

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

October 8, 1975 - 7:00 p.m.

County Council Chambers
Hilo, Hawaii

Adopted
DEC 5 1975

COMMISSIONERS PRESENT: Eddie Tangen, Chairman
Stanley Sakahashi, Vice Chairman
James Carras
Charles Duke
Colette Machado
Mitsuo Oura
Carol Whitesell
Tanji Yamamura

COMMISSIONER ABSENT: Edward K. Yanai

STAFF PRESENT: Ah Sung Leong, Acting Executive Officer
Gordan Furutani, Planner
Harry Kim, Consultant
Dora Horikawa, Clerk Reporter

Ray Russell, Court Reporter

HEARING

AR&R75-5 - PROPOSED AMENDMENTS TO PART I RULES OF PRACTICE AND PROCEDURE, PART II STATE LAND USE DISTRICT REGULATIONS, AND PART III LAND USE DISTRICT BOUNDARIES OF THE STATE LAND USE COMMISSION

The hearing on the proposed amendments to the State Land Use Commission Rules of Practice and Procedure and Land Use District Regulations was called to order by Chairman Tangen. The Notice of Public Hearing which had been duly advertised in the Honolulu Star Bulletin, the Maui News, the Hilo Tribune Herald, and the Garden Island was read into the record by Mr. Gordan Furutani, Planner.

Since this was the first meeting of the newly reconstituted Land Use Commission in Hilo, Chairman Tangen introduced the recently appointed members, Commissioners Machado, Whitesell and Duke.

It was explained that the hearing tonight will be conducted in two parts--the first concerning the proposed amendments to Part I, the Rules of Practice and Procedure, and the second concerning amendments to the State Land Use District Regulations. Chairman Tangen requested that persons testifying at tonight's hearing sign in, giving their names, addresses, and organizations they were representing, if any.

Mrs. Mae Mull, Hawaii Island representative of the Hawaii Audubon Society, advised that her written testimony will be transmitted within 10 days to the Commission. She continued with her oral testimony offering numerous recommendations to clarify the proposed amendments to the Rules and Regulations and to bring them into closer conformity with Act 193. Some of these concerned meeting places, removal of person from meetings filing of legal papers in the county commission office in which the affected land is located, strengthening the section on disqualification of a Commissioner. Mrs. Mull also felt that the section on "limiting the number of witnesses" was unduly restrictive and suggested that it be a closer agreement with the Administrative Procedure Act. Mrs. Mull argued that the section on "Form and Admissibility" appeared to be incompatible with the existing citizen's rights to due process of law and recommended that this section be sharply defined. On the matter of intervention, it was submitted that the Commission must not set up obstacles for a petitioner to intervene which are not in compliance with the spirit and intent of Act 193. Questions were also raised regarding Consolidation, qualifications of a Hearing Officers, "Enforcement of Conditions", "Oral Arguments," etc.

In response to the point raised regarding Consolidation, Chairman Tangen clarified that even though it is not specifically spelled out in the Rules and Regulations, the Commission was bound by the statute which mandated that hearing on a boundary amendment petition shall be held in the appropriate island--it was certainly not the intent here to consolidate petitions from two or more islands into one hearing.

In response to a question raised by Vice Chairman Sakahashi with reference to Special Permits, Mr. Kim, consultant, advised that if during the course of deliberating on a Special Permit the Commission believed that the county had not transmitted the entire record, it would direct the county to do so.

On some of the points that were raised by Mrs. Mull, Chairman Tangen explained that:

1. If all the pleadings, briefs, etc. were filed in the county office, the county in turn would have to transmit

them to the LUC office in Honolulu, and this would only compound the time constraints under which the Commission has to operate.

2. On the Admission of Evidence, it was the intent here to obtain as much information as possible by not restricting the Commission to the courtroom type Rules of Evidence.

Mr. Kim agreed that this section was really relaxing the rules to allow the Commission to accept testimony and documents for the records upon its own discretion from the ordinary citizen.

Mr. Clifford Lum, Corporation Counsel for the County of Hawaii, representing the Hawaii Planning Commission, Planning Director and the Planning Department, stated that he was consolidating his remarks to address both the Rules of Practice and Procedure and the District Regulations. The County of Hawaii is presently reviewing the proposed amendments and will submit written testimony within the the prescribed time.

Chairman Tangen announced that the Commission will be accepting written testimony within 10 days from the close of this hearing tonight and that it will act to adopt the Rules and Regulations on October 28, 1975.

Since there was no one further wishing to testify on the amendments to the Rules of Practice, the Chair opened the hearing on the proposed amendments to the District Regulations.

Mrs. Mae Mull offered suggestions either to add or modify the language in the various sections--i.e. for the protection of agricultural lands, to control the permissible uses in the Conservation District, guidelines for special permits.

There being no further testimony, Chairman Tangen announced that the hearing on the proposed amendments to the Rules and Regulations was closed.