

LAND USE COMMISSION
MEETING MINUTES

May 26, 2021 – 9:00 a.m.

Pursuant to Exhibit F of the Governor’s Eighteenth Proclamation Related to the COVID-19 Emergency, the Commission conducted its meeting using interactive conference technology.

PLACE: Zoom Webinar Virtual Meeting
Meeting Link for Wednesday, May 26, 2021

(https://us02web.zoom.us/webinar/register/WN_gbi3psBwSEGExuEpU-E2Dw)

Due to the COVID-19 pandemic, the meeting was held remotely with Commission members, Staff and Applicants participating via an online meeting venue. The public could participate in the meeting via the “ZOOM” platform. Interested persons were also advised to submit written testimony no later than 24 hours in advance of the meeting to allow for distribution to Commission members prior to the meeting and to register to testify during the ZOOM meeting using instructions circulated on the meeting agenda.

COMMISSIONERS PRESENT: Jonathan Scheuer
(Attending via ZOOM conference media) Nancy Cabral
Arnold Wong
Dawn N. S. Chang
Dan Giovanni
Lee Ohigashi
Edmund Aczon

COMMISSIONERS EXCUSED: Gary Okuda (recused)
(8 seated Commissioners as of 10/1/19)

STAFF PRESENT: Daniel Orodener, Executive Officer
(Attending via ZOOM conference media) Julie China, Deputy Attorney General (DAG)
Scott Derrickson, Staff Planner
Riley Hakoda, Staff Planner/Chief Clerk
Natasha Quinones, Program Specialist

COURT REPORTER: Jean McManus
(Attending via ZOOM conference media)

CALL TO ORDER

Chair Scheuer called the meeting to order at 9:00 a.m. (7 Commissioners present).

Chair Scheuer and the attending Commissioners acknowledged that they were present and able to communicate via the ZOOM program.

APPROVAL OF MINUTES

Chair Scheuer stated that the first agenda item was the approval of the May 12-13, 2021 minutes and asked if there had been any public testimony submitted and if there were any corrections needed to be made. There was no public testimony and no corrections to be made. Commissioner Cabral moved to adopt the minutes. Commissioner Wong seconded the motion. There was no discussion.

By a roll call, the May 12-13, 2021 minutes were approved unanimously (7-0).

Chair Scheuer called for Mr. Orodener to provide the Tentative Meeting Schedule.

TENTATIVE MEETING SCHEDULE

Executive Officer Orodener provided the tentative meeting schedule from June 2021 to July 2021 for the Commissioners and cautioned that it was subject to change based on the pandemic impacts. Commissioners were advised to contact LUC staff if there were any questions or conflicts.

Commissioner Giovanni asked to clarify meeting dates for June .

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

EXECUTIVE SESSION

Chair Scheuer moved on to the next agenda item, an Executive Session to consult with the LUC Deputy Attorney General and questions and issues to the board's powers, duties, privileges, immunities and liabilities related to the consideration of Conformance of C&C of Honolulu Important Agricultural Lands Recommendation to applicable statutory and procedural requirements.

Chair Scheuer was informed that no public testimony was received on this matter.

Commissioner Wong moved for an Executive Session. Commissioner Ohigashi second the motion. There was no discussion.

By a show of hands, the Commission voted unanimously to go into Executive Session (7-0).

Chair Scheuer described what the Commission was procedurally doing for the benefit of the public and directed the Commissioners to exit the Zoom meeting and enter the arranged ZOOM Executive Session at 9:13 a.m.

Chair Scheuer reconvened the LUC open meeting at 11:35 a.m.

CONTINUED ACTION C&C OF HONOLULU IAL RECOMMENDATION

Chair Scheuer stated that the next Agenda item was a continued action regarding the CONFORMANCE OF C & C OF HONOLULU IMPORTANT AGRICULTURAL LANDS (IAL) RECOMMENDATION TO APPLICABLE STATUTORY AND PROCEDURAL REQUIREMENTS To consider whether the City and County of Honolulu recommendations for the designation of Important Agricultural Lands on the Island of Oahu complied with the requirements of Sections 205-47, 205-48 and 205-49 Hawaii Revised Statutes and whether the proper procedural, legal, statutory and public notice requirements had been met in developing the recommendations.

APPEARANCES:

Dawn Takeshi-Apuna, Deputy Director, Department of Planning (DPP)
Raymond Young (DPP)
Dina Wong, (DPP)
Brian Yee, Esq., Deputy Attorney General, Office of Planning (OP)
Alison Kato, Esq., Deputy Attorney General (OP)
Rodney Funakoshi, Land Use Administrator (OP)
Earl Yamamoto, Planner, Department of Agriculture (DOA)

Chair Scheuer updated the record, described the procedures for the hearing and asked if there were any questions on the procedures. There were no questions.

PUBLIC TESTIMONY

Chair Scheuer read a list of all the additional public testimony received in this matter.

Commissioner Wong moved to receive a formal published opinion from the Attorney General regarding the City's Chapter 205 compliance. Commissioner Ohigashi second the motion.

COMMISSIONER WONG'S MOTION

I would like to move that the Commission request a formal publishable Attorney General's opinion on whether or not the County, in developing its' Important Agricultural Land Recommendation is required to apply all eight of the criteria contained in §205-44(c) to each individual parcel or whether it may make a general determination as to what criteria should or should not be applied to formulate its' Recommendation.

Further that the Chair works with the Executive Officer to further refine the specific question or questions to be directed to the Attorney General.

It is also moved that these proceedings be stayed until receipt of such opinion.

Commissioner Wong spoke to the motion.

Commissioner Chang commented in favor of the motion and recognize the importance of obtaining clarification from the Attorney General. She also urged the City to consider all the submitted public testimony; and acknowledged the public for its great participation.

Chair Scheuer summarized the proposed motion and described how the Commission would stay the proceedings until a formal published opinion by the Attorney General was received.

Commissioner Cabral spoke to the motion and expressed her support.

Chair Scheuer spoke in favor of the motion and shared why he felt it was important to determine whether there was a legal requirement to use all eight criteria and not only three in evaluating the proposed IAL properties.

Chair Scheuer asked Mr. Orodener to poll the Commission. By a roll call vote, the motion passed unanimously with 7 affirmative votes.

Chair Scheuer asked if there were any final questions.

Ms. Apuna had a procedural question on whether the City would be allowed to preview the Attorney general's opinion prior to reconvening the meeting.

Deputy Attorney General Julie China interjected a negative response to Ms. Apuna's inquiry.

Subsequently, Chair Scheuer described how oral arguments would not be anticipated to proceed following receipt of the formal opinion from the Attorney General and that a response from the City could be filed.

Commissioner Cabral sought clarification on how the public viewing the ZOOM meetings could stay informed on the progress of this agenda item. Mr. Orodener described how the public could receive agenda information from the Commission.

Chair Scheuer summarized the state of the proceedings and again described how the public could register on the LUC's website to receive the Agenda.

There was no further business.

Chair Scheuer declared meeting adjourned at 12:03 p.m.