

April 25, 1974 - 8:00 a.m.  
AG's Conference Room

Present: ET AN TY MO JC SS  
ABSENT: SM SK  
Staff: TF ASL GI JM DH  
Consultant: JY BE YI

Tats passed out schedule of 5-year review meetings which had been given to Jimmy to give an idea of the scheduling the Commission is faced with.

Discussion revolved around the idea of conducting hearings on every county or every island, night or day meetings, etc. Night meetings were suggested for maximum exposure to the public. Assuming that the final boundary action will take place on December 13, the last possible public hearing must be completed on October 29, 1974.

#### WORKSHOP MEETINGS

Tats explained that the workshop meetings were very important in the total procedure in that it will give the public an opportunity to provide input to the Commission's procedures and recommendations. Lead time was necessary for the staff to evaluate and analyze the voluminous submittal during the workshops. It was suggested that the public meeting for the workshops could be dovetailed between R&R and boundary hearings.

#### HEARING AND ACTION MEETINGS

There will be 2 formal public hearings:

1. Rules and Regulations
2. Boundary changes

Eddie agreed with Tats that action on the R&R could be adopted on one island but that the boundaries should be adopted in each county.

RULES AND REGULATIONS

The R&R will consist of the procedural mechanism, incorporating/ or implementing the policy criteria which the Commission agrees on, under which the Commission will operate.

On the assumption that the R&R will be acted on August 15, the last day of public hearing on R&R will have to occur on July 1, to come within the minimum 45-day period. Tats advised that the LUC's proposal for boundary changes, if at all, will be going out to the public at least by August 15, so there was less than 1½ month to go through the process of the workshops.

In response to questions raised by Tats, John advised that the 60-day requirement relative to public hearings did not seem to be applicable to the R&R. The section on the 5-year review states that the Commission shall get the assistance of counties. He felt the time element, therefore, could be shortened. John did not see how anybody could challenge that.

Tats again stressed that the workshops will have to be conducted as early as possible so that the Commission can come up with a guidance policy prior to the public hearings on the R&R and boundary changes.

Eddie noted that before the Commission can go out to the public workshops on the land use guidance policy, there will have to be something to present, and asked Jimmy when that phase will

be ready. He added that the Commission was thinking in terms of May 15--3 weeks away.

Jimmy replied that it was his idea that the workshops will deal with long-range policies--not short-range policies. On this basis, he will be able to meet the schedule. However, if the Commission was talking about short-range R&R and boundary considerations, that was a "different kettle of fish". The idea of the workshop was to present to the public the long-range concept-- here are some of the findings and here are some areas which we feel are the critical issues facing the State in terms of land use guidance. Then, in order to approach or meet these issues, the concept of dual management system, land trust, etc. will be recommended. However, this will require statutory change. Jimmy stated that workshops will provide a forum for people who have axes to grind, it will report to the people, and give the Commissioners a useful tool to anticipate flak on specific issues such as shoreline, wetlands, growth, especially from conservation people and eco-freaks.

Eddie noted that meetings with the community associations had yet to be conducted--not necessarily the whole Commission but perhaps staff, consultant and Eddie--to give them some idea on the problems the Commission faced and to get some input from them. He suggested dispensing with the workshops in favor of the informal meetings with the community associations. He expressed concern

that the Commission would not be prepared within the next 3 weeks to go before the public to present the Land Use Guidance policy. Also, these informal sessions with the selected groups will preclude public debate with groups from the Windward area, Life of the Land, etc. He noted that meetings had already been held with landowners and public agencies and they were the public as far as land uses were concerned. Jimmy added that a statewide survey had also been rendered which could also be considered the public, but that the workshop was to permit interested parties, private, public and non-profit, to participate in the Commission's process.

CONCEPT OF WORKSHOP

Since Jimmy was talking in terms of long-term goals rather than short-term for the workshop, Tats asked whether this is the perimeter under which the workshops will focus, or will Jimmy come up with certain findings and thinking as a recommendation from the Commission in terms of <sup>certain</sup> short-range proposals to meet the long-range goals. Jimmy replied in the negative and added that this will come about in the rules making and boundary designations. However, workshop will cover certain findings that will lead to the long-range goals and the kinds of things the Commission was considering in terms of statutory changes.

Eddie observed that there was time for legislative matters since the session does not start until 1975 and that Jimmy's report could cover that aspect. However, Jimmy argued that if this were not presented to the public, the legislature could point to the fact that Commission had not gone out to the public to share their

findings and ideas.

Tats clarified that Jimmy was talking in terms of the land trust concept, dual management, etc. for the public workshops. This was not necessarily recommendations for statutory changes but merely to get the public's reaction to the proposals and recommendations that will alter the system drastically. The short-range matters will be included in the Rules and Regs.

Jimmy added that there were a lot of people who think the system should be changed dramatically which cannot be done without statutory changes. Through findings, through public workshops, the Commission will get an idea of how the public feels, how far they will support dedication and management concept, for example. This in turn will act as a feeding process for the rules and boundary changes.

Eddie reiterated that there was time enough to consider the long-range concept when the legislature meets. Right now, as far as the Commission was concerned, some preliminary findings on the short-term matters will have to be decided. Jimmy stated that the recommendations will come at the public hearings. Tats disagreed. He said at the public hearings we should talk about specifics in terms of proposed boundaries, some kind of firm recommendation. Jimmy advised that he will have an abstract form of the 3 planning tools to show how they apply but this will not be incorporated in the R&R.

Tanji stated he was more concerned with the short-range

recommendations because he will have to answer to the public soon.

Stanley and Alex expressed concern over the fact that the Commission will be going to the public meetings blindly, not knowing what was going to be discussed which will be embarrassing, and that this should be presented before the Commission prior to the public meeting.

Eddie expressed doubt that the consultant could come up with this before May 6. He added there were some recommendations in the document presented earlier by Jimmy, but the question was or not whether/the Commission was in agreement with Jimmy's approach. Stanley felt that Jimmy's document was not a proposal but just a compilation of data.

Tats explained that Jimmy has been submitting so-called working papers and he had recommended to Jimmy that he prepare a summary of the entire scope for the Commission so that there will be a clearer picture as to what it is all about. The reason for the absence of the content matter for the workshops was due to the fact that the Commission was as yet undecided whether it goes along with Jimmy's idea of the long-range goals--land trust, dual management system, land management, etc. Therefore, the question before the Commission was whether it really wants to go to the public with Jimmy's concept.

Jimmy clarified that the long-range gives the rationale for the short-term improvement and, in a sense, gives a direction for rules making on short-term by applying the 3 planning tools.

This will provide an avenue for discussion of dedication (prelude to land trust), mandatory referral, disclosure, etc.

Tats stated that unless these new procedural matters are tied in to the R&R proposal document, it will result in great confusion.

John interrupted to advise that Ah Sung had pointed out the provision regarding the 60-day requirement for the R&R. On the assumption that the amendments will be conducted in the same manner as boundary petitions under Section 205-4, 5 days after draft of regulations is completed, it will be sent to the counties and public hearings will be conducted after 60 days but within 120 days. John thought he could argue that regulation changes during the 5-year review were different but there will be this cloud hanging over.

Tats noted that if a draft of the R&R were sent to the counties without prior information about the overall approach and how the R&R will tie in, the counties will hit the ceiling. It will also affect the kind of support the Commission will get from them on legislative matters. He also cautioned the Commission about the dangers of public discussion of the R&R at the county level before the LUC conducts its hearing. John replied that this was happening now and Eddie agreed that the same thing happened during the last amendment to the R&R. Tats also raised the problem of the discussion on the boundary changes in the counties before the LUC hearing. He wondered whether the Commission could adopt procedures for the

5-year review administratively, i.e. these are the steps we will take to conduct the review.

Eddie asked John whether this could be done legally. Also would he have any ideas about overcoming the problem of public hearings on the R&R at the county level prior to the Commission's hearing and whether this was a requirement. Tats felt that this would depend on the county's ordinance or procedures. Ah Sung stated that this would require a decision by the Planning Commission and all its decisions were made at public meetings.

It was John's opinion that the statute requires the proposed regulations be referred to the counties and that the public hearing by the LUC cannot occur before 60 days. Tats suggest that John look further into this.

Ah Sung advised that during the last review, the Commission did not comply with this requirement. However, he was bringing this question up since the City and County had questioned the procedures during the last amendment on imposition of conditions.

Tats again referred to his earlier concern that if the Commission followed John's recommendation, the counties will expose this at a public meeting and it could hurt the 5 year review. On the other hand, if we did not follow the 205-4 requirements, the counties will not have to take this to the public but will send their comments and recommendations on an informal basis from the staff. It was Eddie's feeling that he was not all that concerned.



He acknowledged Tat's concern that the county was actually taking a position before the Commission goes to the public, but this had happened on every prior amendment. Tats argued that it was a matter of control, but if the Commission did not feel this was important, it was fine with staff. However, he felt the Commission should be concerned.

John again brought up the 60-day requirement and advised that if the Commission cannot live with this, he could come up with rationale to bend the law a little. He could argue that the adoption of the regulations during the 5-year review was not the kind of amendment which falls under Section 205-4. However, the safest procedure would be to follow Section 205-4.

Eddie suggested that Gordan go back to the office to work out a time schedule on the basis of the 60-day requirement so that Jimmy will know when the R&R will have to be ready.

Tats brought up another matter, that of the contract with Daniel Mandelker, who has to come up with the R&R. However, before he can do this, he will have to know the concept.

Eddie stated that draft from Mandelker should come after the draft from Jimmy and John. Once the Commission agrees on the concept, then Jimmy, Tats and John can meet to draw up the regulations and shoot it out to Mandelker. Then the Commission will ask Mandelker to come here to finalize the R&R.

Eddie asked John whether, at the time of the public hearing, the Commission could add amendments that did not go out to the

counties. John advised that the Commission could not make wholesale changes because it would not be fair to the people who testified at the hearing, but that the Commission could "tune them up". He felt modifications, changes to do things differently, provided it dealt with the same subject matter, would be allowable.

Eddie also asked whether the submittal to the counties could be in the form of ideas rather than specific R&R. John recommended that if the 205-4 requirements were going to be followed, the R&R should generally reflect what will be contained therein.