

LAND USE COMMISSION
MEETING MINUTES
December 7th, 2022 – 9:15 a.m.

Pursuant to Hawai‘i Revised Statutes, HRS § 92 as amended, the Commission conducted its meeting in person. 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 meeting.

IN PERSON: Homer A. Maxey Center Conference Room (Foreign-Trade Zone No. 9) 521 Ala Moana Boulevard, Honolulu, HI 96813

YOUTUBE RECORDING:
(<https://www.youtube.com/watch?v=sL8eIDb17k8>)

COMMISSIONERS PRESENT: Dan Giovanni
Nancy Cabral
Lee Ohigashi
Dawn N. S. Chang
Gary Okuda
George Atta
Michael Yamane
Kū‘ike Kamakea-‘Ōhelo
Melvin Kahele

(9 seated Commissioners as of 05/01/22)

STAFF PRESENT: Daniel Orodener, Executive Officer
Scott Derrickson, Chief Planner
Riley Hakoda, Staff Planner
Martina Segura, Staff Planner
Ariana Kwan, Chief Clerk
Julie China, Esq. Deputy Attorney General

COURT REPORTER: Naegeli Deposition and Trial
(via Zoom video recording)

CALL TO ORDER (*YouTube: 00:00:05*)

Chair Dan Giovanni called the meeting to order at 9:15 a.m.

APPROVAL OF THE MINUTES (*YouTube: 00:02:58*)

The first agenda item was the approval of the November 16th, 2022, Minutes. There was no written testimony, or members of the public who wished to testify on the approval of the Minutes.

Commissioner Cabral choose to abstain from voting on the Minutes, because she did not participate in the November 16th meeting.

Commissioner Ohigashi moved to adopt the November 16th, 2022, Minutes, and Commissioner Atta seconded the motion.

The November 16th, 2022, Minutes were approved with 8 ayes, 0 nays, 1 abstain.

TENTATIVE MEETING SCHEDULE (*YouTube: 00:03:13*)

Chair Giovanni called for Land Use Commission Staff to provide the Tentative Meeting Schedule.

Executive Officer, Dan Orodener provided the following tentative meeting dates:

February 11th: A19-809 Pūlama Lāna‘i Miki Basin (Maui)

February 22nd: A81-525 Y-O Limited Partnership (Hawai‘i)

BRIEFING BY DEPUTY ATTORNEY GENERAL (*YouTube: 00:06:21*)

Briefing and update on cases on appeal: (1) Spirit of Aloha Temple v. County of Maui, 49 F.4th 1180 (9th Cir. 2022); and (2) Ho‘omoana Foundation v. Land Use Commission, No. SCWC-17-0000181 (Haw.). During the scheduled meeting, the Commission may elect to consult with its legal counsel in executive session pursuant to HRS § 92-5.

Appearances:

Robert Nakatsuji, Esq. Deputy Attorney General

Public Testimony (*YouTube: 00:07:31*)

The Land Use Commission received no written testimonies from the public on this matter. Chair Giovanni opened the meeting up for testimony on the Briefing by the Deputy Attorney General. There were no members of the public who wished to testify on this matter.

Executive Session (*YouTube: 00:07:31*)

Commissioner Ohigashi moved to enter into executive session to consult with the Commission’s attorney on the questions and issues pertaining to the board’s powers, duties, privileges, immunities, and liabilities in regard to the litigation and appellate proceedings concerning Briefing and update on cases on appeal: (1) Spirit of Aloha Temple v. County of Maui, 49 F.4th 1180 (9th Cir. 2022); and (2) Ho‘omoana Foundation v. Land Use Commission, No. SCWC-17-0000181 (Haw.).

Commissioner Cabral seconded the motion, and the motion to go into Executive Session passed unanimously 9-0.

The Commission entered Executive Session at 9:22 a.m. The Commission exited Executive Session and reconvened into public session at 10:23 a.m.

A89-651 HASEKO (EWA), INC. (O‘AHU) (YouTube: 00:10:43)

To consider petitioner Haseko (Ewa), Inc.'s Motion for Approval of Job Credits filed on September 20, 2022, as required by the Decision and Order Approving the Petition to Convert the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 403.008 acres at Honouliuli, Ewa, O‘ahu, Hawai‘i, Tax Map Key No.: 9-1-12: 5 (por.), 6 (por.), and 23 (por.)

Appearances:

Office of Planning and Sustainable Development (“OPSD”)

Lorene Maki (Planner)

Katia Balassiano (Program Administrator)

Alison Kato, Esq. (Deputy Attorney General)

Petitioner

Curtis Tabata, Esq. (Counsel for Petitioner)

Raymond Kanna (Executive Vice President, Haseko)

Daniel Lum (Petitioner Witness)

Lisa Enanoria (Petitioner Witness)

County

Dina Wong (Chief Planner)

John Dubiel (Corporation Counsel)

Public

Mark Bowman

Fid Limani

Mary Freeman

Public Testimony (YouTube: 00:17:05)

The Land Use Commission received no written testimonies from the public on this matter. Chair Giovanni opened the meeting up for testimony on the Motion to Approve Job Credits for A89-651 Haseko (Ewa), Inc. There were three members of the public who wished to testify on this matter.

Mark Bowman, Fid Limani, and Mary Freeman provided public testimony in support of the Motion to Approve of Job Credits.

Admission of Exhibits (YouTube: 00:31:50)

Mr. Tabata asked for the following submissions be admitted: Petitioner Exhibits 1-7, along with the Motion and the amended Certificate of Service, the OPSD and City and County responses, and the LUC Staff Report. There were no objections from the Parties, The Land Use Commission accepted the Exhibits listed as part of the Record.

Presentations (YouTube: 00:33:45)

Mr. Tabata gave a brief introduction and introduced his witnesses Daniel Lum and Lisa Enanoria.

Daniel Lum addressed the calculations of the job credits and gave a brief description of the master plan of the Project. In response to the Witnesses presentation, the Commissioners asked questions relating to housing, the calculations of man hours and man years involved,

how the Petitioner came up with the methodology, and the availability of the raw data involved with the calculations (*YouTube: 00:40:33*).

Lisa Enanoria provided an overview of the outreach and participation in the community surrounding the Project area. In response to the Witness presentation, the Commissioners asked questions relating to the job availability, community support, infrastructure and water use, planning for climate change, and the Projects estimated timeline(*YouTube: 01:12:43*).

Raymond Kanna answered Commissioners questions on the infrastructure and tourism (*YouTube: 01:17:30*).

The Petitioner witnesses were followed by the presentation from the City and County of Honolulu. John Dubiel stated the City and County of Honolulu supports the Petitioners Motion, and introduced the discussion of freezing the amount of job credits for the 1990-2020 time period (*YouTube: 01:38:20*).

The City and County of Honolulu was followed by OPSD, which supports the Petition. Commissioners asked questions pertaining to the position on freezing the credits for the time period, annual reports and job credit reporting (*YouTube: 01:43:18*).

The Petitioner opposed freezing the job credits for the 1990- 2020 time but will have the burden of proving that credits are not being duplicated in future motions (*YouTube: 01:51:10*).

Public Testimony (*YouTube: 01:57:44*)

Once again, Chair Giovanni opened the meeting up for public testimony on the Petition for the Motion to Approve Job Credits for A89-651 Haseko (Ewa), Inc. There were no members of the public who wished to testify on this matter.

Deliberations (*YouTube: 01:58:00*)

Commissioner Cabral made a Motion to grant the Petitioners Motion approve job credits, noting that the Motion may not affect the rights, remedies, or privileges of the Petitioner under the existing laws. The Land Use Commission Staff is authorized to make non-substantive changes to the Conditions as appropriate regarding formatting, style, or other modifications to ensure consistency and authorize the Chair to sign the Order on behalf of the Commission. Commissioner Okuda Seconded the Motion.

The Motion passed unanimously with 9 ayes and 0 nays.

ADJOURNMENT (*YouTube: 02:06:24*)

There being no further business to attended to, Chair Giovanni ended the meeting at 2:12 p.m.

LAND USE COMMISSION
EXECUTIVE SESSION MEETING MINUTES
December 7th, 2022 – 9:15 a.m.

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(9 seated Commissioners as of 05/01/22)

STAFF PRESENT: Daniel Orodener, Executive Officer
Scott Derrickson, Chief Planner
Julie China, Esq. Deputy Attorney General
Robert Nakatsuji, Esq. Deputy Attorney General

CALL TO ORDER

Chair Dan Giovanni called Executive Session to order at 9:25 a.m.

The Commission consulted with the Attorney General on the questions and issues pertaining to the board’s powers, duties, privileges, immunities, and liabilities in regard to the litigation and appellate proceedings concerning the briefing and update on cases on appeal: (1) Spirit of Aloha Temple v. County of Maui, 49 F.4th 1180 (9th Cir. 2022); and (2) Ho‘omoana Foundation v. Land Use Commission, No. SCWC-17-0000181 (Haw.).

Commissioner Cabral moved, and Commissioner Kahele seconded the motion to exit from Executive Session. By voice vote, the Commission unanimously voted to exit Executive Session at 10:23 a.m.

ADJOURNMENT

Chair Giovanni closed the Executive Session at the meeting at 10:23 a.m. and reconvened to the public meeting at 10:30 a.m.