

LAND USE COMMISSION
MEETING MINUTES
November 7, 2024 – 10:00 a.m.

Pursuant to Hawai'i Revised Statutes, HRS §92 as amended, the Commission conducted its meeting in hybrid format. 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.

LOCATION: Leiopapa A Kamehameha, State Office Tower, Room 405
235 S Beretania Street, Room 405, Honolulu, HI 96813

VIRTUAL: <https://us02web.zoom.us/j/82605537719?pwd=teTMpt0KyRrt0JRR1SCoKYhXfRHZkS.1>

YOUTUBE RECORDING: (<https://www.youtube.com/watch?v=ARCAUqsLf74>)

COMMISSIONERS PRESENT:

Dan Giovanni (Zoom)
Michael Yamane
Kū'ike Kamakea-Ōhelo (Zoom)
Mel Kahele
Brian Lee
Nancy Carr Smith
Bruce U'u (Zoom)
Myles Miyasato
Ken Hayashida

STAFF PRESENT:

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

COURT REPORTER:

Naegeli Deposition and Trial
(Via Zoom Recording)

CALL TO ORDER (YouTube: 00:00:08-00:04:02)

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

APPROVAL OF MINUTES FOR OCTOBER 9-10, 2024 (YouTube: 00:04:03-00:06:25)

The next agenda item was the approval of October 9-10, 2024, Minutes. There was no written testimony, or members of the public who wished to testify to the approval of the Minutes.

Commissioner Yamane moved to adopt the October 9-10, 2024, and Commissioner Kamakea-Ōhelo seconded the motion. The October 9-10, 2024, Minutes were approved with 8 ayes, 0 nays, and 1 recused (Miyasato).

TENTATIVE MEETING SCHEDULE (YouTube: 00:06:26-00:47:45)

Chair Giovanni called for LUC Staff to provide the Tentative Meeting Schedule.

Commissioner Miyasato moved to enter executive session to consult with its legal counsel regarding issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities regarding the tentative meeting schedule, and the motion was seconded by Commissioner Lee. The motion passed with 9 ayes and 0 nays.

Staff requested a recess to prepare an executive session, following this request the motion was withdrawn, and the agenda item was deferred following agenda item IV: SP21-412 Mahi Solar, LLC. (O'ahu).

Commissioner Carr Smith asked for clarification on the provisional meeting time stop, scheduled flight departures, and which Commissioners specifically needed to leave the meeting early.



SP21-412 MAHI SOLAR, LLC (O'AHU) (YouTube: 00:13:34 - 00:46:55)

Adoption of Findings of Facts, Conclusions of Law, and Decision and Order for SP21-412 (SUP No. 2020/SUP-7) application to modify. The subject area is approximately 620 acres in the Agricultural District, identified as TMK Nos. (1) 9-2-001:020 (por.), (1) 9-2-004:003 (por.) and 010 (por.).

Appearances

City and County of Honolulu
Department of Planning (“DPP”)
Franz Kraintz (Zoom)
John Dubiel, Esq. Deputy Corporation Counsel
(Zoom)

**Office of Planning and Sustainable
Development (“OPSD”)**
Katia Balassiano, Land Use Development
Program Administrator

Petitioner
Mahi Solar, LLC
Randall Sakumoto, Esq. (Zoom)

Public
None

Disclosures and Conflicts of Interest (YouTube: 00:14:48-00:16:25)

At the previous hearing, Commissioner Lee and Chair Giovanni made disclosures. Chair Giovanni clarified that these disclosures remain valid and do not need to be reiterated.

Commissioners Miyasato and Hayashida recused themselves from the vote on the adoption of order as he was not present at the last hearing.

Public Testimony Round One (YouTube: 00:17:37 - 00:18:13)

The Land Use Commission received two written testimonies on the matter, and they were posted to the Land Use Commission website prior to the start of the hearing. There was no other written or oral testimony on the matter.

Presentations (YouTube: 00:18:17 - 00:40:44)

Petitioner (YouTube: 00:18:22 - 00:40:18) presented their request to the LUC DRAFT Findings of Fact, Conclusions of Law, and Decision and Order Approving Application to Modify, which were also posted to the Land Use Commission website prior to the start of the hearing. There were no questions from the parties or Commissioners.

City and County Department of Planning and Permitting (YouTube: 00:40:20 - 00:40:35) had no objections or comments on the edits proposed by Petitioner, and recommended adoption. There were no questions from the parties or Commissioners.

OPSD (YouTube: 00:40:43 - 00:41:40) had no objections or comments on the edits proposed by Petitioner, and recommended adoption. There were no questions from the parties or Commissioners.

Public Testimony Round Two (YouTube: 00:40:46 - 00:42:02)

Chair Giovanni invited public testimony on this matter, there were no individuals that wished to provide public testimony on the matter at this time.

Deliberations (YouTube: 00:42:02 - 00:46:55)

Commissioner Lee moved to incorporate the revisions suggested by Petitioner, and to adopt the



Draft Findings of Facts, Conclusions of Law, and Decision and Order for Application to Modify SP21-412 (SUP No. 2020/SUP-7).

Commissioner Yamane asked Staff, if the redline draft was acceptable, and asked Staff and Petitioner to include a point of clarification that Finding of Fact 48, should be amended to reflect “per megawatt hour” vs. “price of megawatt hour”.

Commissioner U'u seconded the motion. The motion was approved with 7 ayes, 0 nays, and 2 recused.

TENTATIVE MEETING SCHEDULE CONTINUED (YouTube: 00:47:57-00:49:37)

The prior motion carried; Commissioner Miyasato moved to enter executive session to consult with its legal counsel regarding issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities regarding the tentative meeting schedule, and the motion was seconded by Commissioner Lee. The motion passed with 9 ayes and 0 nays.

Chair Giovanni asked the Executive Officer to remain in the room during executive session. After the camera was already turned off, Commissioners requested the Executive Officer to not be included in the executive session.

EXECUTIVE SESSION (YouTube: 00:49:38-00:51:13)

Commissioner Miyasato moved to enter executive session to consult with its legal counsel regarding issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities regarding the tentative meeting schedule, and the motion was seconded by Commissioner Lee. The motion passed with 9 ayes and 0 nays. The Commission entered executive session at 10:48 a.m.

During Executive Session, the Commission's Attorney presented issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities pertaining to the process of adding agenda items prior to the hearing and on hearing day, as well as fiscal responsibilities of the Commission. The Commission exited executive session at 11:35 a.m.

Following executive session, Chair Giovanni summarized that the Commission conferred with the Deputy Attorney General regarding agenda items and the process/ compliance with sunshine law.

TENTATIVE MEETING SCHEDULE CONTINUED (YouTube: 00:51:14-01:15:35)

Executive Officer, Daniel Orodner provided the following tentative meeting dates:

January 23, 2025: Quarterly Update and 2025 Legislative Session Update (O'ahu)

February 19-20, 2025: SP97-390 COM DEM, A07-772 A&B, and A07-773(a) Emmanuel Lutheran (Maui)

Commissioner Lee asked the Executive Officer why meetings aren't being scheduled sooner. In response the Executive Officer summarized the legislative calendar as it relates to bill filing. Commissioner Lee further questioned the Executive Officer about involvement in policy meetings and working groups, reporting on such matters, and requested a meeting be scheduled for December. The Executive Officer explained that there are issues associated with scheduling meetings in December, as Staff typically schedules vacations around the holiday season and quorum is not always met.

Chair Giovanni invited Commissioners to draft agenda items for the next meeting and asked the Executive Officer about the timeline and process of the budget, so it could be agendized at a later hearing date.

Commissioner Lee stated that nobody asked him for his availability in December or late November. Later, the Chief Clerk clarified that roll call for November and December was sent out in August. Commissioner Lee further asked for a reoccurring agenda item for legislative updates and suggested that not scheduling such agenda item is derelict.

In the interest of time and out of respect for the Office of Planning and Sustainable Development, the Chief Clerk said the roll call would be re-sent to the Commission, and suggested Commissioner email her with their proposed agenda items.

The Executive Officer verbalized that he took offense to use the word derelict to describe previously established protocol and staff practices and explained that the Commission is a regulatory body and not a policy body. Additionally, the Executive Officer noted that the Commission direction and interests have changes, and staff requires time to adjust and the accusation of staff being derelict is improper. Commissioner Lee, responded to the statements made by the Executive Officer, but Chair Giovanni interjected in order to move the meeting along.

INFORMATIONAL BRIEFING: OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT (“OPSD”), STATE OF HAWAII (YouTube: 01:15:37-03:04:24)

Informational briefing from OPSD overviewing its responsibility for land use planning, sustainability development, coastal zone management, geographic information systems (“GIS”), environmental documentation and special projects.

Appearances

Office of Planning and Sustainable Development (“OPSD”)

Public
None

Mary Alice Evans, Director
Katia Balassiano, Planning Program Administrator
Danielle Bass, Sustainability Coordinator
Christopher Liu, Planning Program Manager
Debra Mendes, Planner
Aaron Setogawa, Planner
Brandon Soo, Planner
Tom Eisen, Planner

Presentation (YouTube: 01:15:59-02:59:16)

The program administrators and managers of the various programs with in OPSD presented on their projects and functions, and the role they play in executing the State Planning Act.

Commissioners asked questions and made comments regarding affordable housing initiatives, boundary review and mapping process, kauhale, regulatory and legislative involvement, transit-oriented development program, infrastructure requirements and the grant OPSD secured, tax implications, and the money involved for plans and projects.

ADJORNMENT (YouTube: 03:24:30)

With no further business, Chair Giovanni adjourned the meeting at 2:04 p.m.

