

LAND USE COMMISSION
MEETING MINUTES
February 8th, 2023 – 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: Maui Arts & Cultural Center, Haynes Room 1 Cameron Way, Kahului, HI 96732

YOUTUBE RECORDING:

<https://www.youtube.com/watch?v=VvRQi47uHyo>

COMMISSIONERS PRESENT:

Dan Giovanni
Nancy Cabral
Lee Ohigashi
Gary Okuda
George Atta
Kū‘ike Kamakea-‘Ōhelo
Melvin Kahele

(8 seated Commissioners as of 12/12/22)

STAFF PRESENT:

Daniel Orodener, Executive Officer (Via Zoom)
Scott Derrickson, Chief Planner
Riley Hakoda, Staff Planner
Martina Segura, Staff Planner
Ariana Kwan, Chief Clerk
Dan Morris, Esq. Deputy Attorney General (Via Zoom)

COURT REPORTER:

(via Zoom video recording)

Naegeli Deposition and Trial

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: 00:03:00)

The first agenda item was the approval of the December 7th, 2022, Minutes. There was no written testimony, or members of the public who wished to testify on the approval of the Minutes.

Commissioner Ohigashi moved to adopt the December 7th, 2022, Minutes, and Commissioner Cabral seconded the motion.

The December 7th, 2022, Minutes were approved with 7 ayes, 0 nays, 1 excused.

TENTATIVE MEETING SCHEDULE (YouTube: 00:04:01)

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

Executive Officer, Dan Orodener provided the following tentative meeting dates, and cautioned the Commissioners not to plan to release the remaining days due to upcoming items:

- February 9th, 2023: A11-794 Department of Education (Maui)
- April 13th, 2023: A81-525 Y-O Limited Partnership (Hawai'i)
- April 26th, 2023: SP09-40 Waimānalo Gulch (O'ahu)

AUTHORIZATION FOR LUC CONFERENCE TRAVEL (YouTube: 00:05:14)

National Planning Conference: April 1 - April 4, 2023, in Philadelphia, PA Urban Land Institute Conference: May 16 – 18, 2023 in Toronto, ON, Canada

Chair Giovanni called for Executive Officer, Dan Orodener to provide an explanation and reason for conference travel.

Commissioner Cabral moved to accept the LUC conference travel plans, and Commissioner Ohigashi seconded the motion.

The LUC conference travel plans were approved by the Commission with 7 ayes, 0 nays, 1 excused.

A19-809 PŪLAMA LĀNA'I (MAUI) CLOSING ARGUMENTS (YouTube: 00:07:53)

Petition to Amend the Land Use District Boundaries from the Agricultural District to the Urban District for an industrial park and other uses at Miki Basin. Approximately 200 acres of lands situated at Lāna'i City, Island of Lāna'i, Tax Map Key No. (2) 4-9-002:061 (por)

Appearances

Office of Planning and Sustainable Development ("OPSD")

- Aaron Setogawa (Planner)
- Katia Balassiano (Program Administrator)
- Brian Yee, Esq. (Deputy Attorney General)

County

- Kathleen Aoki (Acting Director)
- Kurt Wollenhaupt (Planner)
- Michael Hopper, Esq. (Deputy Corporation Counsel)

Petitioner

- Cal Chipchase, Esq. (Counsel for Petitioner)
- Dr. Keiki-Pua Dancil (Representative for Pūlama Lāna'i)

Public

None

Disclosures (YouTube: 00:09:56)

Commissioner Okuda disclosed that he represented the plaintiff in a case where the defendants counsel was from Cades Schutte. Commissioner Okuda stated that his representation in the case

would not impact his viewpoints or decision making, and that he does not have any financial gain in the outcome of the case. There were no objections to his continued participation.

Chair Giovanni disclosed he worked with Dr. Dancil and stated that their previous work relationship would not affect his ability to be fair and objective regarding this Petition. There were no objections to his continued participation.

Public Testimony (*YouTube: 00:15:14*)

The Land Use Commission received no written testimonies from the public on this matter. Chair Giovanni opened the meeting up for testimony on the matter, and there were no members of the public who wished to testify on this matter.

Closing Arguments (*YouTube: 00:16:07*)

Mr. Chipchase gave a brief presentation to the Commission that included some of the evidence from the November 16th, 2023, hearing and the stipulated conditions.

Following Mr. Chipchases presentation, the Commission asked clarification questions on the conditions in the Stipulated Decision and Order.

County of Maui stated their support for the Stipulated Decision and Order.

The Office of Planning and Sustainable Development stated their support for the project and the Stipulated Decision and Order.

Public Testimony (*YouTube: 00:45:00*)

Once again, Chair Giovanni opened the meeting up for public testimony on this matter, and there were no members of the public who wished to testify.

Deliberations (*YouTube: 00:45:27*)

Commissioner Ohigashi moved to adopt the Petitioner’s Second Amended Proposed Findings of Fact, Conclusions of Law and Decision and Order, as submitted by the Petitioner and Stipulated by the Parties. Commissioner Kahele seconded the Motion.

Commissioner Cabral offered a friendly amendment that Motion includes that the approval be subject to the original 21 conditions, Chair is authorized to sign the Order, and staff can make necessary modifications to procedural matters and standardizing format, style, grammar, and spelling. Commissioner Ohigashi accepted the friendly amendment

The Motion passed with 7 ayes, 0 nays, and 1 excused.

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

Chair Giovanni requested for Land Use Commission staff to arrange for lunch to be provided for the next meeting, which is being in a remote location. To allow the Commission to work through lunch the following day. There being no further business to attended to, Chair Giovanni recessed the meeting at 10:13 a.m, to continue at 9:15 a.m the following day at the Kihei Community Center.

LAND USE COMMISSION
EXECUTIVE SESSION MEETING MINUTES
February 9th, 2023 – 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: Kīhei Community Center 303 E Lipoa Street, Kīhei, HI 96753

YOUTUBE RECORDING:

https://www.youtube.com/watch?v=EV9JD2z_O1k

COMMISSIONERS PRESENT:

Dan Giovanni
Nancy Cabral
Lee Ohigashi
Gary Okuda
George Atta
Michael Yamane
Melvin Kahele

(8 seated Commissioners as of 12/12/22)

STAFF PRESENT:

Daniel Orodener, Executive Officer (Via Zoom)
Scott Derrickson, Chief Planner
Riley Hakoda, Staff Planner
Martina Segura, Staff Planner
Ariana Kwan, Chief Clerk
Dan Morris, Esq. Deputy Attorney General (Via Zoom)

CALL TO RECONVENE (YouTube: 00:00:29)

Chair Dan Giovanni called the meeting to reconvene at 9:17 a.m.

A11-794 DEPARTMENT OF EDUCATION (“DOE”) STATUS REPORT (YouTube: 00:07:53)

Kūlanihāko‘i (formerly Kīhei) High School (Maui) Approximately 77.2 acres of land at Kīhei, Maui, Hawai‘i, Maui Tax Map Key Nos. 2-2-02: 81 and 83.

Appearances

*Office of Planning and Sustainable
Development (“OPSD”)*

Lorene Maki (Planner)

Allison Kato, Esq. (Deputy Attorney General)

County

Kathleen Aoki (Acting Director)

Michael Hopper, Esq. (Deputy Corporation
Counsel)

Appearances Continued:

Petitioner

Keith Hayashi (Superintendent, DOE)
Curt Otaguro (Deputy Superintendent, DOE)
Carter Siu (Deputy Attorney General DOE)
Ryan Roylo (Deputy Attorney General DOE)

Witnesses:

Robin Shishido (Deputy Director Highways,
Department of Transportation)
Desiree Sides (Complex Area Superintendent, Maui
District, Department of Education)
Halle Maxwell (Principal at Kūlanihāko‘i High
School)

Public

Public Testimony (Round One)

Buck Joiner
Mike Moran
Cheri Nakamura
Andrew Beerer
Tina Wildberger
Vernon Kalanikau

Public Testimony (Round two)

Andrew Beerer
Matthew Thayer
Cheri Nakamura
Buck Joiner
Vernon Kalanikau

Disclosures (*YouTube: 00:12:33*)

Commissioner Atta disclosed that he formerly worked for Group 70 (“G70”) Commissioner Atta stated that his former employment by G70 would not impact his viewpoints or decision making, and that he does not have any financial gain in the outcome of the hearing. There were no objections to his continued participation.

Public Testimony (Round One) (*YouTube: 00:12:33*)

The Land Use Commission received 81 written testimonies from the public, prior to this hearing on this matter. Chair Giovanni opened the meeting up for testimony on the Status Report for 11-794 Department of Education (Maui) There were six members of the public who wished to testify on this matter.

Buck Joiner, Mike Moran, Cheri Nakamura, Andrew Beerer, Tina Wildberger, and Vernon Kalanikau provided public testimony regarding the Status Report.

Presentations (*YouTube: 01:15:04*)

Mr. Hayashi and Mr. Otaguro presented a slideshow that included photos of the development and status of Kūlanihāko‘i High School. Petitioners called on witness Robin Shishido from the Department of Transportation Highways Division to talk about the roundabout and its status.

The Department of Education represented that a copy of the study completed by G70 will be provided to the Commission. The Petitioner called up witnesses Desiree Sides the Complex Area Superintendent and Halle Maxwell the Principal of Kūlanihāko‘i High School

After the Petitioners presentation, Petitioner welcomed questions from OPSD, County of Maui, and Commissioners. In response to the Petitioners presentation, the Commissioners asked questions relating to the opening of the school, funding of the roundabout vs projected cost of the overpass, means of funding, development and design plans, community engagement, and the duration of the project (*YouTube: 01:20:25*).

The County of Maui made their presentation stating that they provided the December 1st, 2022, letter from the former Planning Director to the DOE (*YouTube: 02:48:42*).

The Office of Planning and Sustainable Development did not have any comments, but expects to work with the DOE ,moving forward (*YouTube: 02:50:30*).

Public Testimony (Round Two) (*YouTube: 02:53:20*)

Chair Giovanni opened the meeting up for testimony on the Status Report for 11-794 Department of Education (Maui) There were five members of the public who wished to testify on this matter.

Buck Joiner, Matthew Thayer, Cheri Nakamura, Andrew Beerer, and Vernon Kalanikau provided public testimony regarding the Status Report.

LEGISLATIVE REPORT AND UPDATE (*YouTube: 03:12:50*)

Executive Officer Dan Orodenker provided the Commission with information on the 2023 Legislative Session and shared information and the status of bills that potentially impact the LUC.

ADJOURNMENT (*YouTube: 03:12:50*)

With no further business to attended to Chair Giovanni adjourned the meeting at 1:33 p.m.