

LAND USE COMMISSION
RECONVENED MEETING MINUTES
September 20, 2016- 10:00 A.m.
Conference Room
Kaua`i County Civic Center
444 Rice Street
Lihue, HI 96766

COMMISSIONERS PRESENT: Edmund Aczon
Gary Okuda
Arnold Wong
Kent Hiranaga
Jonathan Scheuer
Linda Estes
Dawn Chang

COMMISSIONERS EXCUSED: Aaron Mahi
Nancy Cabral

LUC STAFF PRESENT: Daniel Orodener, Executive Officer
Diane Erickson, Deputy Attorney General
Bert Saruwatari, Staff Planner
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Cynthia Murphy

COUNTY Michael Dahilig, Planning Director-
Kaua`i Planning Department (COUNTY)
Leanora Kaiaokamalie, Planner
Jodi Higuchi, Esq. representing COUNTY

OP Dawn Takeuchi Apuna, Esq., representing
State Office of Planning (OP)
Rodney Funakoshi, Land Use Administrator (OP)

DOA Earl Yamamoto, Planner
State Department of Agriculture (DOA)

CALL TO ORDER

Chair Aczon called the meeting to order at 10:00 a.m. and stated that Public Testimony would be taken after the presentations by the Parties.

Chair Aczon stated that Commissioner Chang had a disclosure to make. Commissioner Chang disclosed that she had performed work for Agragenetics, an agricultural farm company that is a sublessee of the Petitioner. There were no objections to Commissioner Chang's continued participation in the proceedings.

Commissioner Wong moved for an Executive Session. Commissioner Scheuer seconded the motion. By voice vote (7-0-2 excused), the Commission voted to enter Executive Session at 10:04 a.m. and reconvened at 10:06 a.m.

Chair Aczon asked if Petitioner had completed its presentation. Mr. Matsubara responded that he had.

Chair Aczon asked if County wished to offer public testimony. Ms. Higuchi replied that County wished to submit County Exhibit 1, an area map, stated that County supported the Petition and described why the County took that position. Ms. Higuchi stated that Michael Dahilig, Kaua'i County Planning Director, would provide additional details.

COUNTY

Mr. Dahilig, after being sworn in, shared the various reasons why County supported the Petition and why they were justified. Mr. Dahilig also commented on the factors that were involved in the decision-making process and what legal considerations were made.

Commissioner Wong asked whether the north side gentlemen farm areas included Robinson land. Mr. Dahilig responded that they did not.

Commissioner Scheuer sought clarification on whether the County IAL study was complete and to what extent County police power was involved. Mr. Dahilig responded that the study was not completed and that it was used as a tool to determine suitability for IAL consideration; and described how the scoring system of the IAL study operated. Discussion ensued over the suitability of the Petition Area for IAL consideration.

Commissioner Chang requested clarification on whether taro cultivation had occurred in the Petition Area. Mr. Dahilig responded that he was not sure and deferred to Leanora Kaiakamaile, County planner, to respond to specific questions regarding that issue. Ms. Kaiakamaile, after being sworn in, described her role during the County's processing of the Petition and stated that traditional and customary practice issues did not arise.

Commissioner Hiranaga stated his concerns about DOA's comments regarding the Petition and sought County's comments on the matter. Mr. Dahilig commented on the Comiskey Park like slopes in the Petition Area. Ms. Kaiakamaile shared why the steep slopes were discounted during the community meetings since other community members had commented on how they had adapted to successfully farming on steep sloped terrains.

Commissioner Wong stated that he echoed Commissioner Hiranaga's concerns about farming on steep slopes and asked whether a hydro-electric plant existed in the Petition Area. Mr. Dahilig confirmed that there was a hydroelectric plant and deferred to Mr. Robinson to respond to questions regarding specific water resources and the plant.

Commissioner Okuda asked Mr. Dahilig what his professional and educational background was. Mr. Dahilig described his background and stated that he had used his background and expertise to evaluate the Petition.

There were no further questions for Mr. Dahilig and County.

OP

Ms. Takeuchi Apuna stated that OP supported the Petition in its entirety and offered Rodney Funakoshi to help respond to questions regarding OP's position. Mr. Funakoshi, after being sworn in, described how OP had assessed and evaluated the Petition to establish its position. Ms. Takeuchi Apuna described the legal considerations and justifications that helped determine OP's support.

Commissioner Scheuer asked if DLNR had been consulted regarding the cattle grazing in conservation land and for clarification on how DOA's opposing inclusion of the mauka lands impacted OP's position. Mr. Funakoshi replied that DLNR had not been

consulted and described how OP processed the IAL Petition's evaluation. Discussion ensued on how the area described in the Petition should be statutorily considered during the proceedings.

Commissioner Wong requested clarification on the term "Important" and how it applied in the IAL process. Mr. Funakoshi described how ranch operations differed from agricultural crop operations and why he felt that the IAL designation was justified for the Petition Area.

Commissioner Okuda requested clarification on how soil ratings were considered for different types of agricultural crops and activities. Mr. Funakoshi provided his understanding of the role soil rating played in determining suitability for a Petition to be considered for IAL designation.

Commissioner Hiranaga requested clarification on correspondence between County and OP; and how the IAL criteria were applied during the evaluation process. Mr. Funakoshi deferred to County to respond to the question on correspondence and described how the IAL criteria affected the OP decision-making process. Ms. Takeuchi Apuna provided her perception of the correspondence between OP and County. Discussion ensued regarding the specifics of OP's application of the IAL criteria and how criteria were "balanced" before a final decision was made.

The Commission went into recess at 11:10 a.m. and reconvened at 11:18 a.m.

Chair Aczon asked if DOA would be providing public testimony. Mr. Yamamoto acknowledged that DOA would.

DOA

Mr. Earl Yamamoto, DOA planner, after being sworn in, presented DOA's position on the Petition and described how DOA supported the portion that it identified in its initial letter regarding the IAL petition and described how DOA had revised its position to "not oppose" the mauka land that it had initially opposed.

Commissioner Hiranaga inquired why DOA had changed its recommendation without providing written correspondence. Mr. Yamamoto described how DOA had reconsidered its position late Friday (September 17, 2016) after reviewing the testimony of the public witnesses on September 7, 2016 and subsequent correspondence after its initial review of the Petition.

Commissioner Scheuer requested clarification on whether the DOA Chairperson Scott Enright had authorized the new DOA position and on how DOA perceived the IAL legislative concept. Mr. Yamamoto affirmed that Mr. Enright had authorized the revised DOA position and described how DOA perceived IAL matters.

Commissioner Estes commended DOA for revising its position.

Commissioner Chang requested additional information on why DOA adjusted its position.

Commissioner Wong sought clarification on the impact cattle grazing might have on conservation designated land and the watershed. Mr. Yamamoto provided his understanding of the matter. Commission Wong also asked about the carrying capacity of the pastureland and how slaughterhouse operations factored in the ranch operation.

There were no further questions for Mr. Yamamoto.

PUBLIC WITNESS

1. Randy Uehara

Mr. Uehara added to his previous testimony on why he felt the Petition for IAL designation was appropriate.

There were no further questions for Mr. Uehara and there were no further witnesses.

Chair Aczon asked if there were any final questions. There were none. Mr. Matsubara inquired if he would be allowed to present his final argument. Chair Aczon acknowledged his request and declared that final argument would follow a brief recess.

The Commission went into recess at 12:03 p.m. and reconvened at 12:10 p.m.

Mr. Matsubara addressed the questions and remarks made by Commissioners Wong, Hiranaga and Scheuer and provided additional information that he thought would be useful for the Commissioners to consider during deliberations.

Chair Aczon asked if the Commissioners had any final questions.

Commissioner Hiranaga requested clarification on the basis for IAL legislation and Mr. Matsubara answered the questions.

Chair Aczon asked what the pleasure of the Commission was.

Commissioner Estes moved to approve the Petition. Commissioner Chang seconded the motion.

Discussion

Commissioner Estes shared why she supported the Petition.

Commissioner Scheuer shared why he opposed the Petition.

Commissioner Wong stated his concerns regarding the Petition.

Commissioner Okuda stated that he supported the Petition with no amendments and described why he took that position.

Commissioner Chang stated her reasons for supporting the Petition.

Commissioner Hiranaga stated that he supported the petition and commented that he valued DOA's comments most, and those of County and OP as well; but that he'd appreciate a more timely revision of position from DOA in the future. Mr. Yamamoto acknowledged the comment.

Chair Aczon echoed the words of support of Commissioners Chang and Okuda and stated that he supported the motion.

Mr. Orodenker polled the Commission.

The Commission voted as follows.

Commissioners Estes, Chang, Hiranaga, Okuda, Wong (with reservations) and Chair Aczon voted in favor of the motion.

Commissioner Scheuer voted against the motion.

Commissioners Mahi and Cabral were excused.

The motion carried 6-1-2 excused.

Chair Aczon stated that the next meeting was on Friday, September 23, 2016 and adjourned the meeting at 12:38 p.m.