

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

October 28, 1975 - 10:00 a.m.

DPED Conference Room
State Kamamalu Building
Honolulu, Hawaii

Approved
JAN 12 1976

COMMISSIONERS PRESENT: Eddie Tangen, Chairman
Stanley Sakahashi, Vice Chairman
James Carras
Charles Duke
Colette Machado
Carol Whitesell
Edward Yanai

COMMISSIONERS ABSENT: Mitsuo Oura
Tanji Yamamura

STAFF PRESENT: Ah Sung Leong, Acting Executive Officer
Gordan Furutani, Planner
Michael Marsh, Deputy Attorney General
Dora Horikawa, Clerk Reporter

Ray Russell, Court Reporter

Chairman Tangen announced that the agenda will be rearranged to consider the Special Permit first to accommodate the petitioner since there was a representative from the Girl Scout Council. He called on Mr. Leong, Acting Executive Officer, to present the staff memorandum.

APPLICATION BY THE GIRL SCOUT COUNCIL OF THE PACIFIC, INC.
(SP75-223) TO ESTABLISH A GIRL SCOUT SERVICE CENTER AT KEAAU,
PUNA, HAWAII

The staff memorandum was presented by Mr. Leong (see copy on file).

Mr. N. E. Smith, Executive Director of the Girl Scout Council of the Pacific clarified several points that were raised by the Commission members. He submitted that the Department of Transportation had agreed to the access road which the petitioner will provide to the subject site. Also, in recent negotiations with the County, it had been tentatively agreed to allow petitioner to use the existing 2½" pipe line privately owned by the Shipman's.

Commissioner Carras moved to approve the Special Permit, subject to the conditions imposed by the Hawaii County Planning Commission. The motion was seconded by Vice Chairman Sakahashi and unanimously carried.

APPLICATION BY KAPEHE LAND INVESTMENT (SP75-222) TO ESTABLISH
A MEMORIAL PARK AT KALAOA 2ND, N. KONA, HAWAII

Mr. Gordan Furutani, Planner, read the staff memorandum (see copy on file).

At the request of Commissioner Whitesell, Mr. Furutani gave a brief comparative description of the cemetery proposals by Sim Wenner, Hualalai Memorial Park, Inc. and the subject petition in terms of size, number of plots, type of facility, total acres involved, etc.

The question was raised concerning the need or justification for another cemetery in the Kona area. Chairman Tangen recalled that at the time the Commission approved the Sim Wenner request, it was felt that there was a need for additional plots in the area. Both the earlier Hualalai and present requests were also proposing to take care of needs long into the future and there was a serious question of justification for additional facilities of this type.

Commissioner Duke moved to deny the Special Permit due to its prematurity. The motion was seconded by Commissioner Carras.

Commissioner Machado suggested that the County Planning Commission be apprised of the Land Use Commission's position regarding development of memorial parks in terms of future needs. Chairman Tangen agreed that the Commission should communicate with the Hawaii County Planning Commission to this effect, and also to require the petitioner to substantiate this need. Commissioner Whitesell also suggested that population projections, death rates, etc. might be indicated in the County's report to the Land Use Commission. Chairman Tangen advised that a letter incorporating the foregoing recommendations will be transmitted to the Hawaii County Planning Commission.

The Commissioners were polled as follows:

Ayes: Commissioners Yanai, Carras, Duke, Whitesell,
Chairman Tangen

Nays: Vice Chairman Sakahashi, Commissioner Machado

The motion was carried.

AR&R75-5 - ADOPTION OF THE FINAL DRAFT OF THE PROPOSED AMENDMENTS
TO THE RULES OF PRACTICE AND PROCEDURE AND THE STATE LAND USE
DISTRICT REGULATIONS OF THE LAND USE COMMISSION

On behalf of the Commissioners, Chairman Tangen expressed his appreciation to Commissioner Whitesell for her efforts and time expended in finalizing the draft of the Rules and Regulations, reflecting the consensus of the Commission, for adoption.

Vice Chairman Sakahashi stated that he had complete confidence in the attorney appointed by the Commission to draw up the Rules and Regulations and felt the Commission should rely on his expertise insofar as the legal terminology and language within the Rules and Regulations were concerned. Commissioner Whitesell responded that the document before the Commission today did not include any substantive changes but reflected primarily rearrangement of some of the sections, additional language making reference to other parts of the Rules, renumbering, etc. Moreover, all changes resulted from suggestions, recommendations or views which were either expressed at the public hearings or submitted in writing to the Commission.

Chairman Tangen emphasized the importance of examination by the Commission of the recommended changes in the Rules and Regulations so that these will be clear in the Commissioners' minds. He reiterated that this is a legal document which will be involved in future litigations.

Commissioner Whitesell explained some of the more important changes in the Rules and Regulations which were made in the draft under consideration. These, together with discussions on major issues, are summarized below:

1. The reorganization of the general section on Intervention.
2. Discussion on the Commission's authority to waive or suspend certain requirements within the Rules of Practice and Procedure.

Chairman Tangen called for a lunch recess at 11:52 a.m.

The meeting was reconvened at 1:45 p.m.

Discussion on the proposed amendments to the Rules and Regulations continued as follows:

3. It was agreed that a statement will be added regarding parties' rights to cross-examination.
4. Further clarification of the procedure for district boundary amendments.
5. Either a Hearing Officer or the Commission may grant or deny permission to intervene. Such action may be appealed to the Circuit Court.

6. In the section on "Procedure for Witnesses", further provisions be added to require written application at least 7 days prior to the hearing and to submit written authorization from the community group.
7. On the section relating to Special Permits:
 - a. Add the wording "If approved by the County Planning Commission, they shall forward the decision within 10 days."
 - b. Add the wording "A denial or modification by the Commission, as the case may be, of the desired use shall be appealable to the Circuit Court of the Circuit in which the land is situated, and shall be made pursuant to the Hawaii Rules of Civil Procedure."
 - c. Commissioner Duke moved to delete Section 9-4 of the draft relating to Procedure for Oral Arguments, including the first paragraph and sub-sections (a), (b), (c) and (d). The motion was seconded by Commissioner Carras and unanimously carried.

Commissioner Whitesell advised that the section on Rule-making Proceedings was left pretty much as is except for the section relating to testimony and witnesses. Following discussion, it was agreed to change the word to "limiting testimony" instead of "limiting number of witnesses".

Other minor changes were noted and agreed upon by the Commissioners.

Mr. Michael Marsh, Deputy Attorney General, counselled the Commission that since the form had been established, the Commission could approve the Rules and Regulations as discussed and amended today. Any legal questions or problems could be resolved between Consultant Harry Kim and himself.

Commissioner Duke moved to adopt the Rules and Regulations as revised, subject to the approval of the Attorney General. The motion was seconded by Commissioner Carras and unanimously carried.

It was announced by the Chair that the next meeting of the Commission will be subject to call.

ADOPTION OF MINUTES

Vice Chairman Sakahashi moved to adopt the minutes of September 22, 1975, as circulated, which was seconded by Commissioner Carras and passed.

The meeting was adjourned at 4:18 p.m.