

Approved 10/3/02

LAND USE COMMISSION
Minutes of Meeting
King Kamehameha's Kona Beach Hotel
Kamakahonu Room, Ballroom Eha
75-5660 Palani Road
Kailua-Kona, Hawaii

September 12, 2002

COMMISSIONERS PRESENT: Isaac Fiesta, Jr.
Pravin Desai
Randall Sakumoto
Steven Montgomery
Lawrence Ing
Peter Yukimura
Stanley Roehrig

COMMISSIONERS ABSENT: Bruce Coppa
P. Roy Catalani

STAFF PRESENT: Diane Erickson, Esq., Deputy Attorney General
Anthony Ching, Executive Officer
Russell Kumabe, Staff Planner
Caroline Lorenzo, Secretary
Arlene Shimokawa, Chief Clerk
Holly Hackett, Court Reporter

Acting Chair Ing called the meeting to order at 11:00 a.m. then called a five-minute recess.

The meeting was reconvened at 11:05 a.m.

I. MISCELLANEOUS

1. INTRODUCTION OF NEW COMMISSIONERS

Acting Chair Ing introduced Randall Sakumoto and Steven Montgomery as the two newly appointed Commissioners and Arlene Shimokawa as the new Acting Chief Clerk.

2. ELECTION OF OFFICERS

Anthony Ching, Executive Officer, solicited the pleasure of the Commissioners as to whether they wished to proceed with the election or to defer the matter until the next meeting.

Commissioner Fiesta moved that the election be held at the Hilo meeting on October 3-4, 2002 and that this will be the last postponement. Commissioner Roehrig seconded the motion and said motion was unanimously approved by voice votes.

3. ADOPTION OF MINUTES

Commissioner Fiesta moved to adopt the meeting minutes of the June 20 and 21, 2002 meeting. Commissioner Roehrig seconded the motion and the motion was approved by voice votes.

II. ACTION

1. A00-732 – TSA CORPORATION (Hawaii)

Acting Chair Ing announced that this was an action meeting to consider Petitioner's First Update, as amended, to the Land Use Commission's February 14, 2002 Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment reclassifying approximately 102.016 acres from the Conservation District to the Urban District at Kaloko, North Kona, Hawaii, for the development of a mix of light industrial and industrial-commercial uses; then to consider Petitioner's Motion to Modify Condition No. 7 of the Land Use Commission's February 14, 2002 Findings of Fact, Conclusions of Law, and Decision and Order for a State Land Use District Boundary Amendment.

APPEARANCES

Nathan Natori, Esq., representing Petitioner

Rodney Funakoshi, Wilson, Okamoto & Associates

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

Lorene Maki, Land Use Division, Office of Planning

Sally Beavers, Honokahua Park

Russell Kumabe, LUC planner, provided the Commission with a staff report. Mr. Kumabe summarized the positions taken by the various parties and Commission actions in this docket.

Commissioner Sakumoto disclosed that TSA is a client of his firm McCorriston Miller Mukai Mackinnon and that he has done work with TSA on other projects or unrelated matters but felt that he can be fair and impartial in this proceeding. Chair Ing polled the parties for their comments or observations with respect to Commissioner Sakumoto's declaration. The Petitioner, County of Hawaii, State Planning, and Honokahua Park (Intervenor) all indicated that they had no objection to record with respect to Commissioner Sakumoto's declaration and stated intention to participate in the proceeding.

A motion was made by Commissioner Roehrig and seconded by Commissioner Desai that Condition No. 7 be amended to modify the deadline for completion of Petitioner's housing needs assessment to within six months of the State's issuance of the updated Hawaii Housing Policy Study. There being a vote tally of 7 ayes, 0 nays and 2 excused, the motion carried.

A motion was made by Commissioner Roehrig and seconded by Commissioner Fiesta that the Petitioner provide to the Commission a letter or copy of a letter from the State Historic Preservation Division confirming that preservation is not needed for the archaeological sites specified in Condition No. 8 before there is any grubbing, grading, or bulldozing in the area. There being a vote tally of 7 ayes, 0 nays and 2 excused, the motion carried.

A 10-minute recess was taken at 12:00 a.m.

The meeting was reconvened at 12:14 p.m.

BOARD OF EDUCATION RESOLUTION

The Commission received a Resolution by the Board of Education in appreciation of the State Land Use Commission's active role in assisting the Department of Education with providing adequate facilities for Hawaii's public school students.

II. STAFF REPORT

A02-736 – HAWAII ELECTRIC LIGHT COMPANY, INC. (Hawaii)

Chair Ing announced that this is a meeting to receive staff's report and analysis gleaned from memorandum submitted to the State Land Use Commission discussing the legal points and authorities that allow (or do not allow) the continued expansion of power generating capacity at the Keahole Generating Station site, Kalaoa District of North Kona, Island of Hawaii, prior to the completion of the LUC proceedings related to Docket No. A02-736.

APPEARANCES

Benjamin Kudo, Esq., representing Petitioner

Naomi Kuwaye, Esq., representing Petitioner

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

Lorene Maki, Land Use Division, Office of Planning

PUBLIC WITNESSES

Chair Ing swore in the following:

1. Ann Mack
2. Marian Wilkins
3. Peggy Ratliff – also entered oral testimony of Mahi Cooper
4. Keichi Ikeda; also read Michael Matsukawa's testimony
5. Honoree Ratliff; 73-897 Kupaloke Street; Kailua-Kona (no written testimony submitted)

Anthony Ching provided the Commission with a staff report.

A 10-minute recess was called at 1:16 pm.

The meeting reconvened at 1:35 p.m.

After hearing Mr. Kudo's testimony, Commissioner Roehrig questioned Mr. Kudo whether the Land Use Commission had jurisdiction to proceed, and if Land Use Commission decides to confirm urban designation, will petitioner have vested rights resulting from the Land Use Commission's jurisdiction?

The meeting was adjourned at 2:20 p.m.