokai.

The Commission received a letter dated September 19, 2000, from Donna Y. L. Leong requesting to defer substantive testimony and any consideration until the Commission's October 19, 2000 meeting and waiving any objection to the Commission not taking final action on or before October 9, 2000 (45-day time limit for action on Special Permit).

Having no questions from the Commissioners and no persons wishing to testify, Commissioner Catalani moved to have this matter deferred to the next meeting on October 19, 2000. The motion was seconded by Commissioner Jarman and unanimously approved by voice votes.

DR00-23 - THE SIERRA CLUB AND DAVID KIMO FRANKEL (Hawaii)

Presiding Officer Roehrig announced that this matter before the Commission is an action meeting to consider Petitioners' Petition for a Declaratory Order that (a) luxury housing developments and hotels are not permissible uses on agricultural land; (b) landowner/developer Pacific Star, LLC, must apply for a district boundary amendment to develop its master planned community at Keopuka because of the urban-like nature, size and scope of the development; and (c) the County of Hawaii may not grant a special permit for the "members hale" because the "members hale" is connected to, interrelated and interdependent on the activities and development on the remaining over 600 acres at Keopuka and Onouli, South Kona, Hawaii.

Appearances

David Kimo Frankel, representing The Sierra Club

The Commission entered the following into evidence:

1. Letter dated August 21, 2000, from Patricia K. O'Toole, County of Hawaii Deputy Corporation Counsel.
2. Memorandum In Opposition To Petition For A Declaratory Order from Steven S.C. Lim dated August 31, 2000.
3. Testimony of the Office of Planning dated September 7, 2000.
4. Facsimile letter dated September 21, 2000, from Michele Wilkins.
5. Reply Memorandum To Pacific Star's Memorandum In Opposition To Petition For A Declaratory Order from David Kimo Frankel dated September 18, 2000.
6. Testimony from John B. Ray, President of Hawaii Leeward Planning Conference dated September 27, 2000.

7. Supplemental Memorandum In Opposition To Petition For A Declaratory Order from Steven S.C. Lim on September 28, 2000.
8. Testimony of Kahea "The Hawaiian Environmental Alliance" dated September 28, 2000.
9. Testimony of Kohanaiki `Ohana dated September 29, 2000.
10. Testimony of County Council Member Nancy Pisicchio.
11. Testimony of Michele Wilkins and David Maddox.
12. Testimony of Virginia Isbell.
13. Testimony of Plan to Protect Kona dated September 29, 2000.
14. Testimony of Marjorie Ann Erway dated September 29, 2000.
15. Testimony of Lawrence M. Ford.
16. Testimony of the Kona Coffee Council dated September 29, 2000.
17. Video Cassette Tape entitled Mud & Sediment Video of September 9, 10 and 20 from Michele Wilkins.
18. Testimony of the League of Women Voters of Hawaii County dated September 29, 2000.
19. Testimony of Brenda Ford dated September 29, 2000, with attachments (Chapter 205 Hawaii Revised Statutes and Ordinance No. 96-160).
20. Testimony of Roger Dilts and also copies of his slideshow presentation with backup material (Star Bulletin article entitled, "Biologist says runoff kills coral, harms water quality").

Presiding Officer Roehrig introduced the Commissioners to the members of the audience.

David Frankel provided background information of the Sierra Club Hawaii Chapter.

Deputy Attorney General Presley Pang gave a brief overview regarding the issues of the petition for a declaratory order and went over the options that the Commission may consider in these proceedings.

PUBLIC WITNESSES

1. Nancy Pisicchio
2. Roger Dilts (slide show)
3. Virginia Isbell
4. Hanalei "Hank" Fergerstrom
5. Michele Wilkins (Mud & Sediment Video of September 9, 10 and 20)

PETITIONER

1. David Frankel

Commissioner Fiesta moved to go into executive session to discuss legal matters with our deputy attorney general. The motion was seconded by Commissioner Coppa and unanimously moved by voice votes.

A lunch recess was taken at 11:55 a.m. to reconvene at 1:00 p.m.

- 1:05 p.m. -

Presiding Officer Roehrig went over the Sunshine Law procedures and explained the need for executive sessions to discuss legal matters with the Deputy Attorney General.

The Commission entered the following correspondence into evidence:

21. Testimony of Applied Life Sciences dated September 22, 2000.
22. Letter to the Editor received from Gordon Leslie.
23. Document from the Kingdom of Hawaii, Executive Minister Lindsay Lindsey dated September 29, 2000.

24. Testimony of Lei Kihoi dated April 29, 2000.
25. Testimony of Kenneth Sheppard dated September 29, 2000.

PUBLIC WITNESSES (cont'd.)

6. Steve Lim
7. Bill Moore

The Commission entered the following correspondence into evidence:

26. Pacific Star LLC's Draft Environmental Impact Statement for Keopuka Lands.

PUBLIC WITNESSES (cont'd.)

8. Al Jeremiah
9. Curtis Tyler (on behalf of County of Hawaii)
10. David Blane
11. Ann Ogata Deal

The Commission entered the following correspondence into evidence:

27. Testimony of John Langenstein dated September 29, 2000.
28. Further material from Executive Minister Lindsey.
29. Testimony of Lolana Medeiros dated September 29, 2000.

PUBLIC WITNESSES (cont'd.)

12. Executive Minister Lindsey
13. John Ray
14. Curtis Tyler
15. Gordon Leslie
16. Julie Jacobson

17. Wayne Leslie
18. Kuhananui Kupuna Hannah Wahinemaikai `O Kaahumanu  
Keliulananiole `O Kalamaka Kane Reeves
19. Abel S. Lui
20. Desi Castro

Commissioner Fiesta moved that the Land Use Commission has jurisdiction to decide the issues brought to the Commission. The motion was seconded by Commissioner Catalani and polled as follows:

Ayes: Commissioners Fiesta, Catalani, Jarman, Yukimura and Roehrig

Nays: Commissioner Coppa

Commissioner Catalani moved that the proposal to develop approximately 660 acres of land in the agricultural and conservation districts, which includes developing approximately 75 acres into 13 five-acre parcels for agriculture operations and developing the remaining 545 acres to create a community consisting of approximately 28 coastal house lots and approximately 84 house lots built around ponds with an eighteen-hole golf course requires a land use district boundary amendment. The motion was seconded by Commissioner Fiesta and unanimously approved by voice votes.

#### MISCELLANEOUS

##### 1. ADOPTION OF MINUTES

Commissioner Fiesta moved to approve the minutes for the meeting dates of September 14 & 15, 2000. The motion was seconded by Commissioner Jarman and unanimously approved by voice votes.

The meeting was adjourned at 4:05 p.m.