

but as I read the items which are possible, and apparently currently within the jurisdiction of the present Board of Public Works, unless I am wrong, I would assume that in connection with the construction of buildings, equipment and other public works, that the experiences I have had serving on a board that has the same type of functions where sometimes in the course of negotiations with professionals, particularly where the contract will not result in the lowest responsible bidder being awarded the contract, but where when you are dealing with professionals and you have to negotiate a contract with them, that periodically we meet in executive session, and the reason we do so is to set certain limits within which the staff members may negotiate. It would certainly not be in the best interests of the community and the public funds that we were expending if we did not have this executive session, and if the public and the person with whom we were going to negotiate knew what our outside limit was. Now if some of this board would ever have this kind of function, then of course there is no reason that they should not have executive sessions, but it seems to me that executive sessions should be allowed, but only for a very limited specialized circumstance. That is what I would assume would occur.

I think it is unrealistic when you have a board of three, to assume that if you put a requirement in that there will always be public sessions, that they will not, whether by phone or otherwise discuss some of these issues. What I think you are doing, in let's say in the words of purity, you are causing people to do things that they would not otherwise do, and they are doing it perhaps really with the best motives in order to protect the best interests of the State.

I would suggest that we should not drive our public officials underground, but we should recognize that under some limited circumstances there may be such need and therefore leave it to the legislature to define these circumstances very clearly, for all to know, and hope that everybody would act accordingly.

THE CHAIRMAN: Is there any further discussion? Delegate Mentzer.

DELEGATE MENTZER: I would like to support Judge Sherbow's amendment, and would like to read from the Curlett Commission: care must be exercised to insure that decisions made by any Board which may succeed the Board of Public Works will be made in the open, at public

meetings, where hearings are held, proper minutes kept, and decisions subject to public scrutiny.

THE CHAIRMAN: Delegate Bard.

DELEGATE BARD: Mr. Chairman, I would suggest that we really are as one in connection with the significance of public hearings when they are important as such, and that we recognize fully that there are rare occasions when this just would not be possible, nor even reasonable, and I would wonder if Judge Sherbow recognizing that we have now placed within the transcript itself this consensus in regard to how we feel about the importance of the public in this relationship, would be willing to withdraw his motion, realizing that we do believe with him the significance of the public hearing for the basic decisions that are to be made?

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: No, I do not withdraw it. On the contrary, I think that no matter how any of us feel about a compromise, and I am sure nobody is happy about it, if we do not have this safeguard in it, it is something that was warned about in the Curlett Commission report, it was referred to by the governor—I am sorry, I do not have his exact language in front of me; I loaned my copy to the vice-chairman yesterday, where the governor, if I recall it correctly, indicated the idea that there should be a public forum for these matters. I do not know that he went as far as to suggest that all the meetings should be public, but I think you are creating a body whose usefulness is severely hampered and restricted unless there is the requirement that the sessions be open and its decisions openly arrived at, recorded for the public to see.

THE CHAIRMAN: Delegate Storm.

DELEGATE STORM: Mr. Chairman, my memory fails, but is there not a provision some place in the present Constitution, maybe it is statutory, that all actions of any public body should be made in public meetings, something like that?

THE CHAIRMAN: The Chair is not aware of any such provisions in the present Constitution. Delegate Kiefer.

DELEGATE KIEFER: Mr. President, there is a section in the administrative law which provides that all administrative bodies will have public hearings and make no decisions without public hearings. It is set out in the Code. I cannot tell you ex-