

MAUI COUNTY CHARTER COMMISSION PUBLIC MEETING
Lahaina Civic Center, Lahaina
Tuesday, June 26, 2001
6:30 p.m.

PRESENT

Teryl Venci, Chair
Robert Sean McLaughlin, Vice-Chair
Carole Ameral
Vince Bagoyo
Bill Fuhrmann
Stephen Holaday
Stephen Petro
Erlinda Rosario
Donn Takahashi

STAFF

Myles Inokuma, Mayor's Executive Assistant
Brian Moto, Corporation Counsel

EXCUSED

Gwen Hiraga
Karolyn Mossman

CALL TO ORDER

Chair Teryl Venci welcomed those attending the public meeting at the Lahaina Civic Center by introducing herself and explaining the rules for testimonials. Each person may speak for a total of four minutes; the first three minutes are to testify, and the fourth minute is to conclude. Once everyone has had the opportunity to testify, those who wish to say more will be asked to return.

The Chair gave a brief overview regarding the County Commission, which will hold public meetings throughout the month of August in different geographical locations. The Commission will then return to the County building to deliberate the concerns broached by the community. These meetings are also open to the public.

The Commission hopes to return to each respective community to report the conclusions of its deliberations and to request further input during the months of December and January. Their report will be submitted to the County Council for approval by April 2002. The final report will then be turned in to the clerk so that the Commission's recommendations can be included on the ballot for November 2002.

The charter, or "Constitution" of Maui, governs government. Copies of the Charter are available on the 7th floor of the County Building in the County Clerk's office for \$2.00. You may also find them in our public libraries, at www.co.maui.hi.us/charter.html, or through a link on the County of Maui's web page.

The commissioners introduced themselves: Vince Bagoyo (Lana'i and Waikapu); Donn Takahashi (Wailuku); Bill Fuhrmann (Hana); Chair Teryl Venci; Vice-Chair Sean McLaughlin (Kula); Stephen Petro (Moloka'i); Steve Holaday (Makawao); Carole Ameral (Lahaina); and Erlinda Rosario (Wailuku). Excused commissioners: Gwen Hiraga (Wailuku), Karolyn Mossman (Kula). Staff present: Myles Inokuma, Mayor Apana's Executive Assistant; Brian Moto, Corporation Counsel.

The meeting scheduled for July 9th has been canceled. The only meetings the Commission will have until September will be the public input meetings.

TESTIMONIES

MR. EZEKIEL KALUA, WEST MAUI TAXPAYERS ASSOCIATION

Mr. Kalua read a letter from the WMTA, which thanked the Commission for listening to the Lahaina community and recommended that the Commission:

- 1) Extend council members' terms of office to at least three or four years so that they may better serve the community.
- 2) Put the Board of Water Supply under the umbrella of the County to ensure that people are treated equally. People would be better served with the checks and balances provided by the County.
- 3) Inspect the initiative conditions in the County Charter. The process is way too burdensome and difficult to comply with, he says, and hinders people from putting anything on the ballot.
- 4) Strongly enforce the Community Plan. A lot of time has been taken to put it together, and when it comes to development, a happy medium or compromise should be reached with the Planning Committee.

Commissioner McLaughlin asked whether the testimony given was from an organization or an individual. Mr. Kalua replied that it was derived by a member of the WMTA, which is currently surveying their members to determine which issues to represent. The biggest issue has been the Community Plan and its revisions.

Commissioner McLaughlin then asked if Mr. Kalua has difficulty getting access to information he needs when he does research with the County to offer testimony. Mr. Kalua responded that he thought the biggest problem was communication (meeting notices and agendas). Due to a postage failure in the Clerk's department, the WMTA missed a meeting with the Council on June 5th, in which two agenda items that were introduced by the WMTA didn't have fair representation. Commissioner McLaughlin thanked Mr. Kalua and said the reason he asked is because the processes of government and the way the public can engage in it are really a core part of the Charter. He encouraged Mr. Kalua to continue to look at those kinds of issues as he makes his future recommendations.

MR. DAVE CHENOWETH

Mr. Chenoweth of Lahaina does not like the wording on the General Plan because it should be more environmentally oriented. He said it speaks mainly of development, and while we should do many of the things that people want in the General Plan, it is very important to preserve our economy and way of life through protection of major assets like our environment.

- 1) The present General Plan states that all County laws shall be consistent with the intent of the General Plan. If the public does not think the General Plan and its associated community plans have enough strength, then that needs to be addressed in our Charter.
- 2) Mr. Chenoweth suggested having a very strong plan for buying land, and asked the Charter to ensure that funding is always available.

Commissioner Holaday asked if Mr. Chenoweth had suggestions on who would fund the fund. He responded by mentioning a tax arrangement through the Charter and said that it's very important that the fund is both government and individually funded.

MR. JIM JOHNSON

Mr. Johnson from the Lahaina district clarified that although he was present to observe the happenings for his wife Joanne, he was speaking as an individual when he said the following:

- 1) He agrees with Mr. Kalua and is in favor of three or four year terms for council members.
- 2) The community plans need to be made a part of the General Plan and adhered to. Rules and regulations need to be clear for developers.
- 3) The Council, the County, and the State are at a crossroads. People are serious about wanting change.
- 4) Something must be done about the method used for assessing property for Real Property Tax purposes. He referred to King's County in the State of Washington, in which the assessment is based on what is paid for the house or the property.

Commissioner McLaughlin asked if Mr. Johnson would apply his tax assessment proposal to hotel properties as well as residential, to which Mr. Johnson replied that the assessment should be handled the same way on all property.

Commissioner Bagoyo asked how Mr. Johnson wanted to "put teeth" into the Community Plan. Mr. Johnson said it should become part of the General Plan, which then becomes law. Commissioner Bagoyo said that zoning must be consistent with the Community Plan (can't zone a property without being in the Community Plan), and asked Mr. Johnson to clarify his recommendations. Mr. Johnson said that there are differences in zoning for a particular piece of land between the State and the County. He thinks that there needs to be consistency in what is allowed in County zoning (i.e., agricultural vs. gentleman estates), and that the perfect definition of open space is that nothing will be built above or below ground. He asked the Commission to give a little attention to these matters as it deliberates.

MR. JOE PLUTA, WEST MAUI TAXPAYERS ASSOCIATION PRESIDENT

Mr. Pluta clarified that Mr. Kalua talked about some of the internal discussions the WMTA has had as a board; their membership hasn't been officially polled. They were counting on Carole, their prior Executive Director, to give more in-depth analyses of what their discussions have been, and some recommendations of which way they can go. He reiterated that:

- 1) Council member terms are too short.
- 2) The issue of initiative is very burdensome. The procedure should be less complicated so that when people have a strong issue and feel that the government isn't responding, they have an outlet or vehicle and that it's not so hard to get on the ballot.
- 3) A community plan was ignored when houses were suddenly built in an area that had been zoned for a park. He believes that West Maui is isolated and doesn't have adequate representation at the County and State level, and that this has resulted in apathy and poor community support.
- 4) Mr. Pluta alleged that the Water Department has so much power that it needs to be more accountable to the public.
- 5) Mr. Pluta also added that leasehold reform should be addressed, and wants a leasehold reform ordinance passed in the public interest before the renegotiations that will come up in about ten years. Lease rents have increased dramatically due to the mandatory leasehold reform law. There is a law in effect now, so people are a lot more informed than they were before. Buyers today are very aware of what leasehold is, but prior to that there was not enough information, so he would like to see this brought up as an issue. Why can't Maui

have the same rights as O`ahu, when the Supreme Court supported that it is in the best interest of the people?

- 6) Mr. Pluta said he hopes the Charter Commission is empowered enough to have its recommendations enforced and put into place.

Commissioner Ameral said that what Mr. Pluta referred to as the leasehold reform was actually the mandatory leasehold disclosure law that was instituted on Maui in 1989 or 1990. She attended a few of the community plan meetings, and said people asked why there were no "teeth" in the plan. The public was not given the opportunity to testify against developing the park-zoned "S Turns" area. She feels that it's very important that the community plans become part of the General Plan and part of law, because a person wanting to buy a piece of property wants to know what really can be done with it. She used Moloka`i as an example by saying that it is unclear what will happen to their interim-zoned areas once development starts.

Commissioner McLaughlin noted that the lack of community turnout at the meeting could be interpreted that the community feels everything is fine and they don't need to do anything; he personally feels a measure of whether our government is working or not is whether people are participating (the Charter is the opportunity for people to do just that). He asked Mr. Pluta if he thought there were too many boards, commissions, and advisory groups, and if we should we stop forming them, have fewer than the current amount, or focus them in different ways.

Mr. Pluta responded that when he was on the Cost of Government Advisory Group, none of their recommendations were implemented. He declared that recommendations should have a little bit more finality and consideration. If a commission comes up with recommendations and they aren't enacted, accepted, or adopted by the County Council, then there should be an elaborate hearing saying why.

Commissioner McLaughlin explained that the Charter sets up the responsibilities, authority, and mechanisms for how the various boards and commissions function, but there are a couple boards like the Board of Water Supply where huge things are happening and they have the final say. Mr. Pluta alleged that the Water Department has more autonomy and less accountability than anyplace else; commissions have a tremendous amount of power, but if they're unanimous in their recommendations, and those recommendations aren't adopted, then the rationale needs to be explained. He believes that apathy is the reason that many people don't show up at public meetings because they don't feel that their input would be utilized.

Mr. McLaughlin encouraged Mr. Pluta to submit any recommendations he had to improve how the government operates; how to inform the public in a better, more timely, and complete manner; and how to afford effective representation.

Commissioner Fuhrmann asked if West Maui had the same stream diversion problems as East Maui, and how the waters were being utilized throughout West Maui now that Pioneer Mill is no longer operable. Mr. Pluta replied that more needs to be done to find out about that. There is pollution due to the browning of the fields, so obviously there is not enough water to supply these needs. There is a lack of overall water management; 90% of our water goes in the ocean, so why aren't we preserving more? Maybe it takes a County Charter amendment to force the County to do something about water preservation or development. When places can't get water permits on an island that's got so much water that just goes in the ocean, having drought conditions just doesn't make sense.

Commissioner Fuhrmann asked if Mr. Pluta had any suggestions as to the Board of Water Supply and accountability. Mr. Pluta said that if people were elected to the board and there was a

review process, or if people were held accountable to an elected supervisor, then there'd be some kind of accountability that would not allow them to do whatever they wanted irrespective of what the County of Maui and the mayor might think was in the County's best interest. When Commissioner Fuhrmann wondered if the Board of Water Supply should go back under the County administration and the County Council, Mr. Pluta responded that *how* it's done is not as important as that *something* is done; in some way, there's got to be accountability to the public. Commissioner Fuhrmann asked if there were any instances in which Mr. Pluta felt they had too much power; Board members get appointed and confirmed by the Mayor and the County Council for a five year term. Under the State of Hawai'i Revised Statutes 174C, the County has to develop a water use and development plan that is consistent with the zoning in the Community Plan and the General Plan, so he thinks there is already some accountability because it's critical and is mandated by law. Mr. Pluta replied that many things that are mandated by law aren't being done, citing the West Maui Transportation Model that was supposed to be done but wasn't.

Commissioner Ameral commented that a lifelong Kula/Pukalani resident has been on the waiting list for a water meter for over twenty years, but when a new high school was built across the street from him, a water meter was installed immediately. Conversely, she heard that someone paid a certain amount of dollars and got a water meter without being on the waiting list for more than a few weeks. It's very scary and whether it's true or false, there is something terribly wrong when an alleged transaction like this can take place. She added that on the west side of Moloka'i where there is a private water system, some people are paying in excess of \$300 a month for water. We need to overhaul the water system in our state, and we're in a wonderful position in Maui County where we can get some really great things started. Her family property of 300 acres in Kahananui had its water diverted numerous times, and what they would have had to go through to get the water back was so ridiculous they gave up the idea. Whether it's more or less autonomy the Water Board needs, it's time to speak about this.

Chair Vencl stated that letters had been sent out to all the boards and commissions requesting their input for the Charter Commission, so hopefully if they can't make the meetings, we'll get something in writing. She thanked Mr. Pluta, then noted that Mr. Kalua wanted to come back to speak.

MR. EZEKIEL KALUA

Mr. Kalua repeated that:

- 1) When they referred to the Community Plan having "teeth," they meant some kind of "biting" law that makes it mandatory to comply with the Community Plan. He used Kapua Village as an example of a committee not following the community plan.
- 2) The reason we have the Community Plan is to still have trees, parks, and areas that keep Maui what Maui is. At Community Plan meetings, people will never say they're tired of going to them because nothing's being accomplished. Every year, a new generation comes in with their ideas, hopes, and aspirations for keeping Maui "Maui."
- 3) It seems like there's an internal problem in the Board of Water Supply because people are waiting for years to get a water meter. It sounds like it should be simple to get a water meter, but being on a list for twenty years brings to mind people on a homestead list who have passed on and have nothing to leave to their next generation.
- 4) Leasehold reform is important because having an assessment protects the consumer from paying four times what the home was actually worth.
- 5) Regarding water allocation problems, the West Maui Mountains Watershed Partnership did a survey that showed a six inch decrease in the water table. In the second wettest spot in the

world, this is alarming because this watershed feeds many areas besides Lahaina. In looking at the alternative solution of getting the water from Hana, questions were raised about who would pay the expense of piping or shipping the water from Hana.

- 6) We need to use any form necessary to appeal to these people is because it's necessary. Imagine if 40 acres in beautiful Keanae were turned into a prison. Consider Kapalani Estates and Kahana Village, the two areas that borderline Kapua Village, and the impact the 45 homes will have on the environment and the one access road. This is where we need teeth in the community plan. Tourists come to the islands and see trees, rainbows, and rain. Very rarely do they see sugar cane, and that's part of what we're trying to maintain, so we can still call Hawai'i "Hawai'i." There needs to be some kind of revision and limit. The Kihei bypass is a prime example. Their discussion of pros and cons came into play when Lahaina requested their bypass.
- 7) Mr. Kalua concluded by saying that as the Planning Commission decides and as the Charter Commission works toward amending the laws, all of these areas need to be taken into consideration so that rather than just receiving representation for what we say, we can receive consideration of what we present.

Chair Vencl called up Jim Johnson, who had something else to say, then Louise Rockett.

MR. JIM JOHNSON

Mr. Johnson discussed the following:

- 1) The West Maui Watershed is actually the West and Central Maui Watershed. 80 - 90% of its water goes down through `Iao Valley to the central area. If the agricultural properties in the central valley are turned into something else and the cane fields are shut down, what happens to the water that's going there now? There's a tremendous amount of overflow water not being used for ag that goes straight to the ocean (millions of gallons a day).
- 2) When the Board of Water Supply was threatened with a lawsuit, Isaac Hall was backed by Mark Sheehan. A private citizen shouldn't have to come up with the money to file a lawsuit against something that's being done illegally. The decision of the Supreme Court on the Waiahole Ditch set the tempo for things that should and must be done in the future. It should have been the end of that joint venture. The people at Wailea 670 and in Makena need water just like West Maui needs water, but do it the right way, without circumventing the basic law.
- 3) He's been told that West Maui has plenty of water; the only trouble is getting to it. It can't be pumped out of the wells because no one can pay for pumping. When Pioneer Mill shut down, that was the end of the power plant that pumped the water. Now we have red dust. We need something in the Charter that says if somebody purchases ag land then ceases agricultural operations, they must put cover crops in that will protect the land and the water source before they can divest themselves from all liability. Diversified Ag has been trying all sorts of things, there are a lot of troubles, but there are a lot of things that still can be done.

Mr. Johnson concluded by saying that there is a price we pay for living on an island. Let's pay it and preserve what we have.

MS. LOUISE ROCKETT

Ms. Louise Rockett, who was on the Advisory Committee to rewrite the Lahaina Community Plan, said:

- 1) She saw Kapua Village happen. It was very frustrating to spend six years on the Community Plan and to see that the process didn't work. They asked to be on the mailing list for when someone wants to make a change to the Community Plan; they didn't receive a single letter.
- 2) They had so many meetings, and nothing ever happened. The community was getting tired of being led around by its nose, so that's why they didn't show for the Charter Commission meeting. Project Impact is great, but it's another example of just having another facilitator come in to let them talk about what's wrong.

CONCLUSION

Chair Vencl thanked everyone for coming and said they'd take everything to deliberations, then return to Lahaina to discuss what they've come up with. Between now and September, any correspondence can be forwarded to the attention of the Charter Commission in care of the Mayor's Office.

Mr. Mike Foley in Napili sent his testimony to Chair Vencl's office because he could not attend the meeting. She gave copies to the commissioners. The meeting was adjourned.

To: all Commissioners
From: Jerry!

The 1st draft of our
facsimile ballot for our
ballot print materials.



Know How To Vote

on the proposed amendments to
the charter of the County of Maui



<p>1 Should the Article 1 of the Charter be amended to confirm the equal worth and dignity of every individual?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>	<p>6 Should the planning process be clarified whereby (A) the duties of the Department of Planning would include long-range planning and management of cultural resources, (B) the Department would be required to enforce zoning ordinances, (C) the Planning Commissions would be required to review and take action on revisions to the General Plan and on amendments to land-use ordinances within 160 and 120 days respectively after the final public hearing, (D) the purpose and nature of the General Plan would be clarified by incorporating language from Section 226-58 of the Hawaii Revised Statutes, (E) the Planning Director would be required to issue an annual report on the implementation and enforcement of the General Plan and the community plans, and (F) the County Council would be required to take action on revisions to the General Plan proposed by the Planning Director within one year and on proposed revisions to zoning and land-use ordinances within 180 days?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>	<p>9 Should the Department and Board of Water Supply be restructured to have more control to operate, whereby (A) the Department would have the authority to coordinate private water systems (while respecting existing property rights), and (B) the Department would have the responsibility to prepare water use and development plans for each community plan district and a long-range capital improvement plan (both of which would be updated every five years); whereby (C) the Board of Water Supply would be restructured so that the Directors of the Departments of Planning and Public Works become voting members of the Board and the other seven members would be appointed by the Mayor with approval by the Council for three-year terms (subject to being reappointed once), (D) the Board would be given the power to establish rules and set rates without further review, (E) the Board would be required to evaluate the Director annually, and (F) the Board could hire (using the Department's revenues) independent legal counsel by a two-thirds vote when necessary and whereby (G) an independent audit would be conducted annually, after which the Council could make recommendations for changes?</p> <p>Alternative 9. Should the Department and Board of Water Supply be restructured in a manner whereby (A) the Department would become a regular County agency subject to the Mayor's executive management and the Council's legislative oversight and (B) the Board would be reconstituted as an advisory body (with the power to recommend budget proposals and rate adjustments), whereby (C) the Mayor would be assigned the power to appoint the Director (with the approval of the Council) and (D) the Mayor and Council would continue to have final approval of rates and regulations; whereby (E) the Department would have the responsibility to survey public and private water sources and (F) prepare and annually update a long-range capital improvement plan (subject to Council approval) and implement such approved plans, and whereby (G) the Council would have the power to issue general obligation bonds and provide appropriations for capital improvements of the water system?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>	<p>10 Should a new Department of Transportation be created, to be directed by a Director of Transportation, who would have responsibility for planning and coordinating the development of new highways and public transportation as well as transportation in the air and on water?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>
<p>2 Should the terms of Council members be lengthened from two (2) to four (4) years, with term limits of three (3) consecutive terms or two (2) consecutive years (whichever shall be longer, beginning in 2008, with terms to be staggered)?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>	<p>7 Should the role of the Citizen Advisory Committees be to review and recommend revisions to the community plans and to stay in existence until their recommended revisions are approved, modified, or rejected by the Council and the Mayor, and should the community plans once approved become part of the General Plan?</p> <p>Alternative 7. Should the role of the Citizen Advisory Committees be to review and recommend revisions to the community plans, to monitor the implementation and enforcement of the general and community plans, and to review comprehensive revisions to the general and community plans at least every ten years, and shall these Citizen Advisory Committees be permanent for each community plan district?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>	<p>11 Should the terms of the members of the Salary Commission be staggered so that two of the nine members would be appointed (or reappointed) each year (except that only one would be appointed or reappointed every fifth year)?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>	<p>11 Should the terms of the members of the Salary Commission be staggered so that two of the nine members would be appointed (or reappointed) each year (except that only one would be appointed or reappointed every fifth year)?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>
<p>3 Should the responsibilities of the Corporation Counsel be clarified to state explicitly that the Corporation Counsel is the legal advisor and representative of the County of Maui, the Council, the Mayor, all county departments, and all boards and commissions, and to state that the Corporation Counsel shall perform additional duties "as may be incident to the department or required by law" instead of the current "as shall be assigned by the mayor"?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>	<p>8 Should the Civil Service Commission have the power to remove the Director of Personnel Services, but only after the Director has been given notice of charges and has been granted a hearing?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>	<p><input type="radio"/> YES <input type="radio"/> NO</p>	<p>12 Should a minimum of one percent (1%) of the real property tax revenue be put each fiscal year into the Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund to be used for purchasing lands or other property entitlements to preserve open space, and should the unspent revenues in this Fund remain in the Fund, and not lapse, thereby accumulating from year to year?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>
<p>4 Should the name of the Department of Public Works and Waste Management be changed to be the "Department of Public Works and Environmental Management" and should its responsibilities be broadened to include supervision of environmental management and pollution, including solid waste collection, recycling, litter control, and protection of the unique beauty of Maui County?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>	<p><input type="radio"/> YES <input type="radio"/> NO</p>	<p>For more information: www.countyofmaui.com</p>	<p>13 Should boards and commissions be allowed to meet in accessible privately owned locations when publicly owned buildings are not available or appropriate for their meetings?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>
<p>5 (A) Should the name of the Department of Fire Control be changed to be the "Department of Fire and Public Safety," (B) should the name of the Public Safety Commission be changed to be the "Fire and Public Safety Commission," (C) should this Commission be given the responsibility to hire and fire the fire chief and the power to review the Department's budget, and (D) should the duties of the Fire Chief be clarified to include responsibilities over rescue and first-responder emergency services, public education, training, and monitoring the standards for construction and occupancy of buildings?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>	<p><input type="radio"/> YES <input type="radio"/> NO</p>	<p><input type="radio"/> YES <input type="radio"/> NO</p>	<p>14 Should the provisions of the Maui County Charter be modified by non-substantive "housekeeping" changes including (A) removing obsolete provisions, (B) using gender-neutral language throughout the Charter, (C) using Hawaiian language spellings for Hawaiian place names, (D) describing the Council residency areas in geographical terms (instead of by reference to voting precincts), (E) eliminating references to political parties to fill Council vacancies, (F) changing "crime of moral turpitude" to "felony" with reference to the disqualification of the Mayor, (G) clarifying restrictions on County employees appearing before boards and commissions, and (H) renumbering sections as appropriate in light of other amendments?</p> <p><input type="radio"/> YES <input type="radio"/> NO</p>

CHARTER COMMISSION DIRECTORS: Terry Venci, Chair • R. Sean McLaughlin, Vice Chair • Vince Bagoyo, Jr. • William Fulvian • Gwen Hiraga • Stephen Holaday • Karolyn Mossman • Stephen Petro • Erlinda Rosano • Donn Takahashi • Ray DeMello

May have to add Council only too - This will actually be our first in small but serves the purpose.

disclosure - For edu. only - actual ballot may differ