

LAND USE COMMISSION

STATE OF HAWAII

Minutes of Meeting

Board Chambers

Wailuku, Maui, Hawaii

September 19, 1962 - 8:30 A.M.

Commissioners

Present:

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

Absent:

Edward Kanemoto

Ex-Officio Members

Present:

Frank Lombardi

Absent:

E. H. Cook

Staff

Present:

R. J. Darnell, Executive Officer
W. M. Mullahey, Field Officer

The meeting was called to order by Chairman Bryan.

ITEMS PENDING ACTION

PETITION OF EAST MAUI IRRIGATION COMPANY (A(T) 62-1), FOR AMENDMENT OF TEMPORARY DISTRICT BOUNDARY TO RECLASSIFY, FROM CONSERVATION TO AGRICULTURAL CLASSIFICATION, PROPERTY LOCATED IN THE HALEHAKU AREA, MAUI: Described as TMK 2-8-08: Por. 7 (1030 acres).

The XO was called upon to outline the above petition. He pointed out the location of the area on a map and gave a general description of the property. The XO stated that the Commission at its last meeting requested that the staff discuss with the Department of Land and Natural Resources their recommendation, which was for the continuation of this matter or deferral of the decision on this matter until the recommendation of the consultant has been received. He read a communication from the East Maui Irrigation Company that was received about the time of the last meeting, but had not been presented to the Commission.

The XO referred to a volume of communications received from the Department of Land and Natural Resources consisting of letters to the Land Department from the following:

1. Baldwin Packers, Limited
2. Alexander & Baldwin, Inc.
3. Department of Health (2 letters)
4. Board of Water Supply
5. The Estate of James Campbell

These letters all referred to the "Proposed Regulation Covering Zoning of the Forest Reserve Lands on the Island of Maui." One letter from the Department of Health referred to the adoption of enabling legislation or adoption of rules and regulations for the sanitary protection of the watersheds and other forest water-producing areas.

The XO stated that he had made inquiries regarding the recommendation made by the Department of Land and Natural Resources, to which the Department stated that the Land Use Commission does not have facts enough to justify the change out of the forest reserve or the conservation district until the Harland Bartholomew study is completed. The XO stated that he had also contacted Harland Bartholomew and Associates to ask them when their report would be ready. The date was not stated; but the XO stated that he thought the firm would have something by October 28. He understood that Harland Bartholomew and Associates would make a preliminary recommendation that this area be taken out of the Conservation district.

Commissioner Sunn asked if the meeting with Harland Bartholomew on Oahu this afternoon would clarify this. The XO stated: "I think very possibly."

Commissioner Lombardi asked whether the Department of Land and Natural Resources will be in the position to make a recommendation.

The XO pointed out that the Department of Land and Natural Resources is waiting to see the final report of Harland Bartholomew before making a recommendation. He stated that the staff would now change its recommendation to agree with that of the Department of Land and Natural Resources.

In answer to a question by Commissioner Sunn, Mr. Robert Bruce, of the East Maui Irrigation Company, stated that it is only the upper ditch that supplies any potable water; and that East Maui Irrigation Company is in thorough agreement with Dr. Lee's letter. "We want the watershed that provides the drinking water thoroughly protected. This lower ditch is only irrigation water and is open ditch subject to contamination anyway."

Commissioner Friel asked: "We have not had any correspondence from the Department of Land and Natural Resources giving their stand on this." The XO stated that

the Commission has the original letter from that Department, giving their stand. Commissioner Friel requested the reasons, and the XO read the letter to the Commission. The XO explained that his statement was that they are asking that action on the petition be deferred until termination of consultant's contract, which would be next January, when the whole report by the consultants is finished; and his statement was that he does believe that there will be some information from the consultants very shortly.

Commissioner Gregg asked whether the Department of Land and Natural Resources has given any indication as to how they intend to subzone this property.

The XO gave a brief account of the Department of Land and Natural Resources reorganization background and the subzoning hearing recently held on Maui.

Commissioner Lombardi asked whether the Commission has the County's recommendation on this. The XO replied in the affirmative, stating that both the County Board and Planning Commission recommended approval of the petition.

Commissioner Sunn made a motion to defer action on this petition until tonight (E. H. Cook would be present at that time and meeting was scheduled with HB&A that afternoon). Commissioner Gregg seconded the motion. Motion carried.

PETITION OF LOYALTY ENTERPRISES, LIMITED (A(T) 62-10), FOR AMENDMENT OF TEMPORARY DISTRICT BOUNDARY TO RECLASSIFY, FROM AGRICULTURAL TO URBAN CLASSIFICATION, PROPERTY LOCATED IN THE WALLEA AREA, MAUI: Described as TMK 2-1-08: 42 (650.0 acres)

The XO requested that Mr. Mullahey be allowed to brief Commissioners on above petition.

Mr. Mullahey was sworn in. He cleared the status regarding the legality of Loyalty Enterprises, Ltd. continuing their petition before this Commission, in consideration of the fact that their option had lapsed at the end of July. He reported that, according to the Attorney General, because Matson has agreed not to join this petition but has given their consent to have Loyalty act as their agent, it is within the legal limits to have Loyalty process this petition.

Mr. Mullahey stated that the petition was for redistricting of a portion of the Matson Navigation lands in Wailea, on which the Commission had a public hearing August 2, on Maui. It consists of 880 acres, within which were 180 acres which was proposed for a golf course which was to be leased to Loyalty. Loyalty was the purchaser of 650 acres and 180 acres was to be leased and they amended their petition to include the area of the golf course. The County Planning and Traffic Commission and the County Board of Supervisors recommended approval of this petition. A communication from Maui Realty recommended favorable action be given to the petition. No additional information has been received since the public hearing on Maui.

Commissioner Lombardi questioned whether there were any additional correspondence received from Loyalty. The reply was in the negative, not since the public hearing.

Commissioner Sunn requested to be excused from this action inasmuch as Loyalty Enterprises is a client of his firm on this project.

Commissioner Friel stated that in consideration of the facts brought out at the public hearing and at this meeting; and inasmuch as there was no protest; he would move that this petition be approved as amended. Commissioner Lombardi seconded the motion. Chairman Bryan polled the Commissioners.

Approved: Commissioners Williams, Friel, Ige, Gregg, Lombardi,
and Chairman Bryan.

Disapproved: None

Abstained: Commissioner Sunn.

PETITION OF MAUI COUNTY PLANNING AND TRAFFIC COMMISSION (A(T) 62-12), FOR CHANGE OF DISTRICT BOUNDARY FROM AGRICULTURE TO URBAN DISTRICT IN PUKALANI, MAUI, HAWAII: Described as TMK 2-3-11: 20, 73; 2-3-33: Parcels 1-18 inclusive; and 2-3-33: 20, 21.

Mr. Mullahey gave a general outline of the petition. He stated that the request of above overlaps in 3 instances. He stated that the request was for 2-3-11: 20 & 73; 2-3-33: 1 through 18 inclusively; 2-3-33: 20, 21. Mr. Mullahey stated that the Commission requested that the staff poll the land owners involved in the Maui County petition, as this was not done by the County prior to the Commission's public hearing. This was done and the staff received about 75% replies by the land owners with one dissenting comment from Mr. Carl Asato. Mr. Asato's letter declined to make a comment, but just stated that he was opposed to the rezoning. Mr. Mullahey explained that he could not get in touch with Mr. Asato, even though a letter was written to him requesting a meeting. Mr. Mullahey inspected Mr. Asato's property on Monday, September 17; he was able to see Mrs. Asato and asked her what Mr. Asato had planned for his property. Mr. Mullahey stated that Mrs. Asato stated that to her knowledge Mr. Asato had no definite plans other than rebuilding the house and was not trying to dedicate the parcel, as far as she knew.

Chairman Bryan asked: "What is the area of his property?" Mr. Mullahey stated that it covers 1.035 acres.

Commissioner Lombardi stated, "We don't know why he is objecting." This was confirmed.

The XO stated that despite the protest, since this area is the logical one for expansion of Pukalani; lacks potential as a farm area; and is being requested by the County for rezoning, staff would recommend approval of the boundary change, not leaving out one small square, so that the recommendation still stands that the area be rezoned to urban.

Commissioner Sunn stated that, in view of the fact that Pukalani should extend in this direction, according to the State General Plan, he would move that this Commission approve the staff's recommendation. Commissioner Gregg seconded the motion. The Chairman polled the Commissioners.

Approved: Commissioners Williams, Friel, Sunn, Ige, Gregg, Lombardi,
and Chairman Bryan.

Disapproved: None.

PETITION OF FRANK AND JESSIE MUNOZ (A(T) 62-11), FOR AMENDMENT OF TEMPORARY DISTRICT BOUNDARY TO RECLASSIFY, FROM AGRICULTURAL TO URBAN CLASSIFICATION, PROPERTY LOCATED IN THE PUKALANI AREA, MAUI: Described as TMK 2-3-33: 15, 16, 18, 19 (23.928 acres).

Mr. Mullahey gave a brief and general description of the petition. He pointed out the area on a map and stated that parcels 15, 16, & 18 overlap with the Planning and Traffic Commission's petition which was just approved.

Chairman Bryan stated that, then, what's left before the Commission is Parcel 19. Mr. Mullahey replied in the affirmative.

Commissioner Sunn moved to approve the petition for the same reasons as in the previous action. Commissioner Friel seconded the motion. The Chairman polled the Commissioners.

Approval: Commissioners Williams, Friel, Sunn, Ige, Gregg, Lombardi,
and Chairman Bryan.

Disapproved: None.

APPROVAL OF MINUTES OF PUBLIC HEARINGS AND MEETINGS OF 8/21/62

Commissioner Friel moved that the subject minutes be approved as circulated. Commissioner Williams seconded the motion. Motion carried.

COMMUNICATIONS

Following communications were presented by the XO:

1. Letter from Robert Ohata, Maui Planning Director, regarding clarification of Land Use Commission regulations by which subdivisions other than for agricultural use are to be approved in the agricultural zone.

The XO stated that this is one of the matters relating to the administration of Act 187 and of the rules and regulations that were passed by the Land Use Commission. In accordance with the Land Use Commission a meeting has now been set up for October the 12th, in Honolulu, and all the planning directors and all the county attorneys have been invited to attend this meeting.

The Chairman asked, "If the Commission approves the proposed change in the Interim Regulations, will that give the County the variables they need?" The XO stated "Not necessarily. In this particular case, the situation is, right now, if the County believes that the man is going to be engaged in agricultural pursuits, then the Land Use Commission is not particularly concerned about the lot size; and it is up to the County to vary its own regulation as to the lot size required for a farm."

Mr. Crockett spoke up on his behalf regarding this communication, and a communication from him to this Commission. He stated that the procedure of the handling of this matter should be: (1) to the County for subdivision approval; and then (2) to the Land Use Commission for its approval on the use of the land.

Chairman Bryan stated that the Commission understands the problem to be:

1. Can subdivision take place within an agricultural zone? and
2. If it is permissible, what is the ground?

The need has recently been wiped out by two rulings of the Attorney General; and the Commission has proposed rules and regulations to cover this and has sent the proposal to each county. If Mr. Crockett would like to further the determination he can have the County make their recommendation because this Commission would have to hear from them, before the public hearing can be held by this Commission on the proposed regulation change. The Commission can't solve the problem until the recommendations are received. The Chairman stated that it would be best for Mr. Crockett to spend his time to further this action.

Mr. Crockett stated, "In other words, ask the County to make their recommendation first." Chairman Bryan stated, "Ask the County to make their recommendation on the regulation change that the Commission has proposed."

The XO stated that the staff has sent a letter to each county attorney and planning director, asking them for a list of problems confronting their county regarding the interim regulations, to be discussed at the meeting on October 12, 1962.

2. Letter from Robert Ohata addressed to Chairman Bryan regarding Interim Regulations of the State Land Use Commission, and giving a report by Master Plan Committee, recommending that the Land Use Commission include single-family dwellings as permitted uses in the agricultural district.

NEW BUSINESS

No new business was brought up at this time.

Meeting adjourned at 9:45 a.m.

Respectfully submitted,

YUICHI IGE
SECRETARY