

Minutes of Meeting

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

November 1, 2001

COMMISSIONERS PRESENT: P. Roy Catalani
Bruce Coppa (Portion of Proceedings)
Isaac Fiesta, Jr.
Lawrence N.C. Ing (Portion of Proceedings)
M. Casey Jarman
Merle A. K. Kelai (Portion of Proceedings)
Stanley Roehrig
Peter Yukimura

COMMISSIONER ABSENT: Pravin Desai

STAFF PRESENT: Anthony J.H. Ching, Executive Officer
John Deller, Esq., Deputy Attorney
General
Teri Hee, Chief Clerk
Caroline Lorenzo, Secretary
Holly Hackett, Court Reporter

Chairperson Kelai called the meeting to order at 9:30 a.m.

ACTION

A00-733 – HARRISON J. & SHARENE Z. KLEIN (Hawai'i)

Chairperson Kelai announced that the Commission would take action to consider reclassifying approximately 2.621 acres of land currently in the Conservation District into the Urban District at Keonepoko Iki, Puna, Hawaii for improvements to an existing single-family residential dwelling and related improvements and the cultivation of ti-leaf plants, coconut trees and palms.

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Appearances

Steven Lim, Esq., representing Petitioner

Harrison Klein, Petitioner

Norman Hayashi, County of Hawai'i Planning Department

Patricia O'Toole, Esq., Deputy Corporation Council, County of Hawai'i

John Chang, Esq., Land Use Division, Office of Planning

Abe Mitsuda, Land Use Division, Office of Planning

It was determined by Chairperson Kelai that all of the Commissioners present were eligible to participate in the action on the petition.

Executive Officer, Anthony Ching, presented his report and recommendations on the proposed stipulated Findings of Fact, Conclusions of Law and Decision and Order.

Arguments were heard from Mr. Lim, Ms. O'Toole, and Mr. Chang.

Commissioner Fiesta moved to approve the proposed stipulated Findings of Fact, Conclusions of Law, and Decision and Order with staff's recommendations. The motion was seconded by Commissioner Roehrig and polled as follows:

Ayes: Commissioners Fiesta, Roehrig, Ing, Jarman, Yukimura, Catalani, Coppa, and Kelai

CONTINUED HEARING

A00-732 – TSA CORPORATION (Hawaii)

Chairperson Kelai announced that this matter before the Commission was a continuation of the hearing previously held on October 3 and 4, 2001 to reclassify approximately 102.016 acres of land currently in the Conservation District into the

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Urban District at Kaloko, North Kona, Hawaii for the development of a mix of light industrial and industrial-commercial uses.

Appearances

Nathan Natori, Esq., representing Petitioner

Rodney Funakoshi, Wilson, Okamoto & Associates

Patricia O'Toole, Esq., Corporation Counsel, County of Hawaii

Norman Hayashi, County of Hawaii Planning Department

John Chang, Esq., Land Use Division, Office of Planning

Judith Henry, Land Use Division, Office of Planning

Abe Mitsuda, Land Use Division, Office of Planning

Nicole Walthall, Esq., representing Intervenor KAHO

Stanley Bond, representing Intervenor KAHO

Arguments on the Office of Planning's Motion to Extend Time were heard from Mr. Chang, Mr. Natori, Ms. O'Toole, and Ms. Walthall.

Commissioner Roehrig moved to approve the Office of Planning's Motion to Extend Time. The motion was seconded by Commissioner Fiesta and polled as follows:

Ayes: Commissioners Roehrig, Fiesta, Coppa, Ing, Jarman, Yukimura, Catalani, and Kelai

EXHIBITS

1. Because of objections by Intervenor of Exhibit Nos. 65-72 that were introduced by Petitioner's counsel, it was understood that Petitioner's Exhibits would be considered at the time it's introduced by Petitioner's counsel during cross examination of their rebuttal witnesses.

2. Intervenor's Exhibit Nos. 22A and 38 were admitted into evidence by the Land Use Commission.
3. Office of Planning's exhibit that was described as "Planned Industrial/Commercial Parks" and identified as Exhibit No. 10 should be marked as Exhibit No. 11. A revised amended exhibit list will be submitted by the Office of Planning to reflect that Exhibit No. 10 should be the Written Testimony of Susan Miller. Office of Planning's Exhibit No. 11 was admitted into evidence by the Land Use Commission.

INTERVENOR'S WITNESSES (cont'd.)

1. Eric Guinther (continued cross examination)

Mr. Guinther orally noted corrections to his testimony in the Land Use Commission's October 4, 2001 transcript.

2. Dr. Paul Haberstoh
3. Dr. David Foote
4. Sallie Beavers

Chairperson Kelai, Commissioner Coppa and Commissioner Ing excused themselves from the proceedings at this time.

A lunch recess was taken at 1:30 p.m. to reconvene at 2:30 p.m.

- 2:35 p.m. -

Commissioner Roehrig conducted this portion of the proceedings.

PUBLIC WITNESS

1. Mahealani Pai

INTERVENOR'S WITNESSES (cont'd.)

4. Sallie Beavers

During Petitioner's cross-examination of Ms. Beavers, Mr. Natori referred to an article in the Journal Coral Reefs which Intervenor's counsel Ms. Walthall raised objections to.

Commissioner Fiesta moved to go into executive session to discuss legal matters with counsel with respect to the admission of exhibits. The motion was seconded by Commissioner Roehrig and unanimously moved by voice votes.

Presiding Officer Roehrig ruled that based on discussions with counsel, Petitioner's document was outside the scope of his cross examination and would therefore not be allowed into the record. Presiding Officer Roehrig further noted for the record that any exhibit that goes beyond the scope of cross-examination would not be allowed into evidence.

INTERVENOR'S WITNESSES (cont'd.)

4. Sallie Beavers

INTERVENOR'S WITNESSES (cont'd.)

5. Bryan Harry

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Jarman moved to approve the minutes for the meeting date of October 18 and 19, 2001. The motion was seconded by Commissioner Catalani and unanimously approved by voice votes.

Commissioner Jarman moved that the Commission go into executive session to discuss legal matters with counsel with respect to pending litigation matters. The

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motion was seconded by Commissioner Catalani and unanimously moved by voice votes.

The meeting was adjourned at 4:10 p.m. Presiding Officer Roehrig announced that the meeting would reconvene tomorrow at 8:30 a.m. with a telephone conference call with Dr. Marie Morin followed by two of Petitioner's rebuttal witnesses.