

LAND USE COMMISSION  
SITE VISIT

**April 12, 2017**

**10:00 a.m.**

**Meeting and Site Visit for A89-649**

**(Met at Lāna`i Community Center for meeting and briefing for Site Visit for A89-649 that occurred immediately after the meeting adjourned)**

COMMISSIONERS PRESENT: Gary Okuda  
Arnold Wong  
Kent Hiranaga  
Nancy Cabral  
Edmund Aczon  
Linda Estes  
Dawn Chang

COMMISSIONERS EXCUSED: Jonathan Scheuer  
Aaron Mahi

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

COURT REPORTER: None

**CALL TO ORDER**

Chair Aczon called the meeting to order at 10:00 a.m.

**APPROVAL OF MINUTES**

Chair Aczon asked if there were any corrections or additions to the March 22-23, 2017 minutes. Commissioner Chang questioned whether page 10 of the March 22, 2017 minutes reflected the acknowledgement of Petitioner's counsel to the need for an update to the 2010 TIAR. LUC staff advised that the transcripts had not been received and that the minutes would be updated to include Petitioner counsel's acknowledgement if transcripts confirmed the remarks. Commissioner Estes moved to approve the minutes and Commissioner Wong clarified that the motion to approve the minutes included making the stated correction if necessary; and seconded the motion. Commissioner Estes agreed to the change to her motion.

The minutes were unanimously approved by voice vote (7-0- Commissioners Mahi, and Scheuer were not present).

## **TENTATIVE MEETING SCHEDULE**

Executive Officer Orodenker provided the following:

The regular tentative meeting schedule has been distributed in the handout material for the Commissioners for the following dates and docket numbers.

- o APR 26-27- A89-649 Lāna`i Remand
- o MAY- SP09-403 Waimanalo Gulch-
- JUN- 15- Closing Arguments-A16-800 Island School and A16-801 University of Hawai`i Community Colleges (Kaua`i) and Presentation-A17-802 County of Kaua`i Housing Agency- 201H Project Lima Ola
- JUN-Big Island Motions

Chair Aczon requested that an updated meeting schedule be mailed to the Commissioners. Mr. Orodenker replied that staff would do that.

Any questions or conflicts, please contact LUC staff.

There were no questions regarding the tentative meeting schedule.

Chair Aczon stated that the next agenda was an Executive Session.

## **EXECUTIVE SESSION**

To consult with Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities with respect to the Circuit Court of the First Circuit Civil No. 17-1-0304-02 DW Aina Le`a Development, LLC (Plaintiff) vs. State of Hawai`i Land Use Commission (Defendant); State of Hawai`i and DOE Governmental Units 1-10; Circuit Court of the Third Circuit Civil No. 11-1-0112K DW Aina Le`a Development LLC (Co-Petitioner Appellant) vs. Bridge Aina Le`a (Co-Petitioner Appellee) and State of Hawai`i Land Use Commission, State of Hawai`i Office of Planning; County of Hawai`i Planning (Appellees) and Circuit Court of the First Circuit Civil No. 11-2-0969-05 Bridge Aina Le`a, LLC (Appellant) vs. State of Hawai`i Land Use Commission; State of Hawai`i Office of Planning; DW Aina Le`a, LLC; County of Hawai`i Planning (Appellees)

Chair Aczon called for Public Witnesses

PUBLIC TESTIMONY

There was no Public Testimony.

ACTION

Commissioner Wong moved to enter into Executive Session to consult with Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities with respect to the Circuit Court of the First Circuit Civil No. 17-1-0304-02 DW Aina Le`a Development, LLC (Plaintiff) vs. State of Hawai`i Land Use Commission (Defendant); State of Hawai`i and DOE Governmental Units 1-10; Circuit Court of the Third Circuit Civil No. 11-1-0112K DW Aina Le`a Development LLC (Co-Petitioner Appellant) vs. Bridge Aina Le`a (Co-Petitioner Appellee) and State of Hawai`i Land Use Commission, State of Hawai`i Office of Planning; County of Hawai`i Planning (Appellees) and Circuit Court of the First Circuit Civil No. 11-2-0969-05 Bridge Aina Le`a, LLC (Appellant) vs. State of Hawai`i Land Use Commission; State of Hawai`i Office of Planning; DW Aina Le`a, LLC; County of Hawai`i Planning (Appellees)

Commissioner Chang seconded the motion. There was no discussion.

Chair Aczon polled the Commission. By voice vote, the Commission unanimously voted to enter into Executive Session (7-0- Commissioners Mahi and Scheuer not present).

The Commission entered into Executive Session at 10:05 a.m. and reconvened at 10:32 a.m.

A89-649 Lāna`i Resort Partners LLC SITE VISIT

COMMISSIONERS PRESENT: Gary Okuda  
Arnold Wong  
Kent Hiranaga  
Nancy Cabral  
Edmund Aczon  
Linda Estes  
Dawn Chang

COMMISSIONERS EXCUSED: Jonathan Scheuer  
Aaron Mahi

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

COURT REPORTER: None

**PARTIES PRESENT AT THE LUC MEETING & SITE VISIT**

Benjamin Kudo, Esq., Counsel for Lāna`i Resort Partners (LRP)

Harrilyn Kameenui, Representative LRP

John Stubbart, Representative LRP

David Kopper, Esq., Native Hawai`ian Legal Corporation (NHLC)-Counsel for Lāna`ians for Sustainable Growth (LSG)

Butch Gima, Representative LSG

Bryan Yee, Esq., Deputy Attorney General, State Office of Planning (OP)

Chair Aczon stated that the site visit for A89-649 would follow the adjournment of the meeting.

Commissioner Chang stated that she wished to disclose that Pulama Lāna`i had used her services to address some cultural issues in the past, but that she felt that she could remain impartial during proceeding on Docket No. A89-649. There were no objections to Commissioner Chang's continued participation.

Commissioner Okuda stated that he wished to disclose that he had represented Alan Murakami of NHLC in the past, and has known Mr. Kudo and represented his cousin Robin Akahoshi; but that he felt that he could remain impartial during proceedings on Docket No. A89-649. There were no objections to Commissioner Okuda's continued participation.

Mr. Orodener described the protocol to be observed during the site visit.

Commissioner Hiranaga stated that he wished to disclosed that his wife was a vendor for the Manele Hotel, but that he could remain impartial during proceedings on Docket No. A89-649. There were no objections to Commissioner Hiranaga's continued participation.

Mr. Stubbart described what the site visit would encompass and the different locales included

There being no further business to address, Chair Aczon adjourned the meeting at 10:39 a.m. and stated that the LUC site visit would begin immediately.

**CALL TO ORDER- SITE VISIT**

Chair Aczon called the site visit group to order at 10:39 a.m. and the site visit group began the site visit as prepared by the Petitioner.

During the Site Visit, Commissioner Chang stated that she wished to disclose that Mr. Kopper had represented her in a family matter; but that would not affect her ability to remain impartial during the hearing. There were no objections to Commissioner Chang's continued participation.

The Petitioner provided an informational overview and answered various questions from the Commission. The commissioners visited the water system monitoring and control room, Well 9, and did not visit Well 1 because it was inaccessible. Chair Aczon declared the site visit concluded at 11:49 a.m.