

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Parker Methodist Church
Kaneohe, Hawaii

Approved
6/14/77

February 10, 1977 - 9:25 a.m.

COMMISSIONERS PRESENT: Eddie Tangen, Chairman
James Carras
Charles Duke
Colette Machado
Shinsei Miyasato
Mitsuo Oura
Carol Whitesell
Edward Y anai

COMMISSIONER ABSENT: Stanley Sakahashi, Vice Chairman

STAFF PRESENT: Gordan Furutani, Executive Officer
Michael Marsh, Deputy Attorney General
Dora Horikawa, Clerk Reporter

Toni Hankinson, Court Reporter
(Morning & Evening Sessions)

Forence McCue, Court Reporter
(Afternoon Session)

CONTINUED HEARING

A76-423 - WINDWARD PARTNERS

The continuation of the hearing on Docket A76-423 was called to order by Chairman Tangen.

Mr. Hawkins, representing the petitioner, moved to disqualify Commissioner Machado from the proceedings on the grounds that her views were biased against the petitioner. Commissioner Machado maintained that she held no prejudicial views against any of the intervenors or the petitioner. Commissioner Duke supported Commissioner Machado's position and expressed confidence in her ability to maintain an impartial posture. He therefore moved to deny Mr. Hawkins' motion, which was seconded by Commissioner Whitesell and unanimously carried.

The swearing-in oath was administered by Chairman Tangen to all those testifying today.

PUBLIC WITNESSES

The following persons, having been duly sworn in, were called as public witnesses, testified and examined as set forth in the transcript on----- Pages

Public Witnesses (cont.)

Pages

Robin Hughes, representing Life of the Land----- 8 to 11

Dennis Callan, staff member of Life of the Land----13 to 16

A voir dire examination by Mr. Hawkins
concerning the public opinion survey con-
ducted by the University of Hawaii-----17 to 18

Questioned by Commissioner Whitesell-----19

Cross examination by Mr. Hawkins-----20

PETITIONER - (cont.)

Walter Clark - Witness

Mr. Walter Clark, real estate broker, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Direct examination by Mr. Hawkins----- 21 to 31

Cross examination by Miss Howell----- 32 to 33

Cross examination by Mr. Lee----- 33 to 36

Cross examination by Mr. Hare----- 36 to 52

Cross examination by Dr. Reppun----- 52 to 55

Cross examination by Miss Hanaike----- 56 to 59

Questioned by Commissioner Yanai----- 59 to 60

Yasuo Arakaki - Witness

Mr. Yasuo Arakaki, professional engineer, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Direct examination by Mr. Hawkins----- 62 to 70

Cross examination by Mr. Lee----- 70 to 75

Cross examination by Mr. Hare----- 75 to 91

Cross examination by Dr. Reppun----- 91 to 94

Cross examination by Miss Hanaike----- 94

Redirect examination by Mr. Hawkins----- 95

Arakaki - Cont.

Pages

Recross examination by Dr. Reppun----- 96 to 97

Questioned by Commissioner Whitesell----- 97 to 98

The meeting recessed for lunch at noon and reconvened at 1:40 p.m.

It was duly noted by Chairman Tangen that Jack Meek's testimony supporting Windward Partners' petition was being accepted as hearsay evidence, marked as Exhibit 12, inasmuch as Mr. Meek was not available for cross examination.

Dr. Michael Chun - Witness

Dr. Chun, Associate Professor of Sanitary Engineering, University of Hawaii, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Direct examination by Mr. Hawkins----- 6 to 16

Cross examination by Miss Howell----- 17

Cross examination by Mr. Lee----- 17 to 21

Cross examination by Mr. Hare----- 21 to 25

Cross examination by Dr. Reppun----- 25 to 28

Redirect examination by Mr. Hawkins----- 28

Petitioner's Backup Data for Information Statement, was offered into evidence and identified as Exhibit 13.

Dr. Chun - Recalled

Pages

Redirect examination by Mr. Hawkins----- 30 to 31

Recross examination by Mr. Hare----- 31 to 33

Redirect examination by Mr. Hawkins----- 33

Edwin Kobashikawa - Witness

Mr. Kobashikawa, CPA, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Direct examination by Mr. Hawkins----- 33 to 35

Cross examination by Mr. Lee----- 35

<u>Kobashikawa - Cont.</u>	<u>Pages</u>
Questioned by Commissioner Machado-----	36
Questioned by Commissioner Whitesell-----	36 to 37

David Kaku - Witness

Mr. David Kaku, Civil Engineer, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on-----

	<u>Pages</u>
Direct examination by Mr. Hawkins-----	37 to 42
Cross examination by Miss Howell-----	42 to 43
Cross examination by Mr. Lee-----	43 to 45
Cross examination by Mr. Hare-----	45 to 50
Cross examination by Dr. Reppun-----	51
Cross examination by Miss Hanaike-----	51
Redirect examination by Mr. Hawkins-----	51 to 52
Recross examination by Mr. Hare-----	53

Chairman Tangen acknowledged the presence of Reverend Martin, Pastor of the Parker Methodist Church, and expressed deep appreciation to him for use of the church facilities and the warm hospitality accorded the Commission and the people in the audience.

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT

Exhibits

DPED's Exhibits 1, 2 and 3 (map on the wall) were admitted into evidence.

At this time, the swearing in oath was administered by the Chairman to those testifying, who had not previously been sworn in.

Frank Skrivanek - Witness

Mr. Frank Skrivanek, Deputy Director of DPED, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on-----

	<u>Pages</u>
Summary of prepared statement-----	56 to 62
Direct examination by Mr. Lee-----	62 to 64
Cross examination by Mr. Hawkins-----	64 to 73

<u>Skrivanek - cont.</u>	<u>Pages</u>
Questioned by Commissioner Machado-----	73 to 75
Redirect examination by Mr. Lee-----	76

Shinji Soneda - Witness

Mr. Shinji Soneda, Chief of the Environmental Section of the Department of Health, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on

	<u>Pages</u>
Direct examination by Mr. Lee-----	77 to 80
Cross examination by Mr. Hawkins-----	80 to 82
Cross examination by Dr. Reppun-----	82 to 83
Questioned by Commissioner Whitesell-----	83 to 87
Questioned by Chairman Tangen-----	87 to 89
Questioned by Mr. Marsh-----	89
Recross examination by Mr. Hawkins-----	89
Requestioned by Chairman Tangen-----	90 to 91
Cross examination by Miss Howell-----	91 to 92
Requestioned by Commissioner Whitesell-----	92
Recross examination by Dr. Reppun-----	92 to 93

Dr. Bill Cox - Witness

Dr. Bill Cox, Director of the Environmental Center of the University of Hawaii, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on

	<u>Pages</u>
Direct examination by Mr. Lee-----	93 to 97
Cross examination by Mr. Hawkins-----	97
Cross examination by Mr. Hare-----	97 to 104
Questioned by Commissioner Duke-----	104 to 108

Harry Sato - Witness

Mr. Harry Sato, Soil Conservation Service, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on

Direct examination by Mr. Lee-----	108 to 109
------------------------------------	------------

<u>Sato - Cont.</u>	<u>Pages</u>
Cross examination by Mr. Hawkins-----	109 to 112
Cross examination by Mr. Hare-----	113
Cross examination by Dr. Reppun-----	113 to 114
Questioned by Commissioner Duke-----	114 to 118
Questioned by Commissioner Whitesell-----	118

Commissioner Whitesell asked whether any of the parties will make available a witness qualified to respond to questions concerning water resources for the proposed development. Mr. Hare advised that Intervenor Adolpho, et al, will present Mr. Charles Reppun to testify on water resources.

James Kirchhofer - Witness

Mr. James Kirchhofer, Chief Planner for the Department of Agriculture, having been duly sworn in, was called as a witness testified and examined as set forth in the transcript on Pages

Direct examination by Mr. Lee-----	120 to 122
Cross examination by Mr. Hawkins-----	122
Cross examination by Mr. Hare-----	122 to 123

Henry Uyehara - Witness

Mr. Henry Uyehara, Head Planning Engineer for the Highways Division, Dept. of Transportation, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Direct examination by Mr. Lee-----	123 to 126
Cross examination by Mr. Hawkins-----	126 to 128
Cross examination by Mr. Hare-----	128
Questioned by Commissioner Whitesell-----	129 to 130

The meeting was recessed at 5:15 p.m.

The meeting was called to order at 7:16 p.m.

At Mr. Lee's request, it was stipulated by all the parties that they would have no objections to allowing the filing of a larger scale smaller sized map as DPED's Exhibit 3.

KOA ADOLPHO ET AL

Exhibits

Intervenor Koa Adolpho et al's Exhibits 1 through 5 were identified and admitted into evidence.

Dr. Albert Banner - Witness

Dr. Albert Banner, specialist in marine biology, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Direct examination by Mr. Hare----- 5 to 13

Cross examination by Mr. Hawkins----- 13 to 17

Cross examination by Mr. Lee----- 17 to 18

William Kimmerer - Witness

Mr. William Kimmerer, graduate research assistant in the Institute of Marine Biology, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Direct examination by Mr. Hare----- 18 to 24

Cross examination by Mr. Hawkins----- 24 to 25

Donald Hanson - Witness

Mr. Donald Hanson, civil engineer, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Direct examination by Mr. Hare----- 26 to 34

Cross examination by Mr. Hawkins----- 34 to 36

Questioned by Commissioner Carras----- 36 to 37

Questioned by Commissioner Machado----- 37

Questioned by Chairman Tangen----- 37 to 38

David Raney - Witness

Mr. David Raney, Sierra Club, Hawaii Chapter, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Direct examination by Mr. Hare----- 40 to 44

Cross examination by Mr. Hawkins----- 45 to 47

Repr. Charles Toguchi - Witness

Representative Charles Toguchi representing the 23rd District, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Direct examination by Mr. Hare----- 48 to 55

Cross examination by Mr. Hawkins----- 55 to 56

Charles Reppun - Witness

Mr. Charles Reppun, farmer, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Direct examination by Mr. Hare----- 57 to 68

Cross examination by Mr. Hawkins----- 68 to 69

Cross examination by Dr. Reppun----- 70

Redirect examination by Mr. Hare----- 71

Recross examination by Mr. Hawkins----- 71

John Kipapa - Witness

Mr. John Kipapa, student at Waianae High School, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Direct examination by Mr. Hare----- 72 to 74

Cross examination by Mr. Hawkins----- 74

Questioned by Commissioner Whitesell----- 75

Gail Hamasu - Witness

Ms. Gail Hamasu, representing Workers United, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Direct examination by Mr. Hare----- 76 to 82

Owen Pendleton - Witness

Mr. Owen Pendleton, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Oral testimony----- 83 to 88

Cross examination by Mr. Hawkins----- 88 to 89

At this point, Mr. Hare again requested permission to present a 30-minute slide/^{show}(at the conclusion of his case), portraying an overview of the petitioner's background, discussing the impact of the development on the Waiahole/Waikane community and analysis of alternatives.

Upon examination of the specific nature and purpose of the slides, Mr. Marsh counselled the Commission as follows:

1. The slide show may possibly contain some relevant information such as the alternatives to the proposed development. However, there were some things which were clearly irrelevant, e.g., the eviction proceedings which would constitute a significant portion of the slide show.
2. The slide show includes, to a great degree, testimony and evidence with respect to Waiahole Valley, which lands are not the subject of the present petition.
3. Moreover, there has been no indication that the information contained in the slides would not be duplicative of the testimony already presented before the Commission.
4. Therefore, on the basis of Mr. Hare's offer of proof, it would not be improper for the Commission to exclude the slide show as being irrelevant and duplicative.

Commissioner Yanai moved to deny the request for the slide presentation, which was seconded by Commissioner Machado, and unanimously carried.

NEIGHBORHOOD BOARD NO. 29

Exhibits

Neighborhood Board No. 29's Exhibits 1 through 14 were identified and admitted into evidence.

Dr. Frederick Reppun, Chairman of the Kahaluu Neighborhood Board No. 29, having been duly sworn in, presented his oral testimony as set forth in the transcript on pages 101 to 106.

NEIGHBORHOOD BOARD NO. 30

Miss Dona Hanaike, representing the Kaneohe Neighborhood Board No. 30, having been duly sworn in, presented her oral testimony as set forth in the transcript on pages 106 to 107.

Wilfred Humphries - Witness

Mr. Wilfred Humphries, appearing in behalf of the Windward Action Group, having been duly sworn in, testified as set forth in the transcript on pages 107 to 113.

Michael Sawamoto - Witness

Mr. Michael Sawamoto, employee of Oahu Sugar Mill, having been duly sworn in, was called as a witness, testified and examined as set forth in the transcript on----- Pages

Oral testimony----- 114 to 116

Cross examination by Mr. Hawkins----- 116 to 117

KOA ADOLPHO, ET AL - Cont.

Mr. Hare called on his last witness to testify on the proposed alternative for the use of subject lands.

Mr. Robert Fernandez, President of the Waiahole-Waikane Community Association, testified and was examined as set forth in the transcript on----- Pages

Oral testimony----- 119 to 121

Cross examination by Mr. Hawkins----- 121 to 122

Cross examination by Dr. Reppun----- 122 to 124

CLOSING STATEMENTS

Mr. Michael Hare submitted that the petitioner has not complied with the Interim Statewide Land Use Guidance Policy; expressed concern over the inadequacy of public services and facilities and the adverse effect on agriculture, the environment, Kaneohe Bay and most of all to the people of Waiahole-Waikane Valleys.

Mr. Hawkins expressed his confidence in the Commission's capability to render a fair and just decision based on all of the evidence presented during the hearing.

Chairman Tangen expressed his appreciation to the people present for their participation in the proceedings and expressed his views that the Commission will be better equipped to make a proper decision because of the amount of information that had been made available to them.

He again thanked Reverend Martin for his cordial hospitality.

The hearing on Docket A75-423 was closed and the Chairman advised the petitioner of the deadlines for the filing of the proposed findings of fact, conclusions of law, service to all parties, etc.