

LAND USE COMMISSION  
MEETING MINUTES  
**June 9, 2015 - 9:30 a.m.**  
Airport Conference Center  
400 Rodgers Blvd. Suite 700, Room #3  
(In Hawaiian Airlines Terminal Building)  
Honolulu, HI 96819

COMMISSIONERS PRESENT: Chad McDonald  
Arnold Wong  
Edmund Aczon  
Kent Hiranaga  
Jonathan Scheuer  
Aaron Mahi  
Linda Estes

COMMISSIONERS EXCUSED: There are currently 7 seated Commissioners out of 9 positions.

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

COURT REPORTER: Holly Hackett

**CALL TO ORDER**

Chair McDonald called the meeting to order at 9:34 a.m. and introduced Commissioner Estes.

**APPROVAL OF MINUTES**

Chair McDonald asked if there were any corrections or additions to the April 29, 2015 minutes. Commissioner Hiranaga asked whether the "6-0-3 excused" vote count reflected in the minutes was accurate. Commissioner Scheuer recalled that the minutes were accurate since there were 9 seated Commissioners when the meeting was held and that Commissioners Song, Ahakuelo and Estes were not in attendance.

There were no corrections or further comments. Commissioner Wong moved to approve the minutes. Commissioner Aczon seconded the motion. The minutes were unanimously approved by voice vote (7-0).

## **TENTATIVE MEETING SCHEDULE**

Executive Officer Orodener provided the following:

- The regular tentative meeting schedule has been distributed in the handout material for the Commissioners.
- The June 26, 2015 meeting scheduled for A89-643 McClean Honokohau Properties' Motion to remove, discharge and/or delete conditions, in Kona on the Big Island, at the West Hawaii Civic Center is postponed and will be heard when the Commission is more fully constituted.
- There are several other Special Permits, District Boundary Amendments and Motions that are pending, but have not been received yet.
- HCPO conference registration has been done for Commissioners that will be seated in October.
- Above dates represent the tentative calendar of meetings and are subject to change.
- Any questions or conflicts, please contact LUC staff.

There were no questions or comments regarding the tentative meeting schedule.

## **HEARING AND ACTION**

### **SP15-406 KAWAILOA SOLAR LLC (O`ahu)**

Chair McDonald stated that this was a hearing and action meeting on Docket No. SP15-406 Kawaiiloa Solar, LLC To Consider Landowner, Trustees of Bernice Pauahi Bishop dba Kamehameha Schools ' Application for Special Permit To Construct a 50-megawatt photovoltaic (PV) energy generation facility and accessory uses and structures on lands rated Class A, B, C by the Land Study Bureau. TMK6-1-005: Portion of 1 and 6-1-006:Portion of 1- Existing use Agriculture/Existing Zoning AG-1 Restricted Agricultural District,.

Chair McDonald updated the record, and described the procedures for the hearing. There were no questions or comments on the procedures

## **APPEARANCES**

Randall Sakumoto, Esq., and Marguerite Nozaki, Esq., for Petitioner Kawaiiloa Solar, LLC("LLC")

Wren Wescoatt, LLC Representative

Richard Lewallen, Esq., for City and County of Honolulu Department of Planning and Permitting ("DPP")

Raymond Young, DPP

Rodney Funakoshi, Land Use Administrator , State Office of Planning ("OP")

Chair McDonald asked if any of the Commissioners wished to make any disclosures regarding this docket. Commissioner Scheuer described his past work for the landowner and Petitioner's Counsel and stated that he felt that he could be fair and impartial during his participation in the proceedings. Chair McDonald asked if there were any objections to Commissioner Scheuer's continued participation. There were no objections.

**PUBLIC TESTIMONY- DOCKET NO. SP15-405**

Chair McDonald asked if there were any Public Witnesses who wished to testify.

**PUBLIC WITNESSES**

None

**PRESENTATIONS**

Petitioner

Mr. Sakumoto and Ms. Nozaki used a PowerPoint presentation (hard copy filed with the Commission) and provided a background history and summary of the Petition; and displayed the features of the proposed solar facility. They described how the passage of Act 55 required the Petitioner to seek a Special Permit Application; and argued why the Commission should grant the Petition; and why and the Applicant's proposed Findings of Fact, Conclusions of Law and Decision and Order should be positively considered.

Commissioner Wong requested clarification on how the proposed use of "barbed wire" would be permitted despite concerns about the hoary bat, an endangered species. Mr. Sakumoto deferred to Wren Wescoatt to respond. Mr. Wescoatt described how the applicant had conferred with Fish and Wildlife Services to obtain approval for limited use of "barbed wire".

Commissioner Scheuer requested clarification on how the visual simulations of scenery vistas were obtained, what types of community outreach were performed; and what community concerns or opposition had been received. Mr. Sakumoto deferred to Crystal Cua, SunEdison representative, to respond. Ms. Cua described how different scenery vista areas were selected, what types of community interaction had occurred and stated that there had been no opposition to or concerns about the proposed facility.

Commissioner Mahi requested clarification on whether there had been other concerns from the community regarding current or future agricultural plans. Mr. Wescoatt responded that there had been some questions regarding seed corn but the area water system limitations made it unfeasible to consider that type of crop.

Commissioner Wong requested clarification on whether there would be a battery facility in the Petition Area. Mr. Wescoatt responded that there would not be.

Chair McDonald asked if the Commissioners had any further questions. There were none.

Chair McDonald asked if DPP had any comments. Mr. Lewallen replied that he had none

Chair McDonald asked if OP had any comments. Mr. Funakoshi, OP Land Use Division, presented OP's position on the Petition and described how OP generally supported the Petition except for the conditions mentioned in its comment letter. Mr. Funakoshi apologized for the late submittal of its comment letter and summarized its contents.

Commissioner Hiranaga excused himself at 10:19 a.m. and returned at 10:21 a.m.

Chair McDonald stated that he would declare a recess to allow the Applicant an opportunity to review the OP letter. The Commission went into recess at 10:22 a.m. and reconvened at 10:32 a.m.

Commissioner Aczon requested clarification on the basis for OP's 6 month requirement to start agricultural operations versus one year. Mr. Funakoshi shared his perspective of the 6 month requirement. Mr. Sakumoto described how construction work might impede grass growth, but agreed that 6 months was feasible.

Commissioner Wong requested further clarification on the 6 month requirement. Raymond Young, DPP planner, described the courses of action that the Applicant could take if any delays or potential need for deadline adjustments arose.

Commissioner Aczon requested additional clarification on how delays and deadline adjustments would be handled. Mr. Young shared additional details on how the Applicant could gain approvals to extend beyond 6 months.

There were no further questions for Mr. Funakoshi.

Mr. Sakumoto stated that the Applicant had no objections to OP's suggested changes.

Mr. Lewallen noted that the OP references to the HECO switchyard with respect to decommissioning were not applicable to this application since it was not part of the Petition and was a part of another Special Use Permit. Mr. Wescoatt confirmed what facilities were involved for the solar and windmill renewable energy projects and stated that the HECO

switchyard was part of the windmill special permit and would remain in the area. Mr. Funakoshi responded that OP would withdraw its comment #4 from its letter.

There were no further questions or discussion.

Chair McDonald sought the pleasure of the Commission. Commissioner Aczon moved to grant the special permit with modifications suggested by OP and LUC staff. Commissioner Mahi seconded the motion. There was no additional discussion.

The Commission unanimously voted to grant the Petition (7-0- There are currently 7 seated Commissioners).

Chair McDonald thanked the Applicant and DPP for providing a complete and detailed record to the Commission; and to OP for providing its worthy comments.

The Commission went into recess at 10:42 a.m. and reconvened at 10:47 a.m.

#### **LUC LEGISLATIVE COMMITTEE REPORT**

Chair McDonald stated that the next agenda item was a report on Legislative matters pertinent to the Commission.

Executive Officer Orodener stated that he had nothing to report and that the Legislative Session had concluded without any significant issues other than what had been reported earlier in the year.

There were no questions or comments regarding Mr. Orodener's report.

#### **ELECTION OF OFFICERS**

Chair McDonald stated that the election of officers was the next agenda item and opened the floor to nominations for Fiscal Year 2016.

Commissioner Wong nominated Commissioner Aczon for Chair and shared his reasons for supporting Commissioner Aczon. Commissioner Hiranaga seconded the nomination. Commissioner Scheuer asked if there were any comments or need for discussion on the matter. Commissioner Mahi requested to hear an acknowledgement from Commissioner Aczon that he was willing to accept the nomination.

Commissioner Aczon accepted the nomination. There was no further discussion. The Commission unanimously voted for Commissioner Aczon to serve as Chair (7-0- There are currently 7 seated Commissioners).

Commissioner Wong nominated Commissioner Scheuer as First Vice Chairman. Commissioner Aczon seconded the nomination. Commissioner Scheuer shared his opinion on the nomination and stated that he would accept the nomination. There was no further discussion. The Commission unanimously voted for Commissioner Scheuer to serve as First Vice Chair (7-0).

Commissioner Aczon nominated Commissioner Wong as Second Vice Chairman. Commissioner Hiranaga seconded the nomination. Commissioner Wong accepted the nomination. There was no further discussion. The Commission unanimously voted for Commissioner Wong to serve as Second Vice Chairman (7-0).

### **EXECUTIVE SESSION**

Chair McDonald stated that the next agenda item was an Executive Session to discuss LUC personnel matters (pursuant to Hawaii Revised Statutes § 92-5(3), to consider the hire, evaluation, dismissal, or discipline of an officer or employee where consideration of matters affecting privacy will be involved). Commissioner Aczon moved and Commissioner Wong seconded the motion to enter into Executive Session.

The Commission entered Executive Session at 10:54 a.m. and reconvened at 11:23 a.m.

Chair McDonald stated that the Commission had appointed an investigative committee comprised of Commissioners Wong, Scheuer, Aczon and Mahi to evaluate the Executive Officer, Mr. Orodener and perform the contractually mandated reviews associated with the position in the coming weeks; and also provide timely reports to the Commission on their activities and progress.

Chair McDonald recognized the retirement of Holly Hackett, long-time LUC Court Reporter, and thanked her for her dedicated service and shared the Commission's best wishes for her. Executive Officer Orodener presented Ms. Hackett and Chair McDonald with flower leis as tokens of appreciation for their efforts.

There being no further business, Chair McDonald adjourned the meeting at 11:25 a.m.