

LAND USE COMMISSION
MEETING MINUTES
January 22, 2025 – 9:00 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/89865909740?pwd=VZrl74HuqGkOOXADVmpRGYmJlIFe8E.1>

YOUTUBE RECORDING: <https://www.youtube.com/watch?v=hmsGY71xXXY>

COMMISSIONERS PRESENT:

Dan Giovanni
Michael Yamane
Kū'ike Kamakea-Ōhelo (Zoom)
Mel Kahele
Brian Lee
Nancy Carr Smith (Zoom)
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

COURT REPORTER:

Naegeli Deposition and Trial
(Via Zoom Recording)

CALL TO ORDER

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

DISCUSSION ON PERMITTED INTERACTION GROUPS (“PIG”) AND DECISION AS TO WHETHER TO ESTABLISH A PIG OF THE LAND USE COMMISSION (“LUC”) PURSUANT TO HRS 92-2.5. PERTAINING TO THE 2025 LEGISLATIVE SESSION

Public Testimony Round One (YouTube: 00:05:34 - 00:05:50)

The Land Use Commission received no written testimonies on the matter, and there were no members of the public that provided testimony on the matter at this time.

EXECUTIVE SESSION (YouTube: 00:05:58-00:09:39)

Chair Giovanni moved to enter executive session, pursuant to Hawai'i Revised Statutes (“HRS”) §92-5(a), in order to consult with its legal counsel on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities of the Commission. Commissioner Yamane seconded the motion, and the motion passed with 9 ayes.

The Commission entered Executive Session at 9:10 a.m, where the Commission consulted with its attorney on powers, duties, privileges, immunities, and liabilities, regarding PIG's and Office of Information Practices (“OIP”) Sunshine Law Options to Address State Legislative Issues and Measures.

At 10:25a.m, Commissioner Kahele moved to exit executive session, and Commissioner Miyasato seconded the motion. The motion passed with 9 ayes. The Commission returned to the open session at 10:28 a.m.



Deliberations (YouTube: 00:09:48-00:35:02)

Commissioners shared which methods presented by the OIP's Sunshine Law Options to Address State Legislative Issues and Measures they favored and why.

Commissioner Miyasato moved to adopt the OIP Sunshine Law Options to Address State Legislative Issues and Measures option 1a; delegation to staff and Executive Officer to prepare and provide testimony on behalf of the Commission, with the caveat that staff does not take a position, but provide comments in regards to how the bill affects the Commission, unless, the Commission adopts a position on specific bills. Commissioner Hayashida seconded the motion. The motion passed with 6 ayes and 3 nays.

DISCUSSION ON PRELIMINARY LEGISLATIVE MEASURE PROPOSED BY DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM (“DBEDT”) INTENDED FOR THE LEGISLATIVE PACKET THAT IMPACT THE LUC (YouTube: 00:37:16-01:38:19)

No Bill Number - Relating to Land Use Authorizes County petition process for review and approval of land use district boundary amendments based on adopted county general plans or county development plans.

Appearances

Public

Ken Church
**Office of Planning and Sustainable
Development (“OPSD”)**
Mary Alice Evans, Director

Public Testimony Round One (YouTube: 00:37:58 - 01:14:51)

The Land Use Commission received no written testimonies on the matter, however, Mary Alice Evans, Director of the Office of Planning and Sustainable Development (“OPSD”) provided testimony on this agenda item.

Mary Alice Evans provided testimony that the bill was numbered HB1015 and SB1334, and it was submitted by OPSD in the Administrative Bill Package. Commissioners asked questions regarding landowner rights, process, acreage of urban lands, and county comments and involvement. Following testimony from Mary Alice Evans, Staff was called to share their concerns. Executive Officer Orodenerker shared there are concerns regarding due process.

Ken Church provided testimony regarding county zoning and uses in agriculture and conservation zoned areas.

Summary (YouTube: 01:14:52-01:15:32)

Chair Giovanni provided a brief summary of the bill and staff position and asked for the bill to be agendaized on February 5, 2025, meeting for more details and discussion.

DISCUSSION ON HAWAI’I STATE LEGISLATURE BILLS FILED THAT IMPACT THE LUC

(YouTube: 01:16:03-01:35:13)

Appearances

Public

Janice Palma Glennie

SB36 - Relating to the Land Use Commission Requires the Land Use Commission to reclassify lands that are designated for urban growth under a county general plan or county development plan as being in the urban district at the request of the county.

LUC Chief Planner Scott Derrickson presented the bill and provided the implications of the bill. Executive Officer Dan Orodenker proposed this bill be agendized at the next meeting for discussion and position making.

SB28 - Relating to the Land Use Commission Specifies that a simple majority of affirmative votes of the members of the Land Use Commission present at a meeting and qualified to vote is required for any boundary amendment.

LUC Chief Planner Scott Derrickson presented the bill and provided the implications of the bill, and the possible constitutional issues. Commissioners asked questions regarding quorum and voting. Executive Officer Dan Orodenker proposed not to agendize this bill at the next meeting, and for the Commission wait until it is scheduled for hearing. Following Commissioner questions and interest, Executive Officer suggested it to be agendized.

SB26 - Relating to Affordable Housing Establishes the Affordable Housing Land Inventory Task Force within the Hawai'i Community Development Authority to update the Affordable Rental Housing Report and Ten-Year Plan maps, tier tables, and inventories of state lands suitable and available for affordable housing development. Requires a report to the Legislature. Appropriates moneys.

LUC Chief Planner Scott Derrickson presented the bill and provided staff option on the implications of the bill. Commissioners asked questions about comments and shared opinions on the bill. Executive Officer Dan Orodenker proposed not to agendize this bill at the next meeting but will agendize if the bill changes.

Public Testimony (*YouTube: 01:35:14-01:38:19*)

Attendee Janice Palma Glennie provided public testimony on all three bills associated with this agenda item and testified that the LUC has the obligation to uphold the constitution and public trust. There were no other members of the public that wished to provide public testimony at this time.

AUTHORIZATION FOR EXECUTIVE OFFICER TO ADVOCATE FOR REINSTATEMENT OF FUNDING FOR UNBUDGETED POSITION (NO. 125210) AT THE 2025 LEGISLATURE

(*YouTube: 01:38:56-01:57:09*)

Public Testimony Round One (*YouTube: 01:39:29 - 01:39:50*)

The LUC received no written testimony on the matter, nor were there any members of the public that wished to provide public testimony on the matter at this time.

Presentations (*YouTube: 01:39:52-01:48:20*)

The Executive Officer provided a summary of the position duties and impacts it has had assisting developers with building housing on LUC approved dockets. Commissioner asked questions regarding the steps that need to be taken to proceed, where the funding was cut, if the funding would be permanent or temporary, and if the Commission has the prevue to determine staffing.

Public Testimony Round Two (*YouTube: 01:48:23 - 01:48:33*)

There were no members of the public who wished to provide public testimony at this time.

Deliberations (YouTube: 01:48:37-01:57:09)

Commissioners asked questions regarding steps that need to be taken, who will be talked to and any impact of two unfunded positions, and the prevue of the Commission and involvement in staffing.

Commissioner Kahele moved to approve the authorize the Executive Officer to advocate for reinstatement of funding for unbudgeted position (No.125210) at the 2025 Legislature, Commissioner U'u seconded the motion. The motion passed with 9 ayes and 0 nays.

DECISION AS TO WHETHER TO WITHDRAW THE 2023 PROPOSED ADMINISTRATIVE RULE AMENDMENTS. AVAILABLE AT <https://luc.hawaii.gov/2023-admin-rules/> (YouTube: 01:57:19-02:04:46)

Public Testimony Round One (YouTube: 01:57:29 - 02:00:02)

The LUC received no written testimony on the matter, but at the time of the meeting, Ken Church provided public testimony in support of the withdrawal of the 2023 proposed administrative rule amendments.

Presentations (YouTube: 02:00:52-02:03:45)

The Executive Officer provided a summary of why the staff suggests withdrawal of the 2023 administrative rule amendments. Commissioners asked questions regarding the plan to proceed with the process.

Deliberations (YouTube: 02:03:46-02:04:46)

Commissioner Lee moved to withdrawal the 2023 Proposed Administrative Rule Amendments, Commissioner Carr Smith seconded the motion. The motion passed unanimously with 9 ayes and 0 nays.

Note: Commissioners Hayashida and Kamakea-‘Ōhelo had to leave the meeting at 12:00 p.m., after the lunch break the Commission continued business with quorum of 7.

UPDATE ON LUC STAFF PARTICIPATION WITH THE STATE OF HAWAI‘I, OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT (“OPSD”) SOIL CLASSIFICATION SYSTEMS & USE IN REGULATING AGRICULTURAL LANDS STUDY. INFORMATION FOR THIS STUDY IS AVAILABLE AT <https://storymaps.arcgis.com/stories/aceb7c1d500e4cfe9eaf57274c0db123> (YouTube: 02:05:30-02:19:37)

Public Testimony Round One (YouTube: 02:06:00 - 02:06:16)

The LUC received no written testimony on the matter, but at the time of the meeting, and there were no members of the public that wished to provide public testimony at this time.

Presentations (YouTube: 02:06:18-02:19:13)

LUC Chief Planner Scott Derrickson presented on the LUC Staff involvement and participation with the OPSD soil classification systems & use in regulating agricultural lands study. Representatives from OPSD were available for comments and questions. Commissioners asked questions regarding forestry, historic studies, next steps, upcoming legislation, and coinciding land use classifications,

Public Testimony Round Two (YouTube: 02:19:17 - 02:19:20)

There were no members of the public who wished to provide public testimony at this time.

APPROVAL OF MINUTES FOR JANUARY 8-9, 2025 (YouTube: 02:19:40-02:20:36)

The next agenda item was the approval of January 8-9, 2025, 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 January 8-9, 2025, and Commissioner Miyasato seconded the motion. The January 8-9, 2025, Minutes were approved with 8 ayes, 0 nays, and 1 excused.

Note: Commissioner Hayashida returned to the meeting around 1:39 p.m., and was able to vote on the approval of minutes.

EXECUTIVE SESSION (YouTube: 02:20:43-02:22:22)

Commissioner Miyasato moved to enter executive session, pursuant to Hawai'i Revised Statutes ("HRS") §92-5(a), in order to consult with its legal counsel on questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities of the Commission involving Commissioner Miyasato's proposed agenda item from the previous meeting. Commissioner Lee seconded the motion, and the motion passed with 9 ayes.

The Commission entered Executive Session at 1:49 p.m., where the Commission consulted with its attorney on powers, duties, privileges, immunities, and liabilities, regarding Commissioner Miyasato's agenda request; for an election of officers for the calendar year.

At 2:10 p.m, Commissioner Miyasato moved to exit executive session, and Commissioner Lee seconded the motion. The motion passed with 8 ayes – 0 nays – 1 excused. The Commission returned to the open session at 2:12 p.m.

TENTATIVE MEETING SCHEDULE (YouTube: 02:22:22-02:30:55)

Chair Giovanni called for LUC Staff to provide the Tentative Meeting Schedule. Executive Officer, Dan Orodener provided the following tentative meeting dates:

- February 5-6, 2025: A89-651 Haseko (O'ahu) and Legislative Matters
- February 19, 2025: A07-773(a) ELC Status Report (Maui)
- March and April, 2025: Currently Open

Chair Giovanni requested that lunch be provided at the February 5, 2025, meeting, as the Commission intends to work through lunch.

ADJORNMENT (YouTube: 02:30:55 - 02:31:05)

With no further business, Chair Giovanni adjourned the meeting at 2:21 p.m.