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LAND USE COMMISSION

STATE OF HAWAI'I

CONTINUED HEARING AND ACTION)	PAGE
A11-794 STATE OF HAWAI'I)	1
DEPARTMENT OF EDUCATION-KIHEI HIGH SCHOOL)	
(Maui))	
ACTION)	
A94-706 KA'ONO'ULU RANCH (Maui))	29

TRANSCRIPT OF PROCEEDINGS

The above-entitled matters came on for a Public Hearing at Maui Arts & Cultural Center, Alexa Higashi Meeting Room, One Cannon Way, Kahului, Maui, Hawai'i commencing at 9:40 a.m. on June 27, 2013, pursuant to Notice.

REPORTED BY: HOLLY M. HACKETT, CSR #130, RPR
Certified Shorthand Reporter

EXHIBIT " 6 "

HOLLY M. HACKETT RPR, CSR
Ph/Fax (808) 538-6458

A P P E A R A N C E S

1
2 COMMISSIONERS:
3 KYLE J.K. CHOCK, CHAIRPERSON
4 RONALD HELLER, VICE CHAIR
5 CHAD McDONALD, VICE CHAIR
6 SHELDON R. BIGA
7 THOMAS CONTRADES
8 LANCE M. INOUE
9 ERNEST MATSUMURA

10 EXECUTIVE OFFICER: DAN ORODENKER
11 CHIEF CLERK: RILEY HAKODA
12 STAFF PLANNER: SCOTT DERRICKSON

13 DEPUTY ATTORNEY GENERAL: SARAH HIRAKAMI, ESQ.

14 AUDIO TECHNICIAN: WALTER MENCHING

15 Docket No. All-794 State of Hawaii-DOE, Kihei HS-
16 Decision Making

17 For the Petitioner: WILLIAM YUEN, ESQ.
18 ROBERT PURDIE - DOE

19 For the County: JAMES GIROUX, ESQ.
20 Deputy Corporation Counsel
21 WILLIAM SPENCE, Director

22 For the State: JESSE SOUKI
23 Director Office of Planning
24 RODNEY FUNAKOSHI, OP
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A P P E A R A N C E S (cont'd)

Docket No. A9 4-706Ka'ono'ulu Ranch

Motion to Stay

For the Petitioner: JONATHAN STEINER, ESQ.

For the County
Dept. of Planning MICHAEL HOPPER
Deputy Corporation Counsel
WILLIAM SPENCE, Director

For the State: JESSE SOUKI, Director
Office of Planning
RODNEY FUNAKOSHI, OP

For the Intervenor
Maui Tomorrow: TOM PIERCE, ES1.
IRENE BOWIE
DANIEL KANAHELE

For the Intervenor
South Maui Citizens
For Responsible Growth: MARK HYDE

I N D E X

1
2 Docket No. A11-794 State of Hawai'i-DOE

3
4 PUBLIC TESTIMONY

PAGE

5 Lucienne De'Naie

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7
8 Docket No A94-706 Ka'ono'ulu Ranch

9 PUBLIC TESTIMONY

10 Clayton Nishikawa

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11 Joan Martin

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1 CHAIRMAN CHOCK: (gavel) I'd like to call
2 the meeting to order. This is a meeting of the State
3 Land Use Commission. Our first item of business is
4 the adoption of the minutes. Is there a motion to
5 adopt?

6 COMMISSIONER CONTRADES: So moved.

7 COMMISSIONER McDONALD: Second.

8 CHAIRMAN CHOCK: Moved and seconded. Any
9 discussion? Any objections to the minutes? If not
10 the minutes have been approved. I'd like to ask our
11 executive officer to briefly cover our tentative
12 meeting schedule.

13 MR. ORODENKER: Thank you, Mr. Chair.
14 July 11th and 12th our next scheduled meeting remains
15 open. We have nothing on the agenda for those 2 days.

16 July 25th and 26th we are back here on Maui
17 for Maui R&T at the Makena Beach and Golf Resort for a
18 site visit and commencement of hearing.

19 On August 8th and 9th continued hearing for
20 Maui R&T. On August 22nd and 23rd Halekua Development
21 Corporation on O'ahu mostly to bifurcate and amend.

22 September 5th and 6th CMBY Investment, LLC
23 on Maui until 2:00 p.m. Then at 2:00 p.m. we will be
24 having our first public hearing on the Governor's
25 recently-approved Administrative Rules. We also have

1 Maui R&T continued hearing oral argument on the
2 following day.

3 September 19th and 20th is actually the
4 HCPO conference on the Big Island. Sheraton Bay Kona.
5 We will also be having a meeting in regard to our
6 public rules at that time.

7 CHAIRMAN CHOCK: Thank you very much, Dan.
8 This is a continued hearing and action on A11-794 oral
9 argument and deliberation State Department of
10 Education, Kihei High School, to amend the
11 Agricultural Land Use District Boundary into the Urban
12 Land Use District for approximately 77.2 acres of
13 land. Will the parties please identify themselves for
14 the record.

15 MR. YUEN: Good morning, Mr. Chair.
16 William Yuen on behalf of the State of Hawai'i
17 Department of Education. With me is Robert Purdie of
18 the Department of Education.

19 CHAIRMAN CHOCK: Good morning.

20 MR. GIROUX: Good morning. James Giroux,
21 deputy corporation counsel with the Department of
22 Planning. And with me is William Spence, Director.

23 CHAIRMAN CHOCK: Good morning.

24 MR. SOUKI: Good morning, Chair and
25 Commissioners. Jesse Souki for the Office of

1 Planning, state of Hawai'i. And with me is Rodney
2 Funakoshi.

3 CHAIRMAN CHOCK: Good morning, Jesse.
4 Congratulations on recently becoming a dad. Why do
5 you look so well-rested? (laughter)

6 MR. SOUKI: Ask my wife.

7 CHAIRMAN CHOCK: *I'm* not. I'm not well
8 rested. Anyway, let me briefly update the record in
9 this docket. On June 13, 2013 the Commission began
10 the hearings. June 14 the Commission concluded the
11 evidentiary portion of the proceedings.

12 On June 19 the Commission received
13 Petitioner's Proposed Findings of Fact, Conclusions of
14 Law and Decision and Order after it had met with OP
15 and County and mailed the agenda for the June 27-28
16 meeting to the parties and the statewide and Maui
17 mailing lists.

18 On June 25th and 26th the Commission
19 received Petitioner's Stipulated Findings of Fact,
20 Conclusions of Law and Decision and Order and OP and
21 County Statements of No Objection to the Stipulated
22 Findings of Fact, Conclusions of Law and Decision and
23 Order.

24 Let me briefly describe our procedure for
25 today. First I will call for those individuals

1 desiring to provide public testimony on this matter to
2 identify themselves. All such individuals will be
3 called in turn to our witness box where they will be
4 sworn in. A 3-minute time limit on testimony will be
5 enforced.

6 After completion of the public testimony,
7 oral argument presentations will begin starting with
8 the Petitioner. Chair will allow each party no more
9 than 15 minutes to present oral argument in support of
10 its Proposed Decision and Order and/or its exceptions
11 to those proposed by other parties. Petitioner may
12 reserve a portion of this time for rebuttal.

13 At the conclusion of oral argument and
14 after questions from the Commissioners and the answers
15 that follow, the Commission will conduct formal
16 deliberation on this matter. Chair will also note for
17 the parties and the public that from time to time I'll
18 be calling for short breaks. Are there any
19 individuals wishing to provide public testimony at
20 this time? Please come forward.

21 Good morning, Ma'am. Would you please
22 state your name and address for the record, please?

23 THE WITNESS: Yes. My name is Lucienne de
24 Naie. I reside at 320 Door of Faith Road in Haiku,
25 Maui.

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LUCIENNE De NAIE

being first duly sworn to tell the truth, was examined and testified as follows:

THE WITNESS: I do.

CHAIRMAN CHOCK: Proceed. Three minutes.

THE WITNESS: Thank you. I come today as an individual. We all support the Kihei High School being built. Just like to bring to your attention 2 matters that may or may not have been brought up before.

One is that since this is a high school it's very important that it have connectivity to other areas where the high school students potentially would be coming from. One of those areas you will be hearing in July, that is the reconfigured RD, research a development parcel immediately to the south of the high school.

Right now there's no means to connect students with that except to go on Pi'ilani Highway. This just really doesn't seem smart planning, good planing, safe planning in any way.

So just, you know, as this body makes its final deliberations that fact should be known.

The matter is that the Archaeological Inventory Survey for this property, once again, was

1 done in a manner where it was not very careful.
2 Walking the land recently with several members of the
3 Kihei Community Association and even some public
4 officials, a site was identified that has not been
5 recorded at all that is very, very likely to be a
6 cultural site. I'll turn in a picture of it just for
7 the record. It has an alignment of rocks. There were
8 fragments of coral found there.

9 This is a half mile from the ocean. Coral
10 had to be transported there for cultural purpose. It
11 has an outstanding view. It's a low-rise. It's a
12 typical type of place that would have been modified
13 for cultural use. It's not recorded at all. It's
14 likely that it could be avoided. There's plenty of
15 room to build this high school here.

16 It's just because it was poor work done on
17 the Archaeological Inventory Survey that an opportunity
18 here could be lost for future generations to
19 understand who came before on this land.

20 So I would just ask that the Commission
21 recommend that, you know, in the next phase that there
22 be a supplementary Archaeological Survey done. Several
23 lineal descendants participated in this site visit.
24 Members of the Naole family that held the royal patent
25 back at the time of the Mahele, they'd be happy to be

1 consultants. It's just we should do the process a
2 little more properly. Thank you.

3 CHAIRMAN CHOCK: Thank you, very much.
4 Parties, any questions?

5 MR. YUEN: No questions.

6 CHAIRMAN CHOCK: County?

7 MR. GIROUX: No questions.

8 CHAIRMAN CHOCK: State?

9 MR. SOUKI: No questions.

10 CHAIRMAN CHOCK: Commissioners, any
11 questions? Thank you for your testimony?

12 THE WITNESS: May I leave this (photo) with
13 the staff?

14 CHAIRMAN CHOCK: Yes. Anyone else in the
15 public wishing to provide public testimony on this
16 matter, please come forward. Okay. Seeing none,
17 parties, I understand there's been some discussion
18 regarding Proposed Findings of Fact, Conclusions of
19 Law and Decision and Order? Can you give the
20 Commission an update in terms of what's been agreed
21 to and what have been stipulated to, Petitioner?

22 MR. YUEN: Yes, Mr. Chairman. On June 25th
23 we submitted a Stipulated Findings of Fact,
24 Conclusions of Law and Decision and Order containing
25 the findings as well as 25 conditions.

1 The County yesterday submitted to you the
2 signature of the deputy corporation counsel indicating
3 its approval. On June 25th the Office of Planning
4 submitted a Statement of No Objection which
5 procedurally indicates its approval of the
6 stipulation.

7 CHAIRMAN CHOCK: Thank you. County.

8 MR. GIROUX: Yes, that is our position.
9 And I believe we also filed a Statement of
10 Non-opposition to what was filed on July 25th also, to
11 have some redundancy so it was clear that we had no
12 objections to everything that we had talked about and
13 put into that document.

14 CHAIRMAN CHOCK: Okay. State, any
15 comments?

16 MR. SOUKI: Just a few comments. We did
17 file a Statement of No Opposition. But if there's any
18 one overarching issue before the Commission in these
19 proceedings for the district boundary amendment to
20 allow the Kihei High School was the welfare of
21 Hawai'i's current and future keiki.

22 And I think that through discussions among
23 the parties and relying on input by the DOE and its
24 technical expertise, we're able to address the issue
25 of student safety and the mission of DOE to provide

1 education facilities for them.

2 In summary, a couple of facts that helped
3 us arrive at this decision and amicable agreement was
4 Finding of Fact 66 which recognizes that Pi'ilani
5 Highway is a 4-lane, 2-way limited access roadway that
6 separates the residential and proposed residential on
7 the makai side from the proposed high school.

8 Finding of fact 70 recommends that
9 Petitioner submit a revised TIAR for DOT acceptance
10 including revised traffic signal warrant studies and
11 pedestrian route study.

12 Finding of fact 70 which recognizes that
13 Wilson Okamoto, the consultant for the Petitioner,
14 used the 1 percent growth rate, but the DOT would
15 require a 2 percent growth rate.

16 This is important because the finding of
17 fact 114 it recognizes that in 2000 the population in
18 the Kihei Community Plan area was 22,870. And the
19 forecast in 2030 is 46,896. It's 105 percent increase
20 in growth, about 3 percent per annum. So 2 percent
21 analysis of the TIRA seems fair.

22 Also finding of fact 76, what DOT is
23 concerned about the conflicts between vehicles and
24 pedestrians and the overall safety of pedestrians
25 crossing the highway. And most importantly DOE has

1 agreed to evaluate pedestrian issues using Federal
2 Highway Administration guidance on grade-separated
3 crossings.

4 In conclusion, the condition that ties this
5 all together is Condition 1. And in particular
6 subsection B which, among other things, has DOE
7 evaluating compliance with the FHWA guidance relating
8 to grade-separated crossings. And also that
9 Petitioner will submit 3 updated pedestrian route
10 studies and analyses for the Project.

11 So given these facts and conditions and our
12 review and agreement on all the other conditions and
13 findings and conclusions, we are in agreement with the
14 parties and have no opposition to the proposed D&O.

15 CHAIRMAN CHOCK: Thank you very much,
16 Jesse. Petitioner, are you ready to proceed with
17 closing argument?

18 MR. YUEN: Yes, Mr. Chairman.

19 CHAIRMAN CHOCK: 15 minutes.

20 MR. YUEN: Thank you. I will try to keep
21 my remarks brief. Basically in reviewing the
22 Commission's decision-making criteria contained in
23 Hawaii Revised Statutes Section 205-17 and the Land
24 Use Commission's Rules 15-15-77, first the
25 reclassification of the Petition Area conforms to

1 goals and objectives and policies of the Hawai'i State
2 Plan and priority guidelines, particularly with
3 respect to the Educational Functional Plan and the
4 Population, Economy and Employment Functional Plan.

5 The reclassification will allow the
6 Department of Education to build a new high school to
7 serve the Kihei-to-Makena region. It will provide the
8 up to 1,650 residents of the Kihei area easier access
9 to quality education, remove the necessity to commute
10 to Central Maui, and enhance employment and higher
11 education opportunities for these students.

12 The Kihei High School will be designed also
13 to provide appropriate educational opportunities and
14 facilities to special needs students.

15 With respect to the Population and
16 Employment Functional Plan, construction of Kihei High
17 School will both further the State's goals to develop
18 land resources to meet the level of growth predicted
19 for the Kihei region.

20 It will facilitate creation of
21 construction-related jobs during the building of the
22 school as well as open long-term educational
23 employment opportunities in the Kihei region.

24 The reclassification conforms to the Urban
25 District standards that I'll review later. There are

1 no endangered or threatened species of flora or fauna
2 or any critical habitat on the Petition Area. The
3 Petition Area does not contain important cultural,
4 natural or agricultural resources. And development of
5 the Petition Area will not adversely affect any such
6 resources.

7 The Petition Area is basically low quality
8 cattle ranchland. It does not qualify for Important
9 Agricultural Land development classification. And
10 development of the Petition Area will not impair
11 either agricultural production or cattle ranching.

12 The 2013 Legislature appropriated
13 \$113 million for construction of Kihei High School
14 which evidences the State's commitment of significant
15 resources and funding to build this new school.

16 The reclassification is consistent with the
17 County of Maui General Plan and its various components
18 including the Countywide Policy Plan, the Maui Island
19 Plan and the Kihei-Makena Community Plan.

20 And the Kihei High School is a designated
21 public facility in the Maui Island Plan's Public
22 Facilities Infrastructure map.

23 Turning to the Urban District standards,
24 this land is characterized by a city-like
25 concentration of people, structures, streets and urban

1 level of services immediately adjacent to Pi'ilani
2 Highway on the makai side.

3 The Petition Area is in proximity to
4 centers of trading and employment. In addition to
5 being adjacent to Pi'ilani Highway it's contiguous to
6 land in the Urban District and in close proximity to
7 commercial and resort areas in Kihei and Wailea.

8 Basic services such as commercial
9 facilities, parks, wastewater systems, drainage,
10 potable water, transportation systems, public
11 utilities and police and fire protection are available
12 to the Petition Area.

13 Reclassification of the Petition Area will
14 lead to creation of a significant reserved area for
15 foreseeable urban growth. The Kihei High School is
16 planned for development in phases. The initial phase
17 will accommodate approximately 800 students with plans
18 to develop additional classrooms as well as support
19 facilities as the population continues to grow and
20 subsequent state funds are available.

21 The Petition Area has satisfactory
22 topography, drainage and site conditions. It's
23 reasonably free from the danger of flood, tsunami,
24 unstable soil or other adverse environmental effects.

25 With respect to the State and County Plans,

1 I've already discussed conformance with the State
2 Plan. In terms of the County of Maui Plans it
3 conforms to both the County-wide Policy Plan. The
4 recently adopted Maui Island Plan designates the
5 Petition Area within the Kihei-Makena Urban Growth
6 Boundary. And it's also designated on the Maui Island
7 Plan's public facility infrastructure map as the site
8 for a public school.

9 Approximately 2/3 of the Petition Area is
10 designated for public facilities in the Kihei-Makena
11 Community Plan. The remaining acreage is the subject
12 of a proposed amendment to the Kihei-Makena Plan that
13 the County Planning Commission will be entertaining in
14 July, and will subsequently be considered by the
15 county council later this summer or in early fall.

16 As Jesse Souki has described to the
17 Commission, the Department of Education, the County
18 and the Office of Planning have reached agreement on
19 25 conditions of reclassification.

20 The Department of Education has agreed to
21 revise the Traffic Impact Analysis Report including
22 the Traffic Signal Warrant Study and to prepare a
23 Pedestrian Route Study for both Phase I of the Project
24 as well as for the entire Project incorporating Phases
25 1 and 2.

1 The Department of Education has agreed to
2 update the Traffic Impact Analysis Report as indicated
3 by Mr. Souki, and more important, to make the traffic
4 improvements recommended by the studies. If necessary
5 the Department of Education will go back to the
6 Legislature to seek additional funds for these
7 improvements. I'll reserve the rest of my time for
8 rebuttal. Thank you.

9 CHAIRMAN CHOCK: Thank you, Petitioner.
10 County?

11 MR. GIROUX: Thank you, Chair. But just
12 for the record, I did my closing at the last meeting.
13 I knew Mr. Yuen would steal my thunder so I took an
14 early shot. We just want to reiterate that Maui
15 County is in full support of the District Boundary
16 Amendment. And we appreciate the time and effort that
17 everybody has put into it, the amount of cooperation.
18 And we just want to see this move forward.

19 We will be seeing this at the Planning
20 Commission very soon. And it will be forwarded to the
21 county council for the ordinance for the change in
22 zoning. So we appreciate everybody's help on this.

23 CHAIRMAN CHOCK: Thank you, Mr. Giroux.
24 State, any closing statement?

25 MR. SOUKI: I think I'll let what I stated

1 earlier stand as my closing. But I think it's
2 important to note, given the public testimony, that
3 the hearings are closed so the Commission is not
4 taking additional facts.

5 And regarding archaeological studies it
6 does say on the finding of fact 54: The consultant
7 conducted an archaeological survey of the Petition
8 Area, a hundred percent pedestrian survey. And a
9 subsurface testing of 77 acres that SHPD concurred
10 with its findings.

11 And then Conditions 3 and 4 regarding
12 Archaeological Inventory Survey mitigation plans and
13 monitoring, and Condition 4 regarding unidentified
14 finds adequately and sufficiently address the issues
15 of archaeological resources.

16 CHAIRMAN CHOCK: Okay. Thank you,
17 Mr. Souki. Petitioner, do you still want the time?

18 MR. YUEN: I don't need to say anything
19 further, thank you.

20 CHAIRMAN CHOCK: Thank you very much,
21 parties. The Commission will now conduct formal
22 deliberations concerning whether to grant the Petition
23 whether in whole or in part or to deny.

24 If the Commission decides to grant the
25 Petition, it needs to determine what conditions of

1 approval to impose. I'd like to note for the parties
2 and the public that during the Commission's
3 deliberations we'll not entertain additional input
4 from the parties or the public unless those
5 individuals or entities are specifically requested to
6 do so by the Chair. If called upon I would like to
7 ask that comments be limited to the question at hand.

8 The Commission held hearings on the merits
9 of this Petition on June 13-14 and oral argument
10 concluded today. Commissioners, let me confirm that
11 each of you have reviewed the record, read the
12 transcripts for any meeting that you may have missed
13 and are prepared to deliberate on this docket.

14 After I call your name please signify with
15 either a yes or no that you are prepared to deliberate
16 on this matter. Commissioner Biga?

17 COMMISSIONER BIGA: Yes.

18 CHAIRMAN CHOCK: Contrades?

19 COMMISSIONER CONTRADES: Yes.

20 CHAIRMAN CHOCK: Heller?

21 COMMISSIONER HELLER: Yes. Mr. Chair, I
22 have a disclosure that I've put on the record in other
23 dockets but not yet in this docket. So I'd just like
24 to note for the record that I represent taxpayers in
25 real property tax cases including some cases on the

1 Island of Maui which means that my clients would be
2 adverse to Maui County in those cases. I don't think
3 that will affect my ability to be impartial in this
4 case but I wanted to note that for the record.

5 CHAIRMAN CHOCK: Thank you for the
6 disclosure, Commissioner Heller. Parties, any
7 concerns or objections?

8 MR. YUEN: No objection.

9 MR. GIROUX: County has no objection.

10 MR. SOUKI: No objections from the State.

11 CHAIRMAN CHOCK: Okay. Thank you,
12 Commissioner Heller. Commissioner Inouye?

13 COMMISSIONER INOUE: Yes.

14 CHAIRMAN CHOCK: Commissioner Matsumura?

15 COMMISSIONER MATSUMURA: Yes.

16 CHAIRMAN CHOCK: Commissioner McDonald?

17 COMMISSIONER McDONALD: Yes.

18 CHAIRMAN CHOCK: Commissioner Teves is
19 excused. Chair is also prepared to deliberate on this
20 matter. The goal today is to determine by way of
21 motion the Commission's decision on whether to grant
22 in whole or in part Petitioner's request to reclassify
23 the subject property or to deny the Petition.

24 If a decision is reached today, and based
25 on the Commission's guidance, the staff will be

1 directed to draft appropriate Findings of Fact,
2 Conclusions of Law and Decision and Order reflecting
3 the Commission's decision. Commissioners, what is
4 your pleasure on this matter? Commissioner Biga.

5 COMMISSIONER BIGA: Mr. Chair, I move to
6 grant All-794 State of Hawai'i, DOE-Kihei High School
7 Maui the Petition with the conditions and in the
8 general format of the agreed-to Decision and Order
9 submitted by Petitioner with the added condition that
10 an above- or below-ground pedestrian crossing be
11 constructed prior to opening of Phase I.

12 And that Petitioner's proposed Decision and
13 Order be further modified by staff to be consistent
14 with the motion and with the procedural findings
15 reflecting all filings in this docket.

16 CHAIRMAN CHOCK: Maybe before we get into
17 the conditions, just to keep matters clean I'd like to
18 just maybe suggest a friendly amendment that I believe
19 you're making a motion to approve, Commissioner Biga?

20 COMMISSIONER BIGA: Yes.

21 CHAIRMAN CHOCK: Okay. Chair will second
22 that motion. Then maybe now for the discussion if you
23 want to restate that condition.

24 COMMISSIONER BIGA: Restating the
25 condition. In the general format of the agreed-to

1 Decision and Order submitted by the Petitioner with
2 the added condition an above- or below-ground
3 pedestrian crossing be constructed prior to opening of
4 the Phase I and that the Petitioner's proposed
5 Decision and Order, further modified by staff, to be
6 consistent with this motion and with these procedural
7 findings reflecting all filings in this docket.

8 CHAIRMAN CHOCK: Thank you. Discussion?
9 Commissioner Heller.

10 COMMISSIONER HELLER: I generally agree
11 with Commissioner Biga in that I'm very concerned
12 about the issue of pedestrian access. And I
13 personally think a pedestrian overpass probably is a
14 good answer. However, I'm not a traffic engineer or
15 an expert on pedestrian safety.

16 As I understand the parties' proposal they
17 are proposing to work out the final decision on an
18 overpass or underpass between the Department of
19 Education and the Department of Transportation. And
20 the parties will ultimately reach some agreement as to
21 what is necessary.

22 Given that I'm not a traffic engineer and
23 given that the TIAR has not been finished at this
24 point, I don't think it's appropriate for us to make
25 that decision today. I think it's more appropriate to

1 say that the experts will work it out and that the
2 experts have to ultimately agree on what the proper
3 answer is.

4 So therefore would, while I share
5 Commissioner Biga's concern, I would oppose the
6 amendment regarding this specific requirement.

7 CHAIRMAN CHOCK: Thank you, Commissioner
8 Heller. Any other discussion, Commissioners,
9 comments, concerns, questions for any of the parties?
10 Commissioner Inouye.

11 COMMISSIONER INOUE: Thank you, Chair. I
12 think the No. 1 issue -- not issue, but the No. 1
13 concern that we as Commissioners have is public safety
14 and safety of the children as well as the residents of
15 Maui and whoever does frequent the place.

16 So I want to echo what Commissioner Heller
17 says. I am concerned as Commissioners imposing
18 something that the parties have not yet come to
19 fruition because there's a TIAR yet to be done and
20 some engineering to ensure that the right thing is
21 being done.

22 However, I'm prepared -- I have that
23 discomfort but I'm prepared to approve the amendment
24 with reservations, if that's allowed. Thank you.

25 CHAIRMAN CHOCK: Thank you, Commissioner

1 Inouye. (pause in proceedings) Commissioners, any
2 other comments? (pause) Commissioners, any other
3 questions on the proposed condition to require the
4 overpass/underpass? Just so we're clear I believe
5 Commissioner Biga's Motion's to Approve this condition
6 based on the overpass/underpass?

7 Is that the correct understanding that
8 there was some concerns raised by Commissioners Heller
9 and Inouye?

10 COMMISSIONER BIGA: And thank you, Chair.
11 I just want to reiterate on my motion. Living on
12 Maui, traveling on that highway on numerous occasions,
13 I've seen the speed that goes through that highway.
14 Again, my concern is for the safety of the pedestrians
15 and the children that will be going to that school.

16 Throughout this hearing I brought up my
17 concerns of that nature. That's why I believe this
18 motion, I brought this motion up. So that's my
19 concern, the safety of the public, the safety of the
20 children that're going to that school.

21 CHAIRMAN CHOCK: Any other comments,
22 Commissioners? If not I'm going to have the executive
23 officer poll the Commission. Dan.

24 COMMISSIONER HELLER: Mr. Chair, just for
25 clarification, we're voting now on -- yes or no on

1 granting the Petition with the condition of an
2 overpass or an underpass, is that right?

3 CHAIRMAN CHOCK: That's my understanding,
4 correct.

5 MR. ORODENKER: Thank you, Mr. Chair. The
6 motion is to grant the Petition with the added
7 condition of requiring the construction of a
8 pedestrian overpass or underpass prior to the opening
9 of Phase I. Commissioner Biga?

10 COMMISSIONER BIGA: Yes.

11 MR. ORODENKER: Chair Chock?

12 CHAIRMAN CHOCK: Yes.

13 MR. ORODENKER: Commissioner Matsumura?

14 COMMISSIONER MATSUMURA: Yes.

15 MR. ORODENKER: Commissioner McDonald?

16 COMMISSIONER McDONALD: Yes.

17 MR. ORODENKER: Commissioner Contrades?

18 COMMISSIONER CONTRADES: Yes.

19 MR. ORODENKER: Commissioner Heller?

20 COMMISSIONER HELLER: No.

21 MR. ORODENKER: Commissioner Inouye?

22 COMMISSIONER INOUYE: Yes, with
23 reservations.

24 MR. ORODENKER: Thank you, Commissioners.

25 The motion passes 6 votes in support and 1 vote in

1 opposition.

2 CHAIRMAN CHOCK: Thank you very much.

3 Parties, any questions? Petitioner?

4 MR. YUEN: No questions.

5 MR. GIROUX: No questions from the County.

6 CHAIRMAN CHOCK: State?

7 MR. SOUKI: No questions from the State.

8 CHAIRMAN CHOCK: Thank you very much. Why
9 don't we take a brief recess in place to set up for
10 the next item on our agenda. (Pau 10:11.)

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C E R T I F I C A T E

I, HOLLY HACKETT, CSR, RPR, in and for the State of Hawai'i, do hereby certify;

That I was acting as court reporter in the foregoing LUC matters on the 27th day of June 2013;

That the proceedings were taken down in computerized machine shorthand by me and were thereafter reduced to print by me;

That the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matters.

DATED: This _____ day of _____ 2013

HOLLY M. HACKETT, HI CSR #130, RPR
Certified Shorthand Reporter