

LAND USE COMMISSION  
MINUTES OF MEETING

April 21, 2006

Conference Room 204  
Leiopapa A Kamehameha  
235 So. Beretania Street  
Honolulu, Hawaii

COMMISSIONERS PRESENT: Thomas Contrades  
Michael Formby  
Kyong-su Im  
Lisa Judge  
Duane Kanuha  
Steven Montgomery  
Ransom Piltz  
Randall Sakumoto

COMMISSIONERS ABSENT: None

STAFF PRESENT: Anthony Ching, Executive Officer  
Diane Erickson, Deputy Attorney General  
Maxwell Rogers, Staff Planner  
Bert Saruwatari, Staff Planner  
Sandra Matsushima, Chief Clerk  
Holly Hackett, Court Reporter  
Wade Kersey, Audio Technician

Chair Sakumoto called the meeting to order at 9:15 a.m.

ADOPTION OF MINUTES

Chair Sakumoto noted that as the minutes for April 6 and 7 have not been circulated to the Commission, this matter will be taken up at the next meeting.

## TENTATIVE MEETING SCHEDULE

Executive Officer Anthony Ching reported the following schedule:

- May 4 the LUC will have a 1-day meeting in Hilo to take action on the McCully docket.
- May 18 (Thursday), the LUC will hold a 1-day meeting on Lanai to conduct preliminary hearings and a review of the final EIS for the Knudsen Trust project Village of Poipu.
- June 7, 8, & 9 the LUC will be in Lanai for hearings.
- June 22 the LUC will meet on Maui for a 1-day meeting on the Pulelehua docket.

Vice Chair Montgomery asked if the Pulelehua meetings could possibly be set closer to the proximity of the project site.

Mr. Ching noted that the meeting site selection is driven by economics, as it is difficult and expensive to hold meetings in Kapalua. Mr. Ching added that the Prince is the most economic location in Maui for this meeting. While staff makes every effort to meet in the affected community, two hearings have already been held in Kapalua.

Vice Chair Judge commented that the evidentiary portion of the hearing is closed with no more public testimony for the record, as the community has already spoken.

Vice Chair Montgomery noted that although the evidentiary portion is closed, his understanding is that the record is closed, but the LUC will still take public testimony and appreciates that staff would make every effort.

## EXECUTIVE SESSION

Commissioner Formby moved that the Commission enter into executive session to consult with legal counsel pursuant to § 92-5(a)(4), Hawaii Revised Statutes, on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities with respect to ex parte communications and the deliberative process. The motion was seconded by Vice Chair Judge. Said motion was unanimously approved by voice votes.

The Commission entered into executive session at 9:20 a.m.

The open meeting reconvened at 9:40 a.m.

A05-758 A CHARITABLE FOUNDATION CORPORATION

Chair Sakumoto stated that this was an action meeting on Docket No. A05-758 A Charitable Foundation Corporation to adopt the Findings of Fact, Conclusions of Law, and Decision and Order.

APPEARANCES

Curtis Tabata, Esq., represented Petitioner

Ray Sakai, City and County of Honolulu, Department of Planning and Permitting

Bryan Yee, Esq., represented State Office of Planning

Lorene Maki, State Office of Planning

Chair Sakumoto noted that there were no public witnesses.

Chair Sakumoto commented that the Commissioners have previously been provided a copy of the proposed decision and order and that the specific changes discussed at the last meeting had been integrated into the order.

Vice Chair Montgomery moved to adopt the Findings of Fact, Conclusions of Law, and Decision and Order for Docket No. A05-758 A Charitable Foundation Corporation. Commissioner Contrades seconded the motion.

The Commission was polled as follows:

Ayes: Commissioners Montgomery, Contrades, Formby, Im, Judge, Kanuha, and Sakumoto.

The motion passed with 7 ayes, 1 absent.

A recess break was taken at 9:45 a.m. The meeting reconvened at 10:00 a.m.

SP87-362 DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY & COUNTY OF HONOLULU (fka Department of Public Works, City & County of Honolulu)

Chair Sakumoto stated that the LUC will receive a report by Petitioner on its progress in complying with conditions imposed by the Commission on Waimanalo Gulch Sanitary Landfill located within the State Land Use Agricultural District at Waimanalo Gulch, Honouliuli, Ewa, Oahu.

APPEARANCES

Paul Burns, Waste Management Hawaii

Wilma Namumnart, Refuse Division, City and County of Honolulu

Eric Takamura, Director, Dept. of Environmental Services, City and County of Honolulu

Gary Takeuchi, Esq., represented City and County of Honolulu

Duane Pang, Esq., represented City and County of Honolulu, Department of Planning and Permitting

Ray Young, City and County of Honolulu, Department of Planning and Permitting

Public Testimony

1. Genevieve Salmonson

Ms. Salmonson stated that she is the Director of the Office of Environmental Quality Control. Ms. Salmonson commented that the LUC should not take any action on this matter and defer for reasons that there has been an applicant who has proposed another landfill and is currently going through a review process. Ms. Salmonson added that the City is reviewing an alternative location for a municipal landfill and this is something that the City may need to address first.

Mr. Takeuchi stated that he understood that this meeting was for a status report and noted that they were ready to proceed with the report as requested.

Vice Chair Montgomery asked if Ms. Salmonson could be more specific on this proposed alternate landfill, its location, and a schedule of its availability.

Ms. Salmonson stated that the information will be published in their May 8 bulletin. Ms. Salmonson added that this landfill is in the Leeward area and is proposed as a municipal solid waste (MSW) landfill.

Chair Sakumoto stated that today's meeting is basically to receive a report from the City, as was noticed on the agenda.

Vice Chair Judge asked if the review process is a request to build another landfill.

Ms. Salmonson stated that it is a permit filed with the City Department of Planning and Permitting and they will be going through an EIS, as it is a proposal to construct another landfill.

After a brief discussion, there were no further questions posed by the parties or the Commission.

Chair Sakumoto made a disclosure that a partner in his law firm represented the manager of Waste Management Hawaii. Chair Sakumoto added that since today is only receive a status report, he would like to continue to participate and asked the parties if they had any objections to his participation. There were no objections raised by any of the parties.

Mr. Takamura commented that Wilma Namumnart will provide an overview of the landfill operation, the current status, and future plans.

Ms. Namumnart stated that the status report will provide an overview of Oahu's solid waste conditions followed by an explanation of landfill operations by Paul Burns of Waste Management Hawaii. Ms. Namumnart provided an overview and discussed Oahu's solid waste flow for FY 2005, recycling and reuse processes that generate electricity, HPOWER, and the City's goal to significantly reduce reliance on the sanitary landfill disposal through recycling.

Mr. Burns stated that he is the General Manager of Waste Management Hawaii since June 2005, and that a new management team is operating with a new philosophy and making a big difference in how the operation runs on a day-to-day basis. Mr. Burns presented a slide show of the landfill site and discussed daily landfill operations, litter fences, odor control, leachate systems, hydro-seeding on the landfill slopes, and the E1, E2 and E3 cell sites.

Commissioner Piltz entered the meeting at this time.

Ms. Namumnart noted that the original state SUP was issued in April 1987 and was amended in October 1989 to add auxiliary services. On June 3, 2003 another amendment was made to add 21 acres and amended again in April 2004 to extend the

deadline to December 1, 2004 for the City Council to select a new landfill site. Ms. Namumnart discussed the Preliminary Timetable for the Waimanalo Gulch Sanitary Landfill Expansion.

Mr. Pang noted that the City had no questions at this time.

Commissioner Formby raised a few questions on the number of MSW (municipal solid waste), HPOWER ash and recycling residue that is going into the landfill. Commissioner Formby also had questions and concerns related to the timeline and asked if the City could propose a more definite timeline when the City was to come back to the LUC to amend the special permit.

Ms. Namumnart stated that it is their intention that as soon as they are finished with the FEIS for the new landfill site, they would concurrently seek all necessary permits.

Mr. Young commented that the Planning Commission's process is that generally when the EIS is accepted, they have 10 days to accept the SUP application with the accepted EIS. Then a recommendation is sent to the Planning Commission for hearing within 90 days of acceptance. Thereafter, the Planning Commission can act or the hearing can continue with no deadline to that process. Once the hearing is completed, it's another 45 days for them to make a recommendation to the LUC and to send the record up within 30 days or so.

Commissioner Formby asked if the City was to complete the Planning Commission process before actually filing the amendment with LUC. Ms. Namumnart replied in the affirmative.

Commissioner Formby then discussed the timeline and commented that his concern is for the LUC to put themselves in a position to be making a decision on the SUP application on the eve of the landfill not being able to accept any more solid waste.

Vice Chair Montgomery noted that when HPOWER was built, it took a fraction of the waste generated and it still has to turn away waste because it is at capacity. Vice Chair Montgomery asked what could be done to expedite the completion of the third boiler so that the landfill would not be filling up so fast.

Mr. Takamura stated that the new administration has reviewed the operations of HPOWER and whenever it shuts down, the entire waste stream goes to Waimanalo Gulch. Mr. Takamura added that the third boiler is currently on hold and that they are

trying to develop modular facilities that will not generate that type of shut down and flow of waste to the landfill. They are currently pursuing a privately financed design build type of facility so that it can be expedited and come on-line quicker (approximately three to four years).

Vice Chair Montgomery asked the number of cities that currently have curbside recycling and pick up.

Mr. Takamura noted that he believes every city has a recycling program and added that other municipalities have incinerators and just burn waste, while Honolulu burns waste to produce electricity.

Ms. Namumnart discussed the City and County's Integrated Solid Waste Management Plan and the value of material collected for recycling waste to energy in lieu of using imported oil to generate the same amount of energy.

Vice Chair Montgomery commented that a third of the solid waste is diverted to the landfill simply because HPOWER cannot take it and that the Mayor has also deferred curbside recycling. Vice Chair Montgomery added that his concern is that this is not consistent with the City and County's stated goals of reducing the reliance on the landfill.

Ms. Namumnart noted that this landfill is also being used for different uses and community needs. In addition to accepting MSW, the Waimanalo Gulch accepts overflow from HPOWER, farm and agricultural waste, merchandise that cannot be disposed of at HPOWER, military sand blast grit residue, tank sludge from Chevron, hotel mattresses, and other non-hazardous waste.

A recess break was taken at 11:00 a.m. The meeting reconvened at 11:15 a.m.

Vice Chair Montgomery commented that at HPOWER, he saw a brick made from ash and wondered if the City would consider making other construction materials out of the ash. Vice Chair Montgomery also discussed the alternative of exporting waste to other states.

Ms. Namumnart stated that they have submitted a proposal to the DOH to reuse the HPOWER ash for alternate daily cover or to convert to building materials and are waiting for an answer. Ms. Namumnart added that they are always exploring alternatives before making decisions at the City and will continue to explore its options.

Vice Chair Judge raised a few questions on the sewage sludge being diverted to fertilizer pellets, and the council's resolution on different methods of reducing MSW to the landfills.

Ms. Namumnart stated that they have conducted research on this and continue to evaluate it, but because Honolulu is the 11th largest city in the nation, the city generates a very large waste stream.

Vice Chair Judge asked what is plasma arc?

Mr. Takamura explained that it is molten liquid that burn off organics, leaving a small slag behind that is not re-useable. Mr. Takamura noted that there is a plasma arc facility for medical waste at Campbell Industrial Park and added that mass burn technology is much lower in cost than plasma arc facilities because plasma arc facilities are used for hazardous waste and things that we don't want in the landfills.

Vice Chair Judge asked what is modular technology.

Mr. Takamura stated that modular technology is RDF (refuse derived fuel) like at HPOWER or mass burn facilities.

Commissioner Im commented on Bill 37 that was vetoed by the Mayor and asked if there was any type of affirmative resolution or ordinance that needs to be passed to make Waimanalo Gulch the location for the new site.

Mr. Takeuchi stated that the council will have a continuing role on this matter and believed that the council did not need to enact any additional legislation at this time.

Commissioner Im stated that he just wanted some assurance that the City is clear on this decision before the LUC takes action on it.

Mr. Takeuchi noted that the majority of the council decided to not override the veto and did select Waimanalo Gulch in December 2004. Mr. Takeuchi added that he was unsure if the council would follow up with a resolution.

Mr. Young added that the Ewa Development Plan that was approved by the council includes a discussion on Waimanalo Gulch and a possible future expansion. Mr. Young commented that this would be the legislative action that supports the landfill. The department is currently working on the public review draft and the

council should be taking action soon. The public review draft will be completed in approximately three months.

Commissioner Formby raised a few questions relative to the capacity of the E4 cell and its projected expiration date.

Mr. Burns commented that at 1700 tons a day (which is an estimated figure) the landfill would reach its capacity in late 2008.

Commissioner Formby asked what is the lead time for developing new cells upon approval of the permit.

Mr. Burns stated that a new cell could be built in three to six months.

Commissioner Formby commented that he was trying to come up with a timeline in order to ensure that an amendment is filed on a timely basis with the LUC. Commissioner Formby discussed the Preliminary Schedule, EIS process, Planning Commission approval, the SUP process and deadlines.

After a discussion, Ms. Namumnart stated that they would have no problems in presenting a status report in March 2007. Ms. Namumnart added that she personally did not like deadlines and that a deadline may be another step for them to come back to the LUC and request for an amendment to the deadline.

Commissioner Formby commented that he is concerned about the practical lead time given the delays experienced in the past and asked the other Commissioners to consider and discuss his proposed timeline, as he believed that it was within the agenda to take this type of action.

Chair Sakumoto noted that there is a possibility for the City and County to establish a timeline today. Chair Sakumoto then posed questions on the approximate timeline for the EIS prep notice to be filed, the timeline for the Planning Commission, and the SUP application process timeline.

Mr. Young stated that the City's Department of Planning and Permitting will be processing the EIS on behalf of the Mayor. After the EIS process has been satisfied, they have 90 days to send the report to the Planning Commission to hold a hearing.

After a brief discussion, Chair Sakumoto commented that he concurred with Commissioner Formby that there should be some type of deadline to be established.

Vice Chair Judge stated that she would personally prefer a status report sooner than later so that the LUC can identify other issues that may come up in advance of any deadline.

Mr. Takeuchi stated that they would welcome the opportunity to provide a status report at the LUC's request and may possibly clean up some the conditions at that time.

Commissioner Piltz posed a few questions on the re-use of the landfill and the time period that the lands need to lay fallow.

Ms. Namumnart stated that at the present time, there is a 30 year post closure period that they must maintain at any closed landfill.

Mr. Takamura added that he believes that the DOH would not allow any use of the lands until after the 30 year post closure monitoring and any re-use plan at this time is premature.

Chair Sakumoto raised questions on condition 15, the selection of a new landfill site, as indicated in the status report, and the City's indication that they will be requesting an amendment to allow further use of Waimanalo Gulch.

Mr. Takeuchi stated that the request will be expedited as soon as practicable and added that the City may want to come forward sooner to clear up some of the conditions irrespective of further review and action by the LUC down the road.

Chair Sakumoto posed questions relative to a request for extension from the DOH for the ash site and the type of extension.

Mr. Burns stated that they have submitted an application for a grade modification for the ash fill to the DOH and the plan is to raise the grades by 30 to 40 feet and it is a physical geographic extension.

Chair Sakumoto posed a few questions on the litter fences, its location, and when these fences were installed. He added that at a previous hearing, the LUC received complaints of litter flying all around, at Ko Olina, and in the near shore water.

Mr. Burns stated that the litter fences are very portable and are moved constantly. Mr. Burns added that the fences came into use about the same time that he arrived on the job (in June 2005).

Chair Sakumoto commented that several months ago, the media reported violation notices of the landfill relating to the leachate and underground fires at the landfill.

Mr. Burns stated that it is a legal matter, but will briefly discuss that a notice of violation was received from the DOH on recordkeeping, litter, odor, and leachate issues. Mr. Burns noted that they have addressed the minor recordkeeping issues, the gas system is in place, there are no more odors, litter fences have been established and have made extensive efforts to place a daily cover on active portions of the landfill. Mr. Burns added that they have made significant changes and improvements at the site.

Chair Sakumoto also posed questions relative to the possible re-use of the ash as a daily cover, the estimated number of trucks at the landfill each day, and the anticipated amendment of the permit extension date. Chair Sakumoto then asked what the duration of the SUP extension request would be.

Ms. Namumnart stated that if landfill use continues at its present rate, then the City anticipates that the landfill can last (with the additional expanded area) an additional fifteen years, and would hope for the longest possible period. Ms. Namumnart added that they are trying to maximize the use of the property and the intent is to keep the landfill until 2023.

Chair Sakumoto noted that earlier testimony talked about a new management team coming on line and asked if this was a new contractor with the City.

Mr. Burns stated that the new management team was himself and the primary people that work with him. Mr. Burns added that he became the general manager of Waste Management Hawaii in June 2005 and brought in a compliance specialist (Susan Pankenier) and a community affairs manager (Russell Nanod). It is their goal to run the site in full compliance.

After a brief discussion related to the filing timeline, Mr. Takeuchi stated that the City would not have any problems with providing updates and status reports and could possibly clean up some of the conditions at these meetings. However, he did have a concern about setting any type of firm deadline for this process and would

prefer to at least get through the EIS process to ensure that realistic deadlines would be set.

Mr. Takeuchi stated that at the conclusion of the EIS process, they will have a more realistic idea on those deadlines and his concern was trying to establish the timeline now even before the EIS process has begun. Mr. Takeuchi commented that during the interim, they will be able to provide whatever status reports the LUC requests. Mr. Takeuchi added that the proposed preliminary timeline for the EIS conclusion will be in March 2007.

Commissioner Im commented that he was still uncomfortable with condition 15 regarding the selection of a new landfill site and the absence of a resolution or legislation that may need to be passed that assures the LUC that this is the new site.

Commissioner Formby discussed the Commission's timeline on the filing of an amendment.

Mr. Pang requested a short break to discuss the ramifications that any deadlines would have on the DPP. He requested the opportunity to discuss these ramifications of a deadline upon the Planning Commission's process.

A recess break was taken at 12:05 p.m. The meeting reconvened at 12:15 p.m.

Mr. Pang expressed his appreciation to the LUC for allowing him to discuss the ramifications on the Planning Commission with his client. Mr. Pang noted that a timeline will definitely affect his clients. Mr. Pang added that they will take priority over whatever needs to be done of the ENV and what the LUC asks for.

Mr. Takeuchi stated that he also had the opportunity to discuss the timeline with his clients and noted that the preliminary timeline is just preliminary. Mr. Takeuchi added that they are willing to return in three months with a finalized timetable and clarification or amendments for conditions 1 and 15.

Commissioner Formby questioned if the City had a date for filing a formal amendment with the LUC.

Mr. Takeuchi stated that this date would be after the EIS process has concluded, adding that the City could return before the LUC in three months with a more definite idea on some of these dates.

Chair Sakumoto then entertained a motion that the Applicant be ordered to file a status report with the LUC by no later than July 31, 2006. This report would include an update of their preliminary timeline as well as an update on their efforts to seek an amendment to conditions of the special permit.

Commissioner Formby indicated that he just wanted to make sure that there is action taken and real deadlines established by the City and County.

Commissioner Formby then moved to order the Applicant to file a status report no later than July 31, 2006 containing an updated timeline as well as a report on their intentions to amend any condition of the existing special use permit. The motion was seconded by Commissioner Im.

The Commission was polled as follows:

Ayes: Commissioners Formby, Im, Piltz, Montgomery, Kanuha, Judge, Contrades, and Sakumoto.

The motion passed with 8 ayes, 0 absent.

The meeting adjourned at 12:30 p.m.

*(Please refer to LUC Transcript of April 21, 2006 for more details on this matter.)*