

LAND USE COMMISSION
MEETING MINUTES
October 4, 2023 – 9:00 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: Airport Conference Center, Ohia Room (in Hawaiian Airlines Terminal 1 Building) 400 Rodgers Blvd., 7th Floor, Room #1, Honolulu, HI 96819

YOUTUBE RECORDING:

https://www.youtube.com/watch?v=UXMn_Xgw1-I

COMMISSIONERS PRESENT:

Dan Giovanni
Lee Ohigashi
Gary Okuda
George Atta
Kū‘ike Kamakea-‘Ōhelo
Melvin Kahele
Michael Yamane
Brian Lee
Nancy Carr Smith

STAFF PRESENT:

Daniel Orodener, Executive Officer
Scott Derrickson, Chief Planner
Martina Segura, Staff Planner
Ariana Kwan, Chief Clerk
Dan Morris, Esq. Deputy Attorney General

COURT REPORTER:

Naegeli Deposition and Trial
(Via Zoom Recording)

CALL TO ORDER (*YouTube: 00:00:17*)

Chair Giovanni, called the meeting to order at 9:00 a.m.

APPROVAL OF THE MINUTES (*YouTube: 00:05:14*)

The first agenda item was the approval of the June 21-22, 2023, 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 June 21-22, 2023, and Commissioner Atta seconded the motion.

June 21-22, 2023, Minutes were adopted with 9 ayes, and 0 nays.

TENTATIVE MEETING SCHEDULE (*YouTube: 00:06:27*)

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:

October 18-19, 2023: A07-773 Emmanuel Luteran and Waikapū Development

Venture (Maui)
October 30-November 2, 2023: ULI Fall Conference (Los Angeles, CA)
November 15, 2023: Proposed Rule Amendments (Virtual Meeting)
November 16, 2023: A81-524 Y-O LTD. (Kona, Hawai'i Island)
December 6-7, 2023: A92-683 Halekua Development (O'ahu)

Note: order of agenda items rearranged to accommodate the late arrival of the Land Use Commission Deputy Attorney General. The motion to change the order of the agenda was moved by Commissioner Ohigashi and seconded by Commissioner Yamane (*YouTube: 00:08:09*).

DISCUSSION AND APPROVAL TO PROCEED WITH PROPOSED AMENDMENTS TO THE LAND USE COMMISSION ADMINISTRATIVE RULES (*YouTube: 00:08:55*)

No members of the public were present to provide public testimony on the discussion and approval to proceed with proposed amendments to the Land Use Commission Administrative Rules.

The Commission received public testimony and three exhibits from Ken Church on September 29, 2023, and posted it to the Land Use Commission website for review (relating agenda item not specified on submittal).

Executive Officer Daniel Orodner provided a brief explanation of the rule amendment process and summarized what rules were previously identified by staff.

During the time of the hearing the staff have identified 42 amendments relating to housekeeping, 4 amendments reflecting court case determinations, and 9 amendments addressing definitions and adding new sections.

The Commission staff intends to have a first draft of the proposed rule amendments by November 15th, 2023. The first draft will be submitted to the Commissioners two weeks prior to the meeting, for review and comment. *Specification: The draft rules must be made publicly available no later than 48 hours prior to the hearing date (November 9, 2023).*

The Commission expressed the need for a redline version of the amendments, citations to relevant court cases, input from the Counties, and consultation with the Commissions Attorney General regarding compliance with Flores-Case 'Ohana vs. University of Hawai'i (2023).

A motion to authorize staff to proceed with drafting the proposed amendments to the Land Use Commission Administrative Rules was made by Commissioner Ohigashi and seconded by Commissioner Atta. The motion was adopted unanimously with 9 ayes, and 0 nays.

EXECUTIVE SESSION (*YouTube: 00:34:47*)

The Commission anticipates going into executive session pursuant to HRS § 92-5 to consult with the Commission's Attorney regarding issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities pertaining to (1) The Status of Outstanding Litigations Involving the Land Use Commission and (2) Implications of Governor's Emergency Proclamation Relating to Housing.

Commissioner Ohigashi moved to enter executive session at 9:44 a.m., and Commissioner Kahele seconded the Motion. The Motion passed with 9 ayes and 0 nays.

Note: during executive session Commissioner Ohigashi was excused from the hearing at 11:14 a.m.

Commissioner Kahele moved to exit executive session at 11:15 a.m, and Commissioner Atta seconded the Motion. The Motion passed with 8 ayes, 0 nays, and 1 excused.

ADJORNMENT (*YouTube: 00:35:59*)

There being no further business to attend to, Chair Giovanni adjourned the meeting at 11:15 a.m..