

LAND USE COMMISSION

Minutes of Meeting

Nahele Room
Sandalwood Clubhouse
2500 Honoapiilani Hwy.
Waikapu, Maui

April 23, 1998

COMMISSIONERS PRESENT: Rupert K. Chun
JoAnn Mattson
Peter Yukimura
Merle A.K. Kelai
M. Casey Jarman
Isaac Fiesta, Jr.

*approved
5/14/98*

COMMISSIONERS ABSENT: Lawrence N.C. Ing
Herbert Kaopua, Sr.
P. Roy Catalani (Excused)

STAFF PRESENT: Esther Ueda, Executive Officer
Jon Itomura, Deputy Attorney General
Bert Saruwatari, Staff Planner
Darlene Kinoshita, Chief Clerk

Lynann Nicely, Court Reporter

Chairperson Chun called the meeting to order.

CONTINUED HEARING

A97-722 - MAUI ELECTRIC CO., LTD.

Chairperson Chun announced that this matter before the Commission is a continuation of the hearing which was previously held on April 8 & 9, 1998.

Appearances

B. Martin Luna, Esq., Attorney for Petitioner
Randall Endo, Esq., Attorney for Petitioner
Kelly Cairns, Esq., Deputy Corporation Counsel, County of Maui
Colleen Suyama, Planning Department, County of Maui
Ann Ogata-Deal, Esq., Deputy Attorney General, Office of Planning

Abe Mitsuda, Land Use Division, Office of Planning

Mark Sheehan, for Intervenor, Maui Tomorrow

Scott Crawford, for Intervenor, Maui Tomorrow

EXHIBITS

1. The following letters were admitted into evidence by the Land Use Commission:

- a. March 4, 1998 from Julie Higa
- b. April 15, 1998 from Mike Trotto
- c. April 15, 1998 from Tom Leuteneker
- d. April 16, 1998 from Michael J. Singlehurst
- e. April 16, 1998 from Fernando Ribao, Jr.
- f. April 20, 1998 from Tom Reed

Commissioner Mattson moved to amend the agenda to include the seven motions filed by B. Martin Luna, Esq. The motion was seconded by Commissioner Yukimura and unanimously carried by voice votes.

Arguments on Maui Electric's motion to 1) Preclude Intervenor's from submitting exhibits or preventing witnesses not identified by the deadlines established in the Commission's Prehearing Order (Filed February 4, 1998); 2) Limit the Testimony of Intervenor Maui Tomorrow's expert witnesses to the subject matter and materials disclosed pursuant to the Commission's Prehearing Order; and 3) Restrict Intervenor Maui Tomorrow from engaging in repetitious and duplicative cross-examination were heard from Mr. Luna and Mr. Sheehan.

Maui Electric's motion as stated above was denied by Chairperson Chun.

Arguments on Maui Electric's Motion in Limine #1: to preclude admission of Maui Tomorrow's Exhibits 4 & 5 were heard from Mr. Endo, Mr. Sheehan, Ms. Cairns, and Ms. Ogata-Deal.

Maui Electric's motion in Limine #1 was denied by Chairperson Chun.

Arguments on Maui Electric's Motion in Limine #2: to preclude testimony of Roy Smith and Erik Frye as experts of air quality and air impacts were heard from Mr. Endo, Ms. Cairns, Ms. Ogata-Deal, and Mr. Sheehan.

Commissioner Mattson moved in regards to Petitioner's motion in limine #2 and #5 that as the intervenor calls upon their witness, Petitioner is given an opportunity to question and to limit his testimony at that point in time. The motion was seconded by Commissioner Jarman and unanimously carried by voice votes.

Maui Electric's Motion in Limine to Preclude Admission of Maui Tomorrow's Exhibits 2, 3, & 12 was denied by Chairperson Chun. Maui Electric Co. will have an opportunity to rebut.

PETITIONER'S WITNESSES

1. William Bonnett

At this time, Commissioner Kelai made a request for Maui Electric's updated financial information.

COUNTY'S WITNESS

1. David Blane

A lunch recess was taken at 12:00 p.m. to reconvene at 1:00 p.m.

- 1:00 p.m. -

INTERVENOR'S WITNESSES

1. Steven Moser, M.D.

At this time, voir dire examination was conducted by Randall Endo and arguments were heard from Mr. Sheehan, Ms. Cairns, and Ms. Ogata-Deal.

Commissioner Jarman moved to go into executive session to discuss with the Commission's deputy attorney general the qualifications on what makes an individual an expert in his particular field. The motion was seconded by Commissioner Fiesta and unanimously carried by voice votes.

Chairperson Chun granted Maui Electric's motion in Limine #3 and Intervenor's witness' testimony will be limited to any factual observations that he personally observed related to the project.

STATE'S WITNESS

1. Abe Mitsuda

INTERVENOR'S WITNESSES (Continued)

2. Marc Drehsen
3. Ian Chan Hodges

At this time, voir dire examination was conducted by Randall Endo and arguments were heard from Mr. Sheehan, Ms. Suyama, and Ms. Ogata-Deal.

Chairperson Chun granted Petitioner's Motion in Limine #5: To preclude in part that Ian Chan Hodges is not an expert relating to energy planning, but is an expert in community economics and investments.

The meeting was adjourned at 4:24 p.m.