

LAND USE COMMISSION

Minutes of Meeting

June 7, 1962

Commissioners  
Present:

Edward C. Bryan  
Stanley C. Friel  
Wayne Gregg  
Yuichi Ige  
Edward Kanemoto  
Franklin Y. K. Sunn  
Roger T. Williams

Ex-Officio Members  
Present:

E. H. Cook  
Frank Lombardi

Staff  
Present:

Philip T. Chun, Department of Planning and Research  
R. J. Darnell, Executive Officer (XO)  
Roy Miyamoto, Legal Counsel  
William M. Mullahey, Land Use Commission  
Yoshio Shigezawa, Legal Counsel

The special meeting of the Land Use Commission was called to order at 9:15 a.m. in the Land Use Commission Hearing room by Chairman Bryan.

An opening prayer asking for guidance was said by Chairman Bryan.

The minutes of the May 28, 1962 meeting were read by the XO and approved by the Commission, with correction to Commissioner Sunn's name.

Because of the absence of Commissioner Gregg (was sworn in late) at the May 28, 1962 meeting, reaffirmation of actions taken at that meeting was in order.

Commissioner Sunn moved to reaffirm actions taken at meeting of May 28, 1962; and to have officers elected at that meeting be re-elected on a permanent instead of an acting basis. Mr. Lombardi seconded the motion. Motion carried unanimously.

COMMUNICATION

The XO read an old communication from the Maui County Planning and Traffic Commission dated April 18, 1962, requesting a legal opinion from the Attorney General's office regarding the relationship of Act 187 with County jurisdiction; and a reply to the XO from the AG's office (regarding Maui County's letter), to the effect that such requests should first be made to the County attorney, who may either dispose of the question to the satisfaction of the agency or endorse the request to the AG's office with his opinion or comments.

Question was raised by Chairman Bryan whether letter was submitted in behalf of County or Commission.

XO replied that County's letter was enclosed upon request of AG's office.

Commissioner Sunn further questioned that there may be a possibility of having 4 different county opinions which would all be in conflict instead of just 1 opinion from the AG's office.

Chairman Bryan asked Legal Counsel Shigezawa to comment on this. Mr. Shigezawa pointed out that his office has a policy whereby any request from a County agency or official for legal opinion should first be submitted to the County attorney. He anticipated no serious conflict among counties in this respect.

Chairman Bryan questioned as to whether in the event of the Land Use Commission's acting as a state agency, needing a legal opinion, a formal request should be made of the Attorney General's office?

Mr. Shigezawa's reply was in the affirmative; stating that if problems or questions arise from Act 187 and a legal opinion is needed, a formal request would be proper.

The XO read an outline summary (this was distributed to Commissioners) on the operation of the Land Use Commission used during the absence of a Commission giving the criteria used by the Staff for Change of Temporary Boundary petitions and applications for Special Permit.

Chairman Bryan asked Legal Counsel Shigezawa if he had any comments or recommendations to make on this subject.

Mr. Shigezawa stated there were many obstacles still needed to be resolved on this subject which his office is working on and that he at this time wasn't in the position to give any definite answers. He recommended though that Commissioners look seriously into this problem.

Chairman Bryan deferred this subject for later discussion.

Commissioner Sunn made the following comments and queries:

- (1) That minutes be on 8½ x 11 paper instead of 8½ x 13.
- (2) That legal counsel be available at all meetings and hearings.
- (3) That an Annual Report is required of Commission - When is this needed and has one been completed for 1961? Answer: (1) This is done on a yearly calendar basis and submitted together with Planning and Research annual report to the Legislature. (2) Yes, the 1961 Annual Report has been completed. (Report mailed out to each Commissioner.)
- (4) Does the \$25,000 surplus in LUC's budget for this fiscal year (1961-62) automatically go into HB&A budget? Answer: No. LUC funds are not involved in HB&A contract. LUC and HB&A operate on separate funds and budget.
- (5) Does the Commission need to pursue further the matter of formal letters to Counties (Board of Supervisors and Planning Commissions) to get their comments on the Act and policy of the Act? (This question was opened to the floor for general comments and reactions. Chairman Bryan deferred this question for further study and evaluation as he felt this was an area which needed more concentration.)

- (6) Are there any outstanding interpretations or clarifications which would require legal opinion? Answer: None so far that are outstanding.
- (7) Are petitions in good form? Any questions or follow-ups? Answer: Except for the question of the \$50.00 which is still pending in AG's office, there are no problems requiring attention which cannot be handled administratively.

#### ORIENTATION

Act 187 was taken up with Mr. Chun and Mr. Shigezawa taking active roles. Reading section by section, interpreting, answering questions and problems as they arose, citing examples were done for the purpose of orienting the Commissioners with Act 187. Legal Counsel Shigezawa assisted Mr. Chun in the interpretation of the Act.

The Commission's Rules of Practice and Procedure were discussed for orientation purpose. Legal Counsel Shigezawa took the leading part on this section, giving his interpretations and advising as questions came up. Before ending of orientation Legal Counsel Shigezawa advised Commissioners that although this set of rules is not perfect, if any question arises legal advice can be obtained from him or his assistant.

There followed a discussion of the Interim Regulations, during which the question arose regarding the legality of the Commission's having set a minimum lot size requirement in the Agricultural District. The staff was asked to make a formal request to the Attorney General for an opinion.

The XO requested the Commission to schedule a special permit public hearing for Minnie Tavares and the Department of Land and Natural Resources at Waimanalo; the hearing was approved and set by the Commissioners for July 24, 1962.

The Commission adopted the \$20 per diem system for reimbursement of expenses incurred while on official duty.

Scheduling of informal hearings with Maui and Hawaii Boards of Supervisors and Planning Commissions was requested of XO for:

Maui, June 26, 1962 at 4:30 p.m. at Wailuku Hotel  
Hilo, June 27, 1962 at 2:00 p.m. at Board Chambers

William Mullahey's designation as a field officer of the Commission was approved.

Requests to authorize construction of exhibit panels amounting to \$548.00 for Commission use, and to purchase a number of books on zoning and land use amounting to \$200.00 were made by XO and approved by Commission.

Next meeting of the Land Use Commission is scheduled for Thursday, June 14, 1962, at 9:30 a.m. Before adjournment of meeting, Chairman Bryan requested XO to have agenda for next meeting ready before meeting. Meeting adjourned at 2:45 p.m.

Respectfully submitted,

YUICHI IGE  
Secretary