

LAND USE COMMISSION
MEETING MINUTES

March 2, 2012

**Leiopapa A Kamehameha, Conference Room 204, 2nd Floor
235 South Beretania Street, Honolulu, Hawai`i 96804**

COMMISSIONERS PRESENT: Ernest Matsumura
Chad McDonald
Kyle Chock
Normand Lezy (arrived at 9:48 a.m.)
Lisa Judge (departed at 11:30 a.m.)
Ronald Heller
Nicholas Teves, Jr.

COMMISSIONERS ABSENT: Jaye Napua Makua
Thomas Contrades

STAFF PRESENT: Orlando Davidson, Executive Officer
Diane Erickson, Deputy Attorney General
Bert Saruwatari, Staff Planner
Scott Derrickson, Staff Planner
Riley Hakoda, Staff Planner/Acting Chief Clerk

COURT REPORTER: Holly Hackett

AUDIO TECHNICIAN: Walter Mensching

CALL TO ORDER

Vice Chair Chock called the meeting to order at 9:03 a.m.

INTERVENOR- SENATOR HEE WITNESSES

1. William Tam

Mr. Tam was offered and admitted as an expert on water resources. Mr. Tam described his role with the Department of Land and Natural Resources (DLNR) Commission on Water Resources Management and shared the findings of his organization related to available water resources in Hawaii and future forecasts and planned actions; and the

concerns that the Commission on Water Resources had with supplying the current and future needs for water and how water codes had been established and could be enforced to ensure a continuing supply.

Mr. Tam stated that he had been subpoenaed to appear before the Commission and described how his testimony would be limited by his concerns over legal issues and his organizations future involvement in this matter.

Petitioner-

Mr. Kudo requested clarification on water as a natural resource. Mr. Tam described how future water resource availability was difficult to predict due to changing weather and rainfall conditions; and how new sets of assumptions for climatology were developing as the quality of science and technology improved, and how current findings indicated declining water resources; and why he had to be subpoenaed to appear before the Commission.

Mr. Kudo requested clarification on the reliability of historical patterns of weather and their use in predict future weather cycles. Mr. Tam provided his understanding of how Hawai'i's rainfall was decreasing over the last 20 years and explained how the nature of science/data collection accurately recorded the past but could not reliably predict future water availability.

Mr. Kudo requested clarification on Mr. Tam's understanding of water resources in the Petition Area and how they would be impacted by the proposed project. Mr. Tam stated that he was unable to respond to the question due to the limitations he had set for providing testimony to the Commission and described the various features of the Petition Area that he was familiar with and how the water shed and recharge capability of the region needed to be studied, protected and managed.

Mr. Kudo requested clarification on what decision making model alternatives could be used in light of the uncertainty of future water resources. Mr. Tam responded that decisions should be based on the best information available and that current/future sustainable water yields and uses combined with conservation measures could help extend the lifespan of resources. Mr. Tam reminded the Commission that Hawaii observed the riparian shared use doctrine and how disruptive "takings" could become necessary in the future.

Mr. Kudo requested further clarification on aquifer replenishment for the Ewa region. Mr. Tam described the geographic characteristics of the region and how they affected the replenishment process.

DPP-

Mr. Kitaoka requested clarification on how the DLNR Water Commission fit into the land use approval process. Mr. Tam described the role that the Water Commission had in reviewing information about proposed projects and their water needs and how water codes and permits were used by his organization for guidance, development and control of water resources; and how the Water Commission's role differed from the Land Use Commission.

OP-

Mr. Yee had no questions

FOM-

Dr. Dudley requested clarification on how desalinization plants would be used to supply future water needs and whether in-migration to Hawai'i needed to be limited. Mr. Tam stated that he was not qualified to speak about the subject and expressed his concerns about whether there should be a large scale reliance on such desalinization systems due to the associated high costs of energy for processing the water and disposing of the brine byproduct.

The Sierra Club

Ms. Dunne had no questions.

There was no redirect.

Commissioner Questions

Commissioner Heller requested clarification on what Mr. Tam's concerns were about the impact of the proposed project on existing water supply and demand. Mr. Tam described why he thought the proposed project would not affect the recharge of water on the supply side and stated that he would reserve the demand side for the Commission to decide.

Commissioner Heller requested clarification on whether water demand was greater in agricultural or urban use. Mr. Tam replied that agricultural use demand was more elastic and variable while urban

demand was steady; and that the hardened urban surfaces created problems with runoff and the recharge of the aquifers.

There were no further questions for Mr. Tam.

The Commission went into recess at 10:07 a.m. and reconvened at 10:18 a.m.

INTERVENOR FOM WITNESS

1. Panos Prevadorous- Transportation Engineer

Dr. Prevadorous was offered and admitted as an expert in transportation and provided his summary and analysis of the April 2011 TIAR for the proposed project. Discussion ensued on whether the TIAR had been admitted into evidence and what relevance it had to the proceedings since it was not the TIAR version that the DOT would be reviewing about the proposed project. Mr. Kudo confirmed that the document had been provided to all Parties and described why it had been included and circulated for the Parties to review. Mr. Yee explained why the April 2011 TIAR was prepared for the proposed project. Mr. Seitz argued why the TIAR was relevant. Dr. Dudley expressed why the TIAR process was puzzling to the public and argued why the April 2011 TIAR information should be considered.

Commissioner Teves moved for an Executive Session. Commissioner McDonald seconded the motion and by unanimous voice vote (7-0) the Commission elected to enter Executive Session at 10:30 a.m. and reconvened at 10:44 a.m.

Dr. Dudley offered FOM Exhibit B37- the April 2011 TIAR into evidence and Chair Lezy admitted it.

Dr. Prevadorous described the methodology and criteria he used to analyze the TIAR and its findings and provided his perspective of why it was not an acceptable document since it addressed only partial coverage of the proposed project with no scenario of full buildout impacts; had used too simplistic models in analyzing its data and neglected including the H1/H2 merge. Dr. Prevadorous stated that existing traffic conditions were not mentioned and there was no relationship to how conclusions regarding the future were derived and described why the

deficiencies of the traffic studies included in the TIAR rendered it an incomplete document.

Petitioner-

Mr. Kudo requested clarification on whether Dr. Prevadourous had done any travel time studies done to back up statements that he had made during his testimony and if he had been an anti-rail mayoral candidate and American Dream Coalition member. Dr. Prevadourous described past studies he had done and stated that none had involved the proposed project; described his pursuit of the office of mayor and stated that he was not a member of the American Dream Coalition.

DPP-

Mr. Kitaoka requested clarification on the recommended solutions to traffic impacts and how the use of traffic lanes to alleviate conditions worked. Dr. Prevadourous provided more specific details of his recommendations and how dependence on the first city by potential residents of the proposed project would continue to contribute to congestion on the freeways.

OP-

Mr. Yee requested clarification on traffic behavior and the assumptions that were made for time/traffic relationship estimates and how adding lanes would relieve congestion. Dr. Prevadourous provided the considerations that he made in reporting on the April 2011 TIAR and shared his conclusions and reasons why the TIAR before the Commission was not a good document to rely upon.

There was no redirect.

Commissioner Questions

Commissioner Judge requested clarification on why traffic studies did not include larger areas within the region of concern. Dr. Prevadourous replied that the criteria for TIARs was set by the reviewing authority, and that no guidelines for systems impacts were in place.

Commissioner Judge asked what the scope of a TIAR document should be. Dr. Prevadourous described what he thought TIARs should include and stated that he could not answer questions about mitigation for the Petition Area without further information and suggested adding lanes from the Petition Area to UH-Mānoa as a possible mitigation for traffic conditions.

Chair Lezy requested clarification on Dr. Prevadourous' awareness of the DOT approval process and whether he had faith in the DOT system. Dr. Prevadourous stated that he had worked for the State as consultant and felt that DOT engineers might review and identify the same flaws that he had discovered and that he was not aware of the current DOT administration's position on the Petition and that it did not appear to him that the best interests of the public were being considered.

There were no further questions for Dr. Prevadourous.

The Commission went into recess at 11:20 a.m. and reconvened at 11:28 a.m. Chair Lezy announced that the Commission would take public testimony at the current time for audience members and also again at the scheduled 2 p.m. agenda posted time.

PUBLIC WITNESSES

1. Tom Berg-

Councilman Berg submitted copies of City Council Resolution 12-23, CD1, FD1. which addressed urban growth boundary changes and expressed his concerns regarding the Petition and what the purpose and intent of the city resolution was..

Dr. Dudley requested further clarification on what the intent of the resolution was. Councilman Berg described how the resolution was an attempt to identify prime agricultural land including those already inside the urban growth boundaries and reassess their important agricultural land value and the Oahu general plan.

There were no further questions for Councilman Berg.

2. Dana Anderson-

Ms. Anderson stated she opposed the proposed project and shared her reasons why..

- There were no questions for Ms. Anderson.
3. Cyrus Cariaga
Mr. Cariaga stated that he was an unemployed carpenter and described why he supported the Petition
There were no questions for Mr. Cariaga
 4. Dennis Lombardi
Mr. Lombardi stated that he supported the Petition and provided his background and working relationship with D.R. Horton-Schuler Homes.
There were no questions for Mr. Lombardi.
 5. Mike Nojima
Mr. Nojima stated that he was a civil engineer and supported the Petition; and expressed why he considered D.R. Horton-Schuler Homes a worthy developer.
There were no questions for Mr. Nojima.
 6. Henry Kwock
Mr. Kwock stated that he supported the Petition and voiced his reason why.
There were no questions for Mr. Kwock.

The Commission went into recess at 11:58 a.m., reconvened at 3:03 p.m.; and Chair Lezy called for public testimony. (6 Commissioners present)

PUBLIC WITNESSES-(CONT.)

7. Wynn Hee
Ms. Hee shared why she opposed the Petition and asked the Commission to leave agriculture land alone.
There were no questions for Ms. Hee.
8. State Representative Gil Riviere-
Rep. Riviere stated that he opposed the Petition for land use designation change and described why public sentiment for appropriate development was increasing.
There were no questions for Rep. Riviere.
9. Jason Espero-
Mr. Espero stated that he wanted to live on Oahu's leeward side and in proposed development and described why he supported the Petition.
There were no questions for Mr. Espero.
10. Kevin Keleen

Mr. Keleen described why he opposed the proposed project.
There were no questions for Mr. Keleen

Commissioner Matsumura excused himself at 3:19 p.m. and
returned at 3:22 p.m.

11. Cynthia Frith

Ms. Frith stated that she opposed the Petition and requested that
the Commission consider preserving the prime farmland of the
Petition Area..

There were no questions for Ms. Frith

12. Thad Spreg

Mr. Spreg described why he opposed the Petition.

There were no questions for Mr. Spreg.

13. Guy Archer-

Mr. Archer stated that he represented the Americans for
Democratic Action-Hawai`i Chapter and expressed his
organization's opposition to the Petition.

There were no questions for Mr. Archer.

14. James McKay

Mr. McKay shared his concerns about-long term sustainability
for Hawaii and why he opposed the proposed project..

There were no questions for Mr. McKay.

15. Jeff Brone

Mr. Brone stated that he worked with enriching soils and
described why he valued healthy soil and opposed the Petition.

There were no questions for Mr. Brone.

16. Kika Bukoski

Mr. Bukoski described how he perceived the proposed project
would benefit the local marketplace.

There were no questions for Mr. Bukoski.

17. Elaine Kam

Ms. Kam described her concerns about importing food and why
she opposed the Petition.

There were no questions for Ms. Kam.

18. Jade Spellina

Ms. Spellina expressed why Hawai`i should retain its farmlands
and why she did not want the Petition granted.

There were no questions for Ms. Spellina.

Ms. Kam stated she and Ms. Spellina represented 168 parents, students, teachers from various schools and requested permission to display signage materials protesting the proposed petition to the Commission.. Chair Lezy approved the request and the display materials were shown to the Commission.

Commissioner Matsumura excused himself at 3:35 p.m. and returned at 3:38 p.m.

19. Joanna Bukipala

Ms. Bukipala stated that she opposed the Petition and described her concerns about the proposed project..

There were no questions for Ms. Bukipala.

Chair Lezy announced that the next LUC meeting was on March 15-16, 2012 and confirmed the remaining witnesses that the Parties still needed to present to the Commission.

There being no further business, Chair Lezy acknowledged the efforts and cooperation of the parties and adjourned the meeting at 3:52 p.m.