

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Conference Room 322 (C)
New State Building
Honolulu, Hawaii

Approved

MAY 11 1978

January 17, 1978 - 10:00 a.m.

COMMISSIONERS PRESENT: Stanley Sakahashi, Chairman
Charles Duke, Vice Chairman
James Carras
Shinsei Miyasato
Shinichi Nakagawa
Mitsuo Oura
Carol Whitesell
Edward Yanai

COMMISSIONER ABSENT: Colette Machado

STAFF PRESENT: Gordan Furutani, Executive Officer
Daniel Yasui, Planner
Allan Kawada, Deputy Attorney General
Dora Horikawa, Clerk Reporter

Ray Russell, Court Reporter

ACTION

A76-420 - DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT
(Kawainui Marsh)

In the matter of the boundary amendment petition by the Department of Planning & Economic Development, Docket A76-420, on which hearings were held on March 24, 1977, May 4, 1977, May 5, 1977, August 16, 1977, September 8, 1977, the Commission discussed the following documents which had been previously distributed to the Commission members, prior to taking action on the petition:

1. Petitioner's Proposed Findings of Fact, Conclusions of Law and Order
2. Petitioner's Amendment to Proposed Findings of Fact, Conclusions of Law, and Decision and Order
3. City & County Department of General Planning's Response to Petitioner's Proposed Findings of Fact, Conclusions of Law and Decision and Order

4. Intervenors', Ad Hoc Committee for Kawainui, Response to Petitioner's Proposed Findings of Fact, Conclusions of Law and Decision and Order and to Response Thereto of the Department of General Planning, City & County of Honolulu
5. Intervenor Castle Estate et al's Response to Petitioner's Proposed Findings of Fact, Conclusions of Law, Decision and Order

Commissioners Nakagawa and Carras were excused from participating in the deliberations on this petition since they had not been present at all of the hearing proceedings on the matter.

Chairman Sakahashi called on the Executive Officer to point out the areas being considered for reclassification under the subject petition.

Mr. Lee, Deputy Attorney General, representing the petitioner, requested that the Commission issue a proposed decision in order to permit both Commissioners Carras and Nakagawa to take part in the decision, following review of the transcripts, to assure maximum participation.

Following a brief recess, Counselor Kawada advised that he did not feel a proposed decision was necessary at this point since the required quorum was present. However, should it become necessary to issue a proposed decision due to the failure of the Commission to reach a decision, Mr. Kawada counseled that Commissioner Carras could review the pertinent transcript and participate in the final vote.

Vice Chairman Duke requested advice from counsel on the legality of Commissioner Nakagawa's participation in the final vote under the same terms. For the record, comments were solicited from all of the parties present regarding this matter.

Mr. Lee commented that he had no objections to the recommended procedure. Mr. Higa stated that he would have to reserve any rights of appeal with regard to the procedures being considered by the Commission regarding Commissioners Carras' and Nakagawa's participation in the final decision. Mr. Kupchak stated that it would be appropriate for both Commissioners Carras and Nakagawa to participate in the decision, after reviewing the transcript, should a proposed decision become necessary. He added that there would be no problem with Commissioner Machado's participation since she had heard all of the testimony. Miss Howell submitted that she concurred with Mr. Kupchak's position.

The meeting was recessed from 11:41 a.m. to 1:30 p.m. for lunch.

1:30 p.m.

Mr. Kawada stated, for the record, that both Commissioners Carras and Nakagawa were merely observers and not participants in today's proceedings.

During the very comprehensive discussion revolving around the aforementioned documents from which the Commission adopted its findings, conclusions and decision, the following major areas of concern were discussed:

1. The total acres within the marsh area and the area of subject urban lands lying within the marsh
2. Ground water levels and its effect on the environment
3. Definition of wetlands, flood areas; value of subject property as a natural storage for flood water prior to being discharged into Kailua Bay
4. Percentage of subject property lying within the flood hazard district
5. Finding #15 dealing with the question of whether re-classification of subject lands was consistent with the County's General Plan; whether DLUM or zoning ordinances superseded the General Plan

Since it was obvious that it would not be possible to reach a decision today, it was decided to adjourn the meeting and continue with the deliberation tomorrow, January 18, 1978 at 1:30 p.m.

ADOPTION OF MINUTES

The following minutes were adopted as circulated:

August 16, 1977
August 24, 1977
September 8, 1977
October 6, 1977

The meeting was recessed at 5:05 p.m.