

Approved 10/17/02

LAND USE COMMISSION

Minutes of Meeting
Crown Room
Hawaii Naniloa Resort
93 Banyan Drive
Hilo, Hawaii 96720

October 3, 2002

COMMISSIONERS PRESENT: P. Roy Catalani
Bruce Coppa
Pravin Desai
Isaac Fiesta
Lawrence Ing
Steven Montgomery
Stanley Roehrig
Randall Sakumoto
Peter Yukimura

STAFF PRESENT: Diane Erickson, Esq., Deputy Attorney General
Anthony J. H. Ching, Executive Officer
Bert Saruwatari, Staff Planner
Caroline Lorenzo, Secretary
Holly Hackett, Court Reporter

Presiding Officer Ing called the meeting to order at 9:30 a.m.

Commissioner Roehrig moved that the Land Use Commission enter into executive session to discuss personnel matters and to receive advice from counsel regarding the HELCO petition. Commissioner Fiesta seconded the motion and said motion was approved by voice votes.

The Commission entered into executive session at 9:35 a.m. The meeting reconvened at 10:31 a.m.

ELECTION OF OFFICERS

Anthony Ching, Executive Officer, reported that the Commission was obliged by the sunshine law to have the election of officers done in a public meeting, and thereafter entertained nominations for Chairperson of the Land Use Commission.

Commissioner Fiesta moved to elect Vice Chair Ing as Chair of the Land Use Commission. Commissioner Roehrig seconded the motion. Commissioner Fiesta moved that the nomination be closed. Commissioner Yukimura seconded the motion. The vote was reflected with a show of hands, and it was unanimous.

Newly elected Chair Ing requested that the Commission elect two Vice Chairpersons. Chair Ing explained that the Vice Chairpersons would have the opportunity to conduct meetings and LUC business in the absence of the Chair, especially when it affected their respective island.

Commissioner Fiesta moved to elect two Vice Chairpersons of the Land Use Commission, and Commissioner Yukimura seconded the motion. The motion was approved by voice votes.

Executive Officer Anthony Ching entertained nominations for Co-Vice Chairpersons of the Land Use Commission.

Commissioner Fiesta moved to elect Commissioners Catalani and Roehrig as Co-Vice Chairpersons. Commissioner Yukimura seconded the motion. Commissioner Fiesta moved to close the nomination, and Commissioner Sakumoto seconded the motion. The motion was approved by voice votes and carried with 8 ayes and 1 nay (by Commissioner Coppa).

At this time, Commissioners Fiesta and Coppa excused themselves from the proceedings.

INFORMATIONAL BRIEFING

1. The Energy Situation for the Island of Hawaii

Deputy Attorney General John Chang noted that the agenda contained a couple of errors in regard to the presenter's name and agency. Mr. Chang stated that the correct spelling of the presenter's last name was "Tantlinger," and that he was from the Strategic Technology Industry Development Branch of DBEDT.

At this time, Dr. John Tantlinger made his presentation before the Land Use Commission regarding the energy situation on the Island of Hawaii.

A88-620 KOHALA JOINT VENTURE (Hawaii)

Chair Ing announced that this was an action meeting to consider Movant's Motion To Rescind The Prior Land Use Classification Granted In LUC Docket No. A88-620/Kohala Joint Venture, And/Or To Require Petitioner To Show Cause For Failure To Perform Conditions Imposed In Said Docket. The docket involved the reclassification of approximately 1,288 acres of land from the Agricultural District to the Urban District at Kahua and Waika, North Kohala, Hawaii, for a residential community. Chair Ing announced that this action meeting would also consider Movant's Motion Requesting That A Date Be Set For Hearing Of Movant's Motion To Rescind The Prior Land Use Classification Granted In LUC Doct No. A88-620/Kohala Joint Venture, And/Or To Require Petition To Show Cause For Failure To Perform Conditions Imposed in Said Docket and Movant's Petition For Standing In Contested Case Hearing.

The Commission received correspondence regarding the project from Norm Cohler; Mark Van Pernis, Esq., on behalf of Robert and Theresa Ryan and their corporation; Tom Oiye and Laura Guerrant; Joseph G. Roosevelt and Wendy Greenfield; and Kelly Pomeroy on behalf of Concerned Kohala Ranch Property Owners, which were entered into the record by the Commission.

Chairman Ing reminded the Commission and the public that the purpose of this meeting was to hear testimony on the motions that were filed by the Movant, and to determine whether the Movant has provided the Commission with enough information

so as to cause the majority of the Commission to form a belief that there's been a failure by Kohala Ranch, LLC, successor to original Petitioner Kohala Joint Venture, to comply with any of the seven conditions as alleged by the Movant.

APPEARANCES

John Broussard, Movant

Ben Tsukazaki, Esq., representing Petitioner Kohala Ranch, LLC

Patricia O'Toole, Esq., County of Hawaii Planning Department

Norman Hayashi, County of Hawaii Planning Department

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

Abe Mitsuda, Land Use Division, Office of Planning

Movant distributed a copy of a Petition of signatures that was originally circulated in the fall of 1991 opposing the development, and said Petition was entered into record by the Commission.

PUBLIC WITNESSES

1. Steve Spengler
2. A. J. DiMauro
3. Brad Carvalho
4. Kelly Pomeroy

A lunch recess was taken at 12:15 p.m. to reconvene at 1:15 p.m.

Bert Saruwatari, LUC planner, provided the Commission with a map orientation.

The Movant, the Petitioner, the State, and the County made their respective presentations before the Commission. Questions were asked by the Commission.

Kohala Ranch distributed to the Commission its Project District Application, Timeline of Key Actions/Events, and its Compliance with Condition B of Ordinance No. 92-40, which were entered into the record by the Commission.

At 1:36 p.m., during the Movant's presentation, Chairman Ing excused himself from the proceedings and returned to the proceedings at 1:42 p.m.

At 2:30 p.m., Commissioner Desai excused himself from the proceedings.

Commissioner Roehrig moved to deny the Movant's Motion To Rescind The Prior Land Use Classification Granted In LUC Docket No. A88-620/Kohala Joint Venture, And/Or To Require Petitioner To Show Cause For Failure To Perform Conditions Imposed In Said Docket. Commissioner Catalani seconded the motion. The Commission was polled as follows:

Ayes: Commissioners Roehrig, Catalani, Sakumoto, Montgomery, Yukimura, and Ing

The motion was approved and carried with 6 ayes and 3 excused. Movant's Motion Requesting That A Date Be Set For Hearing Of Movant's Motion To Rescind The Prior Land Use Classification Granted In LUC Docket No. A88-620/Kohala Joint Venture and Movant's Petition For Standing In Contested Case Hearing were rendered moot by the Commission's action.

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Yukimura moved to approve the minutes for the meeting dates of June 12, 2002, and September 12, 2002. The motion was seconded by Commissioner Roehrig, and said motion was unanimously approved by voice votes.

2. DISCUSSION OF PENDING MATTERS

a. Tentative Meeting Schedule

Executive Officer Anthony Ching will consult with the Chair and Vice Chairpersons on the tentative meeting schedule for future LUC meetings.

The meeting was adjourned at 4:07 p.m.