

LAND USE COMMISSION
MEETING MINUTES
June 19, 2024 – 11:00 a.m.

Pursuant to Hawai'i Revised Statutes, HRS §92 as amended, the Commission conducted its meeting in person. Interested persons submitting written testimony were recommended to submit their written statements 24 hours in advance of the meeting to allow for distribution to the Commission prior to the meeting.

IN PERSON: University of Hawai'i Maui College, Pilina Event Center 310 W
Ka'ahumanu Ave, Kahului, HI 96732

YOUTUBE RECORDING: (<https://www.youtube.com/watch?v=SqLBAKQ1UcY>)

COMMISSIONERS PRESENT:

Dan Giovanni
Lee Ohigashi
Michale Yamane
Kū'ike Kamakea-Ōhelo (late arrival)
Mel Kahele
George Atta
Brian Lee
Nancy Carr Smith

STAFF PRESENT:

Daniel Orodenker, Executive Officer
Scott Derrickson, Chief Planner
Martina Segura, Staff Planner
Ariana Kwan, Chief Clerk
Miranda Steed Esq. Deputy Attorney General

COURT REPORTER:

Naegeli Deposition and Trial
(Via Zoom Recording)

CALL TO ORDER (YouTube: 00:00:07)

Chair Giovanni, called the meeting to order at 11:00 a.m.

APPROVAL OF THE MINUTES (YouTube: 00:03:23)

The first agenda item was the approval of the June 5, 2024, 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 5, 2024, Minutes, and Commissioner Yamane seconded the motion.

The June 5, 2024, Minutes were approved with 7 ayes, 0 nays, and 1 excused.

TENTATIVE MEETING SCHEDULE (YouTube: 00:04:30)

Chair Giovanni called for Land Use Commission Executive Officer to provide the Tentative Meeting Schedule. Daniel Orodenker provided the following tentative meeting dates, and cautioned the Commissioners not to plan to release the remaining days due to upcoming items:

June 20, 2024: A11-792 DHHC (Maui)
July 10, 2024: Ethics Commission Training (O'ahu)
July 23 -24, 2024: Commissioner Training (O'ahu)
August 7-8, 2024: SP09-403 Waimanalo Gulch Landfill (O'ahu)
August 21-22, 2024: SP09-403 Waimanalo Gulch & SP73-147 Makakilo Quarry (O'ahu)
August 29-30, 2024: SP73-147 Makakilo Quarry (O'ahu)
September 4, 2024: SP73-147 Makakilo Quarry (O'ahu)
September 11-13, 2024: HCPO (Hawai'i)
September 25-26, 2024: SP21-412 Mahi Solar (O'ahu)
October 9-10, 2024: SP21-412 Mahi Solar (O'ahu)



October 23-24, 2024: A07-772 A&B Properties, Inc. Motion and A07-773(a) Emmanuel Lutheran Status Report

SP97-390 DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, COUNTY OF MAUI

(YouTube: 00:07:46- 01:)

Status and progress report and action (if necessary) in response to the recently submitted 2023 annual report. Approximately 95.659 acres of land within the Special Permit for the Development of Recycling and Diversion Facilities. TMK (2) 3-8-003: 019 (por) and TMK (2) 3-8-003: 20 (por)

Appearances

Petitioner

County of Maui: Environmental Management (“DEM”)

Shayne Agawa, Director
Michael Kehano, Solid Waste Division Chief, DEM
Sage Kiyonaga, Managing Engineer
Elaine Baker, Project Manager
Andrew Nelson, Deputy Corporation Counsel
Mark Roy, Vice President, Munekiyo and Hiraga

County of Maui Planning Department

Kate Blystone, Director
Mimi DesJardins, First Deputy Corporation Counsel

Office of Planning and Sustainable Development (“OPSD”)

Aaron Setogawa, Senior Planner
Alison Kato, Deputy Attorney General

Public

None

Public Testimony Round One *(YouTube: 00:13:40 -00:13:55)*

The Land Use Commission received one written testimony prior to the start of the meeting 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 provide testimony at this time.

Presentation *(YouTube: 00:14:10 -01:22:44)*

DEM provided their presentation on the history, status, layout, and compliance with the conditions associated with the special permit. DEM presented additional information regarding the final disposition site for the Lahaina Fire debris, condemnation process, and additional information regarding the future filings for important agriculture land (“IAL”) declaratory rulings *(YouTube: 00:14:10-00:32:57)*.

Commissioners asked DEM questions regarding the 2023 Annual Report, acreage, location, environmental and archeological studies, IAL designation and change, proposed location of future IAL designation, use of the emergency proclamation, approving agency, Condition 18, and Condition 23 for the district boundary amendment *(YouTube:00:33:00 -01:05:00)*.

The County of Maui Planning Department did not have any comments in addition to the DEM presentation. Commissioners did not ask any questions following the presentation *(YouTube:01:05:14 -01:07:00)*.

Office of Planning and Sustainable Development presented that the County of Maui DEM is working with the Department of Health to follow health and safety requirements. Commissioners asked questions regarding the reasoning behind the replacement of IAL and support for IAL replacement during a DBA, and the impact on the Counties statutory requirement to designate IAL *(YouTube:01:07:03 -01:22:44)*.

Public Testimony Round Two (YouTube: 01:25:17- 01:25:34)

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

Deliberation (YouTube: 01:25:34- 01:36:54)

Commissioner Ohigashi moved to accept the status report, and Commissioner Carr-Smith seconded the motion. The motion passed unanimously with 8 ayes, and 0 nays.

COMMISSIONERS DISCUSSION ON EXECUTIVE OFFICER CONTRACT TERMS AND SALARY ADJUSTMENTS (YouTube: 01:37:31- 01:40:56)

Public Testimony Round One (YouTube: 01:37:43 -01:38:07)

The Land Use Commission received no written testimony prior to the start of the meeting 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 provide testimony at this time.

Discussion (YouTube: 01:38:10 -01:40:16)

Commissioner Kamakea-‘Ōhelo moved to enter executive session pursuant to HRS §92-5(a)(2), to consider matters affecting LUC personnel where matters affecting privacy may be involved, and Commissioner Yamane seconded, the Motion passed with 8 ayes, and 0 nays. (YouTube: 01:42:06-01:43:12).

EXECUTIVE SESSION (YouTube: 01:42:06- 01:45:10)

Pursuant to HRS section 92-5(a)(2) the Commission may go into executive session regarding LUC personnel matters where considerations of matters affecting privacy will be involved.

Executive Session Minutes

During executive session, the Commission discussed the Executive Officers Contract Terms and Salary Adjustments, and the Commission found that the performance review indicates that the performance of the executive officer exceeds expectations.

Commissioner Kamakea-‘Ōhelo moved to exit executive session, and Commissioner Kahele seconded the Motion. The Motion passed to exit executive session with 8 ayes, 0 nays. The Commission exited executive session at 2:08 p.m. and returned to open session at 2:15 p.m. after a short break.

COMMISSIONERS DISCUSSION ON EXECUTIVE OFFICER CONTRACT TERMS AND SALARY ADJUSTMENTS CONTINUED (YouTube: 01:45:11- 01:57:23)

Discussion/Deliberation (YouTube: 01:45:11-01:57:23)

Commissioner Lee moved that the Executive Officer receive a salary increase of 4.5%, or the equivalent to bargaining unit 13, whichever is higher, Commissioner Atta seconded the Motion. The Motion passed unanimously, with 8 ayes, and 0 nays.

Commissioner Ohigashi moved to extend the Executive Officers contract for one more year, extending the current contract to 2027, Commissioner Kamakea-‘Ōhelo seconded the Motion.

Commissioner Kamakea-‘Ōhelo, questioned the description of the agenda, and moved to enter Executive Session to consult with the Commission’s Attorney regarding issues pertaining to the Commission’s powers, duties, privileges, immunities, and liabilities pertaining to the agenda item, Commissioner Lee seconded the Motion, the Motion passed unanimously with 8 ayes, and 0 nays.

EXECUTIVE SESSION (YouTube: 01:57:23- 01:58:15)

Executive Session Minutes

The Commission entered executive session at 2:29 p.m., and during executive session, the Executive Session the Commission consulted with the Commission's Attorney regarding issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities pertaining to the agenda item and decision-making process.

Commissioner Kamakea-Ōhelo moved to exit executive session, and Commissioner Lee seconded the Motion. The Motion passed to exit executive session with 8 ayes, 0 nays. The Commission exited executive session at 2:43 p.m.

COMMISSIONERS DISCUSSION ON EXECUTIVE OFFICER CONTRACT TERMS AND SALARY ADJUSTMENTS CONTINUED (YouTube: 01:58:15- 02:04:55)

Discussion/Deliberation (YouTube: 03:20:11-02:04:04)

The Commissioners continued discussion on the active motion (to extend the Executive Officers contract by a year to 2027). Commissioners Carr-Smith and Lee expressed their concerns over the extension, and Commissioners Kamakea-Ōhelo, Yamane, Kahele, and Chair Giovanni, expressed their support for the Motion. The Motion passed with 6 ayes, and 2 nays.

Public Testimony Round Two (YouTube: 01:40:17- 01:40:56)

Once again, Chair Giovanni opened the meeting up for public testimony on this matter, and there were no members of the public present in the audience.

RECESS (YouTube: 02:05:00)

With no further business to attend to on the June 19th, 2024, Agenda, the meeting was recessed at 2:50 p.m., for continuation of the June 20th, 2024, agenda on the, at 10 .a.m. held at the University of Hawai'i Maui College, Pilina Event Center, 310 W Ka'ahumanu Ave, Kahului, HI 96732.

LAND USE COMMISSION
MEETING MINUTES
June 20, 2024 – 10:00 a.m.

Pursuant to Hawai'i Revised Statutes, HRS §92 as amended, the Commission conducted its meeting in person. Interested persons submitting written testimony were recommended to submit their written Statements 24 hours in advance of the meeting to allow for distribution to the Commission prior to the meeting.

IN PERSON: University of Hawai'i Maui College, Pilina Event Center 310 W
Ka'ahumanu Ave, Kahului, HI 96732

YOUTUBE RECORDING: (<https://www.youtube.com/watch?v=a4l-ikXVEi0>)

COMMISSIONERS PRESENT:

Dan Giovanni
Lee Ohigashi
Michael Yamane
Mel Kahele
Kū'ike Kamakea-Ōhelo
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Nancy Carr Smith

STAFF PRESENT:

Daniel Orodenker, Executive Officer
Scott Derrickson, Chief Planner
Martina Segura, Staff Planner
Ariana Kwan, Chief Clerk
Miranda Steed, Esq. Deputy Attorney General

COURT REPORTER:

Naegeli Deposition and Trial
(Via Zoom Recording)

CALL TO ORDER (YouTube: 00:00:07)

Chair Giovanni, called the meeting to order at 10:00 a.m.

A11-792 DEPARTMENT OF HOUSING AND HUMAN CONCERNS, COUNTY OF MAUI

(YouTube: 00:04:00)

Status and progress report and action (if necessary) in response to the recently submitted 2019-2023 annual report. Approximately 73.000 acres in Lāna'i City, Island of Lāna'i, State of Hawai'i, TMK (2) 4-9-2: portion of 58.

Appearances

County of Maui: Department of Housing and Human Concerns ("DHHC")

Josiah Nishita, Managing Director
Buddy Almeida, Housing Administrator
Mimi DesJardins, First Deputy Corporation Counsel

Public

None

County of Maui Planning Department

Mimi DesJardins, First Deputy Corporation Counsel

Office of Planning and Sustainable Development ("OPSD")

Aaron Setogawa, Senior Planner
Alison Kato, Deputy Attorney General

Public Testimony Round One (YouTube: 00:08:19 -00:08:55)

The Land Use Commission received four written testimonies prior to the start of the meeting 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 provide testimony at this time.

Presentations (YouTube: 00:09:04 -01:40:16)

DHHC provided their status report, which included a brief overview and update of the progress of the project. Midway through their presentation they informed LUC staff that they emailed



testimony at 9:35 a.m. they wished to present and provide to the Commission¹. LUC staff forwarded the filings to the Commissioners, OPSD participants, and the County of Maui Planning Department representative. Commissioners asked DHHC questions regarding securing of the developer, infrastructure, water allocation, addition of additional housing, funding, electrical tie ins, duplication and repetitiveness of the annual reports, available recourses, and the populations the housing is for.

The County of Maui Planning Department did not provide comments on the status of the project. Commissioners asked County of Maui Planning questions regarding the 201-H project process and future amendments (*YouTube: 01:31:36 -01:47:32*).

The Office of Planning and Sustainable Development presented that the OPSD supports the project and understands the Counties challenges regarding funding and process. Commissioners did not ask OPSD questions (*YouTube: 01:47:34 -01:49:41*)

Public Testimony Round Two (*YouTube: 01:49:45 - 01:49:53*)

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

Discussion/Deliberation (*YouTube: 01:49:55-01:57:30*)

Commissioners shared their final comments on the status report. No motion was made, but it was highly recommended to establish communication with LUC staff regarding status and provide a more detailed annual report.

ADJOURNMENT (*YouTube: 01:57:32*)

With no further business to attend to, the meeting was adjourned at 12:19 p.m.

¹ The County of Maui Department of Housing and Human Concern emailed their filings at 9:35 a.m.(late) and described their filings as public testimony. LUC Staff made the documents publicly available on June 21, 2024, under the 'public testimony' on the LUC website