

LAND USE COMMISSION
MEETING MINUTES

January 24, 2013 – 9:00 a.m.
Conference Room #3, Airport Meeting Room
400 Rodgers Boulevard, Honolulu, HI

COMMISSIONERS PRESENT: Lance Inouye
Sheldon Biga
Ernest Matsumura
Thomas Contrades
Nicholas Teves, Jr.
Chad McDonald
Ronald Heller

COMMISSIONERS EXCUSED: Kyle Chock
Napua Makua

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

COURT REPORTER: Holly Hackett

AUDIO TECHNICIAN: Walter Mensching

CALL TO ORDER

Acting Chair Heller called the meeting to order at 9:03 a.m.

APPROVAL OF MINUTES

Acting Chair Heller asked if there were any corrections or additions to the January 10, 2013 minutes. There were none. Commission Contrades moved to approve the minutes. Commissioner Inouye seconded the motion. The minutes were unanimously approved by a voice vote (7-0).

TENTATIVE MEETING SCHEDULE

Executive Officer Orodenker provided the following:

- The regular tentative meeting schedule for the calendar year 2013 was distributed in the handout material for the Commissioners.
- The February 7-8, 2013 meeting will be on Maui and Kauai for oral argument and decision-making on A94-706 Ka`ono`ulu Ranch on the 7th and for a site visit and meeting to address the DR14-48 Grove Farms IAL Petition on the 8th.
- The February 21-22, 2013 meeting will include the start of docket A12-796 Waikō Industrial Investment and the Motion for reconsideration for docket A12-795.
- The March 7-8 meeting will be back on Maui for continued hearing on A12-796 Waiko and adoption of order for A09-706 Kaonoulu Ranch.
- Any questions or concerns- please contact LUC staff.

STATUS REPORT

DR08-36 KO OLINA DEVELOPMENT, LLC

Acting Chair Heller announced that this was a meeting on Docket No. DR08-36 Ko Olina Development LLC to receive a status report from Petitioner and take appropriate action, if any.

APPEARANCES

Benjamin M. Matsubara, Esq., represented Petitioner

Wyeth Matsubara, Esq., represented Petitioner

Ken Williams, Petitioner

Bryan Yee, Esq., represented State Office of Planning

Rodney Funakoshi, State Office of Planning

Acting Chair Heller updated the record and explained the procedures to be followed for the proceedings. There were no questions on the proposed procedures for the day.

Acting Chair Heller stated that he wished to disclose that his firm was representing the Association of Apartment Owners of Beach Villas at Ko Olina in an action against Ko Olina Development but that he did not feel that it would interfere

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

January 24, 2013 Meeting Minutes

with his Commissioner duties; and that he was disclosing the information for the consideration of the Parties and to provide an opportunity for them to state their objections or concerns. The Parties had no objection to the continued participation of Acting Chair Heller, and the Public Witnesses were called to provide their testimonies.

PUBLIC WITNESSES:

1. Warren Von Arnswaldt

Mr. Von Arnswaldt submitted written testimony and shared the results of his investigation of the delays in the construction of the proposed boat ramp and his concerns about how long it has taken to achieve any results.

There were no questions for Mr. Von Arnswaldt.

2. Creighton Chang

Mr. Chang submitted written testimony and expressed his perspective of how the delay in constructing the boat ramp was impacting fishermen in the area.

There were no questions for Mr. Chang.

3. Ed Watamura-President Waialua Boat Club

Mr. Watamura shared his complaint about loss of public access to Petition Area and his frustration with the lengthy delay in constructing the promised boat ramp.

There were no questions for Mr. Watamura.

4. Roy Morioka

Mr. Morioka echoed his fellow testifiers' complaints about delays in building the boat ramp.

There were no questions for Mr. Morioka.

5. Richard Yamasaki- Reel Fishing Club Representative

Mr. Yamasaki stated that he represented the Reel Fishing Club and shared his knowledge of the historical background regarding the construction of the boat ramp and his organization's concerns surrounding the delays in obtaining the necessary permit approvals and starting the construction process.

Commissioner McDonald requested clarification on why the Phoenician's boat ramp was inadequate or insufficient for accommodating the recreational boaters' needs. Mr. Yamasaki described the difficulties, hazards and safety concerns involved with using the Phoenician's ramp and why the designated boat ramp site was preferred.

There were no other Public Witnesses.

Petitioner

Mr. Wyeth Matsubara presented a brief summary of the Petitioner's efforts to construct the boat ramp and referenced the information contained in Petitioner's Thirteenth Quarterly Report and its supplement.

Commissioner McDonald requested clarification on the anticipated delivery date of the required permits. Discussion ensued regarding various facets of the reasons for the delays in the permitting delivery and the timetable to complete the boat ramp project.

Commissioner Biga shared his concerns about loss of public access to the Petition Area and requested clarification on the estimated completion date for the new boat ramp and what mitigation measures could be used to provide the public a boat ramp facility during the wait for its completion. Mr. Wyeth Matsubara described the past proceedings before the Commission and why it was difficult to project a completion date without completing the permitting process and how permitting and liability issues prevented an interim solution for boat launching in the area.

Commissioner McDonald requested additional clarification on what type of studies and permit requirements remained to be completed before construction could begin. Discussion ensued to clarify the various aspects of what needed to be accomplished before construction could begin and how difficult it was to estimate the permit approval times. Mr. Wyeth Matsubara stated that once the permitting approvals were obtained and necessary requirements were completed, it would take about a year to construct the boat ramp.

There were no further questions for Mr. Matsubara.

OP

Mr. Yee provided OP's historical perspective of the boat ramp issue and acknowledged how difficult the permitting process was and suggested how better information might be provided in Petitioner's quarterly reports.

There were no questions for Mr. Yee.

Deliberation

Commissioner Teves moved that Petitioner return in April to provide an updated status report since the promised delivery of permit approvals would have occurred by then. Discussion occurred to determine an acceptable April date for

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

January 24, 2013 Meeting Minutes

hearing another status report. Executive Officer Orodener expressed that the second LUC meeting date in April was feasible. Commissioner Biga seconded the motion. Commissioner Teves clarified that he expected Petitioner's appearance to include a supplementary written and oral status report before the Commission to respond to any questions.

There was no further discussion on the motion.

The Commission was polled as follows:

Ayes: Commissioners Teves, Biga, Matsumura, Inouye, McDonald, Contrades and Acting Chair Heller.

Nays: None

The motion passed 7-0 with 2 excused.

Acting Chair Heller thanked the Parties and LUC staff; and announced that the next LUC meeting would be on February 7-8, 2013. There being no further business, Acting Chair Heller adjourned the meeting at 10:07 a.m.