

**LAND USE COMMISSION  
MEETING MINUTES**

July 5, 2012 – 9:00 A.M.

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

COMMISSIONERS PRESENT: Ernest Matsumura  
Chad McDonald  
Kyle Chock  
Lance Inouye  
Napua Makua

COMMISSIONERS EXCUSED: Ronald Heller  
Nicholas Teves, Jr.  
Thomas Contrades

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

COURT REPORTER: Holly Hackett

AUDIO TECHNICIAN: Walter Mensching

**CALL TO ORDER**

Chair Chock called the meeting to order at 9:02 a.m. and moved for an Executive Session. Commissioner McDonald seconded the Motion. By unanimous voice vote (5-0), the Commission elected to enter Executive Session and exited at 9:02 a.m. and reconvened at 9:14 a.m.

Chair Chock announced the Commission's plan for the day due to the quorum issues confronting it and noted that only public testimony would be taken for A99-728 with the primary docket matter being deferred to a later meeting date on Oahu. Chair Chock also noted that public testimony and deliberation would proceed on SP09-403 since the required number of Commissioners were available.

There were no questions, comments or objections by the Parties.

### **APPROVAL OF MINUTES**

Chair Chock asked if there were any corrections or additions to the June 21, 2012 minutes. There were none. Commissioner McDonald moved to approve the minutes. Commissioner Matsumura seconded the motion. The minutes were unanimously approved by a voice vote (5-0).

### **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 July 19-20, August 2-3, and 23-24, 2012 LUC meetings will involve travel to Maui.
- Any questions or concerns- please contact LUC staff

### **ACTION**

A99-718 Housing and Community Development Corporation of Hawaii (O`ahu)  
Department of Hawaiian Home Lands

Chair Chock announced that this was an action meeting on A99-728 Housing and Community Development Corporation of Hawaii (HCDCH) to consider Petitioner, The State of Hawaii Department of Hawaiian Home Lands' ("DHHL") Motion for Order amending the Findings of Fact, Conclusions of Law, and Decision and Order Dated September 8, 1999 and that public testimony would be taken at this proceeding.

### **APPEARANCES**

Craig Iha, Esq., represented DHHL  
Jobie Masagatani, Director, DHHL  
Diane Taira, Esq. represented HCDCH  
Don Kitaoka, Esq., represented City and County of Honolulu  
Department of Planning and Permitting  
Tim Hata, Department of Planning and Permitting  
Bryan Yee, Esq., represented State Office of Planning (OP)  
Rodney Funakoshi, OP  
Yvonne Izu, Esq., represented Haseko (Ewa) Inc.

*(Please refer to LUC Transcript for more details on these matters)*  
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Chair Chock updated the record and described the procedures to be followed for the hearing. There were no comments or objections to the procedures and Chair Chock announced that public testimony would be taken.

#### PUBLIC WITNESSES

1. Georgette Stevens

Ms. Stevens expressed her support for the proposed project.

There were no questions for Ms. Stevens.

2. Maeda Timson

Ms. Timson stated that she was a long-time community resident and described why she supported the proposed project.

There were no questions for Ms. Timson.

3. Glenn Oamilda-

Mr. Oamilda stated his community affiliations and described his concerns about the treatment of cultural/historic sites in the Petition Area; and the inadequate planning for the region by the City and County of Honolulu.

Mr. Kitaoka asked if Mr. Oamilda was aware this was a DHHL project separate and apart from the City land use approval process. Mr. Oamilda acknowledged that he was aware that DHHL had jurisdiction of the proposed project and described how he would share his concerns with the DHHL at the county level.

There were no further questions for Mr. Oamilda.

4. Benjamin Sadoski

Mr. Sadoski stated that he represented Local 5 and echoed Mr. Oamilda's concerns about the lack of regional planning by the City and what his organizations expectations were in regards to the proposed project.

There were no questions for Mr. Sadoski.

5. Rich Hargrave

Mr. Hargrave submitted written testimony and described why he supported the proposed project.

There were no questions for Mr. Hargrave.

6. Michael Golojuch Jr.

Mr. Golojuch stated that he was part of the Abercrombie Administration but

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

was speaking as a individual in support of the proposed project.

There were no questions for Mr. Golojuch.

7. Homelani Schaedel

Ms. Schaedel expressed her support of the proposed project and submitted written testimony.

There were no questions for Ms.Schaedel.

8. Shirley Swinney

Ms. Swinney described why she supported the proposed project.

There were no questions for Ms. Swinney.

9. Matthew Lopresti-

Mr. Lopresti expressed his reasons for supporting the proposed project.

There were no questions for Mr. Lopresti.

There were no further public witnesses. Chair Chock apologized for the quorum issue and advised the Parties to work with LUC staff on the rescheduling for the docket and deferred further proceedings.

The Parties had no questions, comments or objections regarding this docket matter.

The Commission went into recess at 9:53 a.m. and reconvened at 9:59 a.m.

**DELIBERATION AND DISCUSSION ON PROCEDURAL ISSUES AND ACTION  
(IF NECESSARY)**

SP09-403 Department of Environmental Services (Waimanalo Gulch)

Chair Chock announced that this was a meeting to deliberate and discuss procedural issues and action if necessary regarding Civil No. 09-1-2719-11 Special Use Permit SP09-403.

APPEARANCES

Dana Viola, Esq., represented City and County of Honolulu, Department of Environmental Services (“City”)

Richard Wurdeman, Esq., represented Congressional Representative Colleen Hanabusa, Esq.

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Calvert Chipchase, Esq. and Christopher Goodwin Esq., represented Intervenors-the Ko Olina Community Association and Senator Maile Shimabukuro  
Bryan Yee, Esq., represented State Office of Planning (OP)  
Rodney Funakoshi, OP

Chair Chock requested clarification on the status of Schnitzer Steel Hawaii Corp. ("Schnitzer") in the current LUC proceedings. Mr. Ian Sandison, Esq., of Carlsmith Ball LLP, stated that Schnitzer was an intervenor in the Department of Environmental Services, City and County of Honolulu's application to delete Condition No. 14 of Special Use Permit 2008/sup-2, which is currently in a contested case hearing before the Planning Commission of the City and County of Honolulu. Chair Chock determined that Schnitzer was not a current Party to the proceedings and requested that Mr. Sandison participate as a member of the public to present any testimony. Mr. Sandison acknowledged and complied with Chair Chock's request.

Chair Chock updated the record and described the procedures to be followed for the hearing. There were no questions, comments or questions regarding the procedures.

Deputy Attorney General Hirakami disclosed her role in representing Mr. Chipchase in a current Federal proceeding for the record and stated that she did not feel her relationship in that proceeding would bias or prejudice her judgment and participation in matters. There were no comments, questions or objections to Ms. Hirakami's continued participation by the Parties.

#### PUBLIC WITNESSES

1. Mr. Ian Sandison, Esq., representing Schnitzer

Mr. Sandison stated his role in representing Schnitzer as an Intervenor in the Department of Environmental Services proceedings and described his purpose in appearing before the LUC. Mr. Sandison requested that the Commission allow the parties more time to fully brief the procedural issues and joined in the City's request for an additional two weeks for the parties to fully brief the issues before the Commission rendered a decision.

Mr. Sandison also requested that if the Commission proceeded with its deliberations, that the proceedings which were remanded back to the Commission pursuant to the Hawaii State Supreme Court's decision, should be further remanded to the Planning Commission for consolidation and consideration along with the pending application and argued why remanding

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the proceedings would be the most efficient course of action and consistent with the Supreme Court's decision.

There were no questions for Mr. Sandison.

There were no further public witnesses.

## PRESENTATIONS

### City

Ms. Viola stated that Petitioner agreed with Schnitzer that the issues were complicated and described the various courses of action that she thought the Commission should consider and argued why an additional 2 weeks was needed to fully brief the issues before the Commission rendered a decision.

There were no questions for Ms. Viola

### Intervenor Ko Olina Community Association and Senator Shimabukuro

Mr. Chipchase described the activity that had occurred regarding the docket at the City and County level and stated that there was a full and complete record before the Planning Commission containing evidence on the issues of when the landfill should close, what the impact of the landfill on the community was, and whether the City had been reasonably diligent in developing a new landfill site as required in the decision and order and argued why the LUC should remand the proceedings to the Planning Commission for a more complete record.

There were no questions for Mr. Chipchase.

### OP

Mr. Yee stated that OP supported remanding the proceedings to the Planning Commission and argued why this course of action would be the best alternative for the Commission to consider.

There were no questions for Mr. Yee.

### Intervenor Representative Hanabusa

Mr. Wurdeman described his perspective of what the Supreme Court decision meant to him and argued why he disagreed with the City's position on the treatment of the record and why a more complete record was necessary to properly decide on the proper procedures for the LUC to follow.

### City Rebuttal

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

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Ms. Viola argued that the July 31, 2012 deadline specified by Condition 14 was the sole issue of the subject matter of the Supreme Court decision and described why the validity of the deadline was the issue at hand; and why a remand or consolidation of the case was not necessary for the Commission to make a decision.

The Commission went into recess at 10:32 a.m. and reconvened at 10:40 a.m.

Chair Chocked confirmed that Petitioner had an oral motion for a two week extension to brief the procedural issue and asked the Commission what its pleasure was. Commissioner McDonald moved to approve Petitioner's Motion to file additional briefs in 2 weeks. Commissioner Inouye seconded the motion.

Commissioner Inouye requested clarification on the date involved for filing the briefs. Discussion ensued and the date was determined to be in two weeks (July 19, 2012).

The Commission voted as follows:

Ayes: Commissioners McDonald, Inouye, Makua, Matsumura and Chair Chock

Nays: None

The Motion passed 5-0 with 3 excused.

Executive Officer Orodener requested further clarification on the date involved for filing the briefs. Chair Chock responded that the filing date would be in two weeks from today's meeting on July 19, 2012; and invited Schnitzer to file a Position Paper since it was not an official party to the proceedings.

Mr. Wurdeman requested clarification on whether there would be any further proceedings after the filing. Chair Chock responded that LUC staff would advise the Parties on the scheduling of any future hearing dates.

Mr. Chipchase requested further clarification on whether there would be a simultaneous briefing in two weeks with no replies or responses and just submittals only. Chair Chock acknowledged that was what the Commission expected.

There were no further questions, comments or objections.

Chair Chock announced that there were no issues to discuss for the scheduled Executive Session on the agenda and adjourned the meeting for the day at 10:42 a.m.

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

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