

LAND USE COMMISSION
MEETING MINUTES

February 5, 2020 – 9:00 a.m.

Pursuant to HRS § 92-3.5, the Commission will hold meetings simultaneously by interactive conference technology.

A participating Commissioner will be in attendance at each designated location
Members of the public may participate in the meetings at the following Video Conference Centers

- **Maui**: Wailuku State Office Building, 54 South High Street, Wailuku, HI 96793
- **O`ahu**: Kalanimoku Bldg., 1151 Punchbowl St., Department of Land and Natural Resources Conference Room #132, Honolulu, HI 96813
- **Hawai`i**: Hilo State Office Bldg., 75 Aupuni Street, Hilo, HI 96720

COMMISSIONERS PRESENT: Edmund Aczon (on O`ahu)
Arnold Wong (on O`ahu)
Jonathan Scheuer (on O`ahu)
Dawn Chang (on O`ahu)
Gary Okuda (on O`ahu)
Nancy Cabral (on Hawai`i)
Dan Giovanni (on O`ahu)
Lee Ohigashi (on Maui)

COMMISSIONERS EXCUSED None (8 sitting Commissioners)

COURT REPORTER: Jean McManus (on O`ahu)
LUC STAFF PRESENT: Daniel Orodener, Executive Officer (on Maui)
Cindy Young, Deputy Attorney General (on O`ahu)
Scott Derrickson, Staff Planner (on O`ahu)
Riley Hakoda, Staff Planner/Chief Clerk (on O`ahu)
Rasmi Agrahari, Staff Planner (on O`ahu)

CALL TO ORDER

Chair Scheuer called the meeting to order at 9:00 a.m.

APPROVAL OF MINUTES

Chair Scheuer asked if there was any public testimony regarding the January 8-9, 2020 minutes. There was none.

Chair Scheuer asked if there were any corrections or additions to the January 8-9, 2020 meeting minutes. There were none.

Commissioner Wong moved to approve the minutes and Commissioner Cabral seconded the motion. There were no comments or discussion on the minutes.

The minutes were unanimously approved by voice vote.
(8 ayes-0 nays).

Chair Scheuer asked if there was any public testimony regarding the January 8-9, 2020 minutes. There was none.

Chair Scheuer asked if there were any corrections or additions to the January 33, 2020 meeting minutes. There were none.

Commissioner Wong moved to approve the minutes and Commissioner Cabral seconded the motion. There were no comments or discussion on the minutes.

The minutes were unanimously approved by voice vote.
(8 ayes-0 nays).

Chair Scheuer called for the tentative meeting schedule.

TENTATIVE MEETING SCHEDULE

Executive Officer Orodener stated that next LUC meetings were tentatively scheduled for:

APR 8- (Hilo meeting)- Expecting a DR from County of Hawaii re: Petition for Declaratory ruling on whether STVR's are lawful operations in Farm Dwellings, Status Report on A02-737 U of N Bencorp- Status Report related to OSC action, A18-806 Barry Trust Final EA approval and A18-805 Church – EA motion

APR 9- (Maui Meeting) SP97-390 Central Maui Landfill Permit Extension

APR 22- 23- (Honolulu Meeting) A92-683 Halekua (Dept. of Agriculture-requesting LUC approve dates for Royal Kunia AG park), and continuation of A17-804 Hawaii Memorial

May 6- (Kona Meeting) A99-729 Hawaiian Island Land Trust status report

Commissioner Chang requested clarification on the May meeting date. Mr. Orodener confirmed that May 6, 2020 was the tentative meeting date.

There were no other questions or comments on the schedule.

Chair Scheuer stated that the next agenda item was a Maui action item on Docket No. A03-739- A&B (R. D. Olsen Development) and asked if Commissioner Ohigashi would consent to be the presiding officer over the Maui proceedings. Commissioner Ohigashi accepted the role of Presiding Officer and Chair Scheuer surrendered the chair to him

ACTION

A03-739/A&B Properties

Consider Petitioner's Motion to Designate the Land Use Commission as Approving Agency for Environmental Impact Statement Under HRS Chapter 343 and for Authority to Prepare Environmental Impact Statement Preparation Notice

APPEARANCES

Curtis Tabata, Esq., represented A&B- R. D. Olson Development ("RDO")

Anthony Wrzosek, RDO representative

Michele McClean, Director, County of Maui Planning Department ("County")

Tara Furukawa, Planner, County

Aaron Setogawa, Planner, OP

Presiding Officer Ohigashi updated the record and described the procedures for the proceeding.

DISCLOSURES

Presiding Officer Ohigashi stated that in 2011, he had represented a proposed Intervenor on this A&B matter when it was before the Maui Planning Commission and described the circumstances involved. Presiding Officer Ohigashi stated that he felt that he could remain fair and impartial during proceedings on this issue. There were no objections to Presiding Office Ohigashi's continued participation on this matter.

Presiding Officer Ohigashi asked if Mr. Tabata had reviewed the LUC's policy on reimbursements and what his client's position on it was. Mr. Tabata responded that he had reviewed the policy and that his client was agreeable to it.

PUBLIC WITNESSES

Presiding Officer Ohigashi called for Public Witnesses.

1. Dwight Vincente (on Hawai'i)

Mr. Vicente declined to affirm the truthfulness of his testimony and provided his perspective of why the LUC proceedings were unlawful.

There were no questions for Mr. Vincente

PRESENTATIONS

PETITIONER

Mr. Tabata provided a historical overview of the Motion before the Commission and argued why the motion should be approved.

Ms. McClean stated that County had no objection to Petitioner's Motion.

Mr. Setogawa stated that OP had no questions.

There were no questions from Commissioners.

COUNTY

Ms. McClean stated that County was not opposed to the LUC being the accepting authority.

There were no questions for County.

OP

Mr. Setogawa stated that OP had no objections to Petitioner's Motion.

There were no questions for OP.

REBUTTAL

None.

Presiding Officer Ohigashi sought the pleasure of the Commission.

ACTION

Commissioner Wong moved that the Commission be the accepting agency for an EIS, and Commissioner Okuda seconded the Motion. Commissioner Okuda then clarified that he understood Commissioner Wong's Motion was for the LUC to approve

Petitioner's Motion to Designate the LUC as accepting agency for the EIS under HRS 343 and for Authority to prepare EISPN.

Discussion ensued to clarify the Motion and Chair Scheuer shared his understanding that Commissioner Wong was procedurally correct in stating that the LUC was to be the Accepting Authority for the Environmental Impact Statement at this stage of the proceedings. Presiding Officer Ohigashi had Executive Officer Orodener confirm with the Movant that they were seeking for the LUC to be the accepting authority and that due to time constraints, the Motion should also include that the LUC Executive Officer notify and send a record of the LUC decision to OEQC by February 15, 2020 and that the Chair was authorized to sign the Decision and Order on the behalf of the Commission. Mr. Tabata acknowledged that adding the details about the OEQC deadline and appropriate LUC actions would be helpful.

Commissioner Wong expressed his desire to amend his original motion to include the additional specifics about the Executive Officer notifying and sending the record of the LUC's decision to OEQC and for the LUC Chair signing the Decision and Order on behalf of the Commission. Presiding Officer Ohigashi acknowledged the proposed amended Motion which included the additional language and sought concurrence from Commissioner Okuda. Commissioner Okuda agreed to the proposed amendment to the original Motion.

There were no further comments.

Presiding Officer Ohigashi asked for Mr. Orodener to re-state the Motion and poll the Commission. Mr. Orodener stated that the current Motion was for the LUC to be the accepting authority and that the LUC Executive Officer notify and send a record of the LUC decision to OEQC by February 15, 2020 and that the Chair was authorized to sign the Decision and Order on the behalf of the Commission.

The Commission unanimously voted in favor of the Motion. (8-0)

Presiding Officer Ohigashi asked if there was any further Maui business. There was none.

Presiding Officer Ohigashi returned control of the proceedings back to Chair Scheuer on Oahu.

Chair Scheuer noted that the next meetings on April 8-9 and 22-23, 2020 were in remote locales requiring meal arrangements to be an integral part of the meeting due to the time constraints involved and asked Mr. Orodener to have staff make accommodations for meals for both sets of meetings. Mr. Orodener confirmed that staff would make the necessary arrangements.

Chair Scheuer noted that there was no further business to discuss and declared the meeting adjourned at 9:26 a.m.