

LAND USE COMMISSION
STATE OF HAWAII

Minutes of Meeting

Board Room

Lihue, Kauai

7:00 P. M. - November 30, 1963

Commissioners

Present:

C.E.S. Burns
James P. Ferry
Goro Inaba
Shelley Mark
Shiro Nishimura
Charles S. Ota
Myron B. Thompson
Robert G. Wenkam
Leslie E. L. Wung

Staff

Present:

Raymond Yamashita, Executive Officer
Roy Takeyama, Legal Counsel
Gordon Soh, Planning & Economic Development
Alberta L. Kai, Stenographer

The meeting was called to order by Acting Chairman Thompson.

ELECTION OF OFFICERS

Chairman

Nominations for Chairman were opened to the Commission.

Commissioner Burns moved to nominate Commissioner Thompson as Chairman to the Commission; seconded by Commissioner Ota.

Discussion: Chairman Thompson stated that during the two months that he has held the position of temporary chairman, he has encountered a number of problems that interfered with his own job. He suggested that some kind of procedure be set up whereby these matters would be referred to the proper place and some kind of control could be made.

Commissioner Ota suggested that the Commission set up a policy whereby anything related to Land Use Commission should be directed to Mr. Yamashita except in certain areas. Mr. Yamashita would screen these matters. Should he find that these matters should be consulted with the Chairman and matters which the Chairman should make a statement, than the Chairman has the authority to do so.

Mr. Yamashita stated that he has interpreted his job primarily to be neither in the decision making of policies of the Commission, nor not too much emphasis on administrative decisions.

He stated that his prime focus was in the area of the Land Use Commission's proposed boundaries. He suggested that the Commission elect a secretary amongst the Commission to help alleviate some of the problems at the staff level with respect to keeping the public informed and the Commission.

Commissioner Ota stated that what he proposed is with respect to the Executive Officer's capacity as well as the Chairman's obligation as far as this Commission and the public is concerned. He remarked that "You are going to be just the clearing house so to speak." He stated that where the interest conflicts, where the Executive Officer feels that it should be the Chairman's prerogative to give an answer, the Executive Officer could notify the public that the Chairman will return their call. The Chairman then can do this at his convenience.

Commissioner Burns added that in time after the staff has worked with this Commission for three or four months, it will have the feeling of this Commission and its Chairman as to what their decisions would be and the necessity to check back on every detail will slowly disappear.

Chairman Thompson stated that he will accept the Chairmanship with the condition that his job will come first. The Commission members were in agreement with this.

Commissioner Wung stated that matters could also be referred to the staff members instead of being directly referred to Mr. Yamashita.

The legal counsel pointed out that no matter what procedure this Commission adopts the question to consider is, "Will this procedure be satisfactory to the public?" He stated that the public may expect some kind of consideration of this Commission to become spokesman to this type of a thing, as members it may be imperative. He stated that how you refer the public to the professional or staff may have to be done in such a way that it won't create any antagonism.

The general concensus of the Commission was that all matters pertaining to Land Use be referred to the staff, and the screening and control be done at this level.

Commissioner Mark moved that the Commission cast unanimous ballot for Commissioner Thompson as Chairman for this Commission; seconded by Commissioner Burns. Motion carried unanimously.

Vice-Chairman

Nominations for Vice Chairman were opened.

Chairman Thompson announced that beginning January through the Spring of 1964, he would be travelling on the mainland, so that the matter before the Commission was of great importance.

Commissioner Nishimura nominated Commissioner Burns as Vice Chairman; seconded by Commissioner Ferry. Motion to close the nominations for Vice Chairman was moved by Commissioner Ferry and seconded by Commissioner Wenkam. Motion carried. Commissioner Burns was elected to the office of Vice Chairman unanimously.

Secretary

Nominations for Secretary were opened.

The question was raised concerning the duties of the Secretary. Because it was unknown to the Commission what the duties of the Secretary were, Commissioner Ota moved to drop the office of Secretary. Seconded by Commissioner Nishimura. Motion carried unanimously.

ADOPTION OF MINUTES

Commissioner Nishimura moved to accept the minutes of November 22, 1963 meeting of the Land Use Commission as submitted and circulated; seconded by Commissioner Burns. Motion carried unanimously.

REPORT ON LUC TRUST FUND BY LEGAL COUNSEL

It was reported by the legal counsel that under the Land Use Commission's Rules of Practice and Procedure, Section 1.24, the Commission has passed the rule that all petitions pay a fee of \$50.00 with respect to special permits and amendment of temporary district boundaries. The inquisition of the fee totals over \$4,000. The staff of the Land Use Commission (at that time under the Department of Planning and Research) just accumulated the money and not using it at all. The fee was to be used for the costs of public hearings which includes the publication of legal notices. The legal question that was posed was whether this fee was a legal imposition. The legal counsel informed the Commission that in his memorandum to R. Yamashita (copies were circulated to each commissioner) it states in essence that the subject fee is legal; that it was within the powers granted the Land Use Commission to impose such a fee, mainly for administrative and publication costs for holding a public hearing. The second question that was posed was what to do with the money. The legal counsel pointed out that this is more of a budgeting problem than a legal question. He stated that the additional \$4,000 could be spent but that the Land Use Commission's total appropriation of \$40,000 for its operating expenses would be lessen \$4,000. In other words the net result will be the same spending amount.

The legal counsel stated that as far as what this Commission can do with the money in the trust fund which is not really a trust fund, but just designated and tab as such because there was no other fund available, he suggested that this be worked out between the Department and the Department of Budget and Finance. He suggested that as much as possible the \$4,000 be kept for the Land Use Commission and be used for the purposes that it was legally imposed for. He suggested that Commissioner Mark obtain some kind of approval from the Budget Department as he did not know how this would be worked out.

Commissioner Burns asked whether it has to be used for publications. The legal counsel replied in the affirmative stating that the fee was imposed for

public hearing expenses which includes the publication of the hearings, etc.

Commissioner Mark asked what are some of the public hearing costs? The following were stated: traveling, rental of hearing places, equipment, janitorial services, etc.; publication of legal notices; etc.

Chairman Thompson stated that it is hoped that the Land Use Commission would be able to use this money in terms of the actual cost of publications, hearings, and so forth; so that other problems are created which require the need of services at the staff level.

The Executive Officer suggested that the matter be turned over and pursued further by the Department's accountant. The Chairman stated that he realizes that this is an administrative problem which should be taken up with the Department's accountant. The matter was referred to Dr. Mark for followup.

REPORT ON THE PROTEST COMMUNICATIONS ON FILE DATING BACK TO 1962

Chairman Thompson informed the Commissioners that he had discussed this subject with the Executive Officer yesterday which he in turn outlined his course of work for himself and his staff which goes through January 1964 and includes time for considering the protest communications. The Chairman stated that the Executive Officer feels that he and the staff should concentrate heavily on the delineation of the proposed final district boundaries for presentation to this Commission, therefore, requests that the Commission hold up on the scheduling for consideration of the protests until after January 1, 1964.

Commissioner Burns inquired whether it could be possible to have letters sent to these people who have sent in protests to inform them of the pressures this Commission is facing and therefore need to make other determinations first, but that their protests would not be ignored but will be considered as soon as possible.

The Executive Officer apologized for the staff not being able to expedite the normal type of correspondences that would normally be carried out expeditiously and requested that the staff be allowed to do this as it is able to do so.

Commissioner Ota suggested hiring temporary help and the help be paid out of the Commissioner's regular operating budget, since there is money. (This suggestion was continued under the report of the Land Use Commission's stenographer).

REPORT ON THE LAND USE COMMISSION'S STENOGRAPHER

Commissioner Mark informed the Commission that this request is now before the Manpower Division of the Department of Budget and Finance and that it was buried with some other items which were also submitted. He stated that his Deputy spoke personally to Nils Ueki and he has gotten it up to the top of the pile, and will give it very expeditious consideration. In view of the fact that some of the money in the so-called Trust Fund might be used to cover the cost of hearings, Commissioner Mark stated that it might be possible that a hearings stenographer could be directly attached to that particular type

of cost. He indicated that it might be easier to do it that way instead of going through the Civil Service or Personnel Management procedure whereby a list must be supplied and selection made. He stated that he could not report that there was a stenographer at present. He stated that this will take some time, and hoped it would not be for two months but that definitely it would not be tomorrow. Commissioner Mark remarked that it may be possible to use the \$4,000 to hire a stenographer on the same basis the services of a janitor is used every time a hearing is held and a school space is rented. He felt that this may be the most expeditious way to hire a stenographer.

This matter was referred to Dr. Mark to follow-up and for further review and study by his Department with the Department of Budget and Finance.

Commissioner Burns request to have form letters sent out to individuals who have submitted protest letters was referred to the staff to follow through.

PROCEDURES FOR INITIATING COMMUNICATIONS BETWEEN THE EXECUTIVE OFFICER AND THE COMMISSION

The Chairman stated that this has bearing in terms of his earlier concern whether all communications should go to the Executive Officer, or to the Chairman who screens it and then distributes it.

Commissioner Mark stated that for routine matters where a policy has already been established, he felt that surely the Executive Officer could initiate it on behalf of the Commission or the Chairman. He stated, however, matters requiring policy interpretation that should be delivered by the Commission, perhaps the Chairman should be directly responsible.

The Chairman stated that this would mean that all communications would be channeled to the office staff for screening and then routed to the Chairman.

Commissioner Ota stated, "If we are to continue with the abstract of communications, I feel if any commissioner or the chairman is interested in any particular item, he could take the initiative to confer with the Executive Officer--this would perhaps take off some burden from the Chairman."

The Chairman stated that we should then adopt and follow this procedure that all communications be directed to the staff and if anything needs the Commission's attention that it be directed to the Chairman. Additionally, the abstract of all communications will be circulated to the Commission.

The Executive Officer pointed out a situation that he some times found himself in. The problem of one commission member telling him something and whether it represented the feelings of the whole Commission or not.

The Chairman stated that in terms of matters like these, he requested that these be cleared with him and then have it brought up with the Commission, if necessary.

Commissioner Ota informed the Commission that on the local level in his County a copy of all communications concerning the Land Use Commission has been forwarded to him which helps to keep him inform of all land use commission matters in his County and suggested that perhaps the other commissioners

could request this of their respective counties.

It was pointed out that this would occur only on the outer islands, as Honolulu has a very different complex.

Legal Counsel stressed and emphasized the point which the Executive Officer tried to bring out. He stated that the problem is trying to define the responsibility of each Commissioner, as to how it should act. Whether each commissioner's request should be channeled to the Chairman, or whether the executive officer should listen to each one of your request.

Commissioner Burns stated that the Executive Officer couldn't possibly listen to each one of us. He stated that the Chairman is the one who clears things. If he feels it is in the best interest of the Commission to make a decision immediately that is his responsibility and authority, and not a directive from any one of us, otherwise the Executive Officer will be running in all directions at once.

The Chairman stated, "Your suggestion is that all requests concerning a decision, wherever it is a matter affecting the entire Commission be channeled and cleared with the Chairman." Commissioner Burns replied in the affirmative.

Commissioner Wenkam explained that when the publications were advertised showing the hearings to be held in Honolulu, he had immediately gone to the Executive Officer to have it changed to Kailua. He stated that he felt that this was a routine matter and didn't feel that it affected the commission's activity or policy on the whole. He stated that to him this was a case of a single item and being a commissioner on Oahu, the matters of concerned in the area was of personal interest to him; that the change was obvious in the interest of the best function of the Commission and didn't affect policy or any other matter. This he had stated was his reason why he didn't go to the Chairman first. He inquired, "Should matters of this sort also go through the Chairman?" He stated that the Chairman will have a lot of work to do and should many matters which are considered routine go to the Chairman, it would create a great deal of load on his back. He stated that in issues such as this where the change of meetings occurred, it hardly is a policy matter and a matter affecting procedures. Commissioner Wenkam stated that in matters where the commissioner judges that they are routine, it would be proper to approach Raymond directly.

Commissioner Burns pointed out that if the Executive Officer disagreed than it should be checked out with the Chairman.

Commissioner Wenkam stated that the Executive Officer felt that this was a matter of substantial interest.

Commissioner Ferry did not entirely agree with Commissioner Wenkam. He stated, "Here you have a man who serves under nine people and he (Executive Officer) should make a direct report to one person. So consequently if the other commissioners disagreed, they should go to the Chairman and the Chairman should be the relay man to the Executive Officer; otherwise there is a point of doubt as to what is important and what is trivial."

Commissioner Mark stated that he was happy that this Commission did go to Kailua but pointed out that this Commission had adopted Plan II in its schedule which had no mention of Kailua, but hearings scheduled for Honolulu. He stated that this sort of a change seems to be something that involves a commission. It is a change that we had agreed to though it is a minor matter; but it illustrates the point of problem from right and wrong.

The Chairman stated that the Commission would follow the suggestion of Commissioner Ferry that all direct orders be cleared with the Chairman and in turn relayed by the Chairman to the Executive Officer, and that all final decisions or final word would be by the Chairman.

Commissioner Wenkam stated that there seems to be some confusion concerning a communication which he had written to the Department of Transportation. He stated that he had sent this letter not meaning to have it become a major issue, but felt that in the light of certain omission which involved the Land Use Commission, he felt that this Commission should enter into the matter and had brought this to their attention.

Chairman Thompson stated that as he read the letter, it wasn't clear to him that this was an individual's own opinion that was expressed. He stated that he was concerned of the fact that this could have been misconstrued as an opinion of this Commission. The Chairman stated that in terms of communications of this nature it should be made clear that this is one commissioner's opinion and one speaking as an individual.

Commissioner Inaba stated that in matters such as this it should be brought up before the whole commission and the whole commission decide whether to write to the agency or department.

Chairman Thompson recognized Commissioner Inaba's point as being well taken and informed him that time was of importance as there was the possibility that the Highway Department would have made a decision on November 27. He, however, added that if any commissioner wished to include any item on the agenda, that he should route it to the Chairman and requested that any commissioner who wished to express himself as an individual commissioner to make this matter clear, rather than expressing the views of the Commission himself.

NEW BUSINESS

Request for New Letterheads

Commissioner Ota suggested not printing commission members name on letterheads for economic reasons. His suggestion was withdrawn when commissioners pointed out the necessity it would have for public relation purposes.

Chairman Thompson questioned whether the letterheads should be used only for the expression of this Commission itself, as a body, and not as an individual.

Commissioner Ota stated that actually the letterheads should be used purely for official business and not personal use.

Commissioner Wenkam stated that he felt that the use of the Commission's letterhead by the individual commissioner can be of value for individual commission's correspondence with organizations and others, pertaining to matters. Purely in the sense that it gives recognition that it is a commissioner writing. He pointed out that he did not feel that he was out of line as mainland commissioners do use official letterheads when writing as individuals. He stated that it reflects certain importance otherwise do not have if writing as an individual.

The general consensus of the Commission was that the letterheads would be used only for official business for the expression of the whole commission and not as an individual commissioner.

Meeting adjourned at 5:30 p.m.