

LAND USE COMMISSION  
MEETING MINUTES

June 21, 2012- 9:00 A.M.

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

COMMISSIONERS PRESENT: Chad McDonald  
Thomas Contrades  
Kyle Chock  
Normand Lezy  
Ernest Matsumura (did not vote on A11-793 at June 7,  
2012 meeting)  
Ronald Heller (Recused from A11-793)  
Nicholas Teves, Jr.  
Lisa Judge

COMMISSIONERS EXCUSED: Napua Makua

STAFF PRESENT: Daniel Orodenker, Executive Officer  
Sarah Hirakami, Deputy Attorney General  
Bert Saruwatari, Staff Planner  
Scott Derrickson, Staff Planner  
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Holly Hackett

AUDIO TECHNICIAN: Walter Mensching

**CALL TO ORDER**

Chair Lezy called the meeting to order at 9:10 a.m. and introduced Executive Officer Orodenker to the audience.

**APPROVAL OF MINUTES**

Chair Lezy asked if there were any corrections or additions to the June 6-7-8, 2012 minutes. There were none. Commissioner Teves moved to approve the minutes. Commissioner Contrades seconded the motion. The minutes were unanimously approved by a voice vote (8-0).

## TENTATIVE MEETING SCHEDULE

Executive Officer Orodenker provided the following:

- The regular tentative meeting schedule for the calendar year 2012 was distributed in the handout material for the Commissioners.
- The next set of meetings will be on Oahu to address A99-728 ( c )Housing and Community Development Corporation of Hawaii's Motion for Order Amending D&O dated September 8, 1999 and possibly the Waimanalo Gulch Sanitary Landfill.
- Any questions or concerns- please contact LUC staff.

## ACTION

### A11-793 Castle & Cooke Homes Hawaii Inc. (OAHU)

Chair Lezy announced that this was a meeting to adopt the form of the order for Docket No. A11-793 to amend the Agricultural Land Use District Boundary into the Urban District for approximately 767.649 acres at Waipio and Waiawa, Island of Oahu, State of Hawaii.

Commissioner Heller excused himself at 9:14 a.m. and returned at 9:45 a.m. (after proceedings on A11-793 were concluded)

## APPEARANCES

Benjamin Matsubara, Esq., Wyeth Matsubara, Esq. and Curtis Tabata, Esq., represented Castle & Cooke Homes Inc.

Laura Kodama, Castle & Cooke Homes, Inc.

Don Kitaoka, Esq., represented City and County of Honolulu  
Department of Planning and Permitting (DPP)

Mike Watkins, Department of Planning and Permitting

Bryan Yee, Esq., represented State Office of Planning (OP)

Richard Poirier represented Intervenor-Mililani/Waipio/Melemanu Neighborhood  
Board No.25 (NHB#25)

Eric Seitz, Esq., and Sarah Devine, Esq., represented Intervenor-The Sierra Club and  
Intervenor Senator Clayton Hee

Chair Lezy updated the record and stated that public testimony would be taken

## PUBLIC WITNESSES

1. Gil Riviere, State Representative District 46

Rep. Riviere shared his concerns about traffic and the need to continue to enforce LUC conditions to ensure that they are observed during the development process.

There were no questions for Mr. Riviere.

2. Michael Dau

Mr. Dau expressed his opinions about the negative impacts that he thought the proposed project would bring and how he doubted that the Commission would be able to enforce any of the conditions imposed upon the Petitioner.

There were no questions for Mr. Dau.

3. Kika Bukowski- Hawaii Building and Construction Trades Council

Mr. Bukowski thanked the Commission and expressed his opinions on how the proposed project had been portrayed in a recent newspaper article and asked that his comments for this proceeding also be also reflected in Docket No. A06-771.

There were no questions for Mr. Bukowski

4. Dennis Egge

Mr. Egge described his concerns about the loss of local farmland and the deterioration of the agricultural industry due to the granting of the Petition.

There were no questions for Mr. Egge.

5. Sherry Pollack

Ms. Pollack expressed her disappointment with the Commission's decision and described her concerns with the future consequences of it.

There were no questions for Ms. Pollack.

6. Pearl Johnson- League of Women Voters

Ms. Johnson shared her concerns about the Commission's ability to enforce the conditions it planned to impose with this docket's Decision and Order and asked the Commission to reconsider its decision.

There were no questions for Ms. Johnson.

Chair Lezy asked the audience if there were any other members of the public interested in testifying. There were no responses and no other public witnesses.

Chair Lezy asked the Parties if they had anything further to add. Petitioner, County, OP, and NHB25 had no comments. Mr. Seitz stated that he had two matters *(Please refer to LUC Transcript for more details on these matters)*

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that he wanted to place on the record 1) that the Parties had not seen the order since it had not been circulated and did not have time to review it to raise any objections; and 2) the manner in which the proceedings had been conducted during deliberations on the docket at the last meeting since the Commission went into Executive Session prior to voting on the Petition and in his opinion, had violated the "Sunshine Law." Chair Lezy noted Mr. Seitz's objections.

There were no further comments or questions.

Commissioner McDonald moved to adopt the form of the order. Commissioner Contrades seconded the motion. There was no discussion.

The Commission voted as follows:

Ayes: Commissioners McDonald, Contrades, Matsumura, Judge, Teves, Chock, and Chair Lezy.

Nays: None

The motion passed 7-0 with 2 excused (Commissioner Heller recused)

The Commission went into recess at 9:35 and reconvened at 9:45 a.m.

### ACTION

A06-771 D.R. HORTON-SCHULER HOMES, LLC., (O`ahu)

Chair Lezy announced that this was an action meeting to adopt the form of the order for Docket No. A06-771 D.R. HORTON – SCHULER HOMES, LLC, a Delaware limited liability company, d.b.a. D.R. Horton-Schuler Division.

### APPEARANCES

Benjamin Kudo, Esq., and Naomi Kuwaye, Esq., represented Petitioner D.R. Horton-Schuler Homes, LLC

Cameron Nekota, D.R. Horton-Schuler Homes, LLC

Don Kitaoka, Esq., Deputy Corporate Counsel, represented City and County of Honolulu, Department of Planning and Permitting (DPP)

Tim Hata, DPP

Bryan Yee, Esq., represented State Office of Planning (OP)

Mary Lou Kobayashi, OP

Dr. Kioni Dudley, represented Intervenor Friends of Makakilo (FOM)

Linda Paul, Esq., legal advisor to FOM

Elizabeth Dunne, Esq., represented Intervenor The Sierra Club

*(Please refer to LUC Transcript for more details on these matters)*

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Eric Seitz, Esq. (departed at 9:35 a.m.)

Sarah Devine, Esq., represented Intervenor Clayton Hee

Chair Lezy updated the record and called for Public Witnesses.

## PUBLIC WITNESSES

### 1. Maeda Timson- Hoopili Task Force

Ms. Timson stated that she was appearing on behalf of the Hoopili Task Force and expressed her organization's thanks to the Commission on its recent decision.

Dr. Dudley requested clarification on the composition of the Hoopili Task Force membership and expressed his concerns about possible sunshine law violations. Ms. Timson denied any violations occurred and stated that she could not recall all of the events and participants from her years of participation on the Task Force.

Chair Lezy reminded Dr. Dudley that the matter before the Commission was to adopt the form of the order and to focus on that point. Dr. Dudley acknowledged Chair Lezy's comment.

There were no further questions for Ms. Timson.

### 2. Georgette Stevens

Ms. Stevens expressed her appreciation for the Commission's decisions on the proposed project.

There were no questions for Ms. Stevens.

### 3. Mitchell Tynanes-

Mr. Tynanes expressed his gratitude to the Commission for its service and for granting the Petition.

There were no questions for Mr. Tynanes.

### 4. Gil Riviere- State Representative District 46

Rep. Riviere expressed his concerns about the loss of farmland and the need for the Commission to consider Hawaii's sustainability in the future and the difficulties confronting the agricultural industry in its land use decisions.

There were no questions for Rep. Riviere.

### 5. Peter Ganaban-

Mr. Ganaban described the various union organizations that he represented and thanked the Commission for its decision.

There were no questions for Mr. Ganaban.

6. Ann Kobayashi- Honolulu City Council

Councilperson Kobayashi expressed her concerns about the loss of agricultural farmlands and the increasing threats to the future sustainability of Hawaii.

There were no questions for Ms. Kobayashi.

7. Kika Bukowski

Mr. Bukowski shared his perspective of what the Commission did for the State and thanked the Commission for its efforts/

There were no other public witnesses.

Chair Lezy asked if the Parties had anything further that they wished to add. Petitioner, County and OP had no comments. Dr. Dudley questioned whether the Commission was just seeing the document that it would be voting on for the first time. Chair Lezy replied that period for questioning the Commission had passed and that the pre-decisional actions of the Commission were confidential; and assured Dr. Dudley that the Commissioners had reviewed the proposed form of the order in this matter. Dr. Dudley noted that he had nothing further to add. Ms. Devine stated that she objected to not having seen the proposed order under consideration and had not had the opportunity to make timely objections to it. Chair Lezy noted Ms. Devine's objection. Ms. Dunne stated that she joined in Ms. Devine's objection. Chair Lezy noted Ms. Dunne's objection. There were no further comments or questions.

Commissioner Teves moved to adopt the form of the order. Commissioner Contrades seconded the motion. There was no discussion.

The Commission voted as follows:

Ayes: Commissioners Teves, Contrades, Matsumura Judge, McDonald, Heller, Chock and Chair Lezy.

Nays: None

The motion passed 8-0 with 1 excused.

### **EXECUTIVE SESSION**

Chair Lezy entertained a motion for Executive Session. Commissioner Contrades moved and Commissioner Judge seconded the motion to enter into Executive Session. By a unanimous voice vote the Commission elected to enter into Executive Session (8-0). The Commission exited for Executive Session at 10:08 and reconvened at 10:25 a.m.

### **ELECTION OF OFFICERS**

*(Please refer to LUC Transcript for more details on these matters)*

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Chair Lezy entertained a motion for nomination of Commission Officers. Commissioner Teves moved to nominate Commissioner Chock as Chair, and Commissioners Heller and McDonald as Vice Chairs. Commissioner Contrades seconded the motion.

There was no discussion.

The Commission voted as follows:

Ayes: Commissioners Teves, Contrades, Matsumura, Judge, McDonald, Heller, Chock and Chair Lezy.

Nays: None

The motion passed 8-0 with 1 excused

Commissioner Teves thanked Chair Lezy and Past Chair Judge for their service to the Commission. Commissioner Contrades echoed Commissioner Teves' gratitude.

The Commission adjourned at 10:27 a.m.