

To: Josh Stone, Chair, Maui County Charter Commission, and Members

From: Sally Raisbeck
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Date: July 3, 2011

Subject: **COMMENTS ON YOUR RULES**

1. I apologize for taking advantage of your rules to speak on several agenda items at your meeting of 6/27/11. You might want to change that rule (11.2A) if you dislike repeated public input from the few people who attend your meetings. Remember that your rules are for your convenience, not handed down from on high.

2. Three minutes is too short for almost anyone to present anything at all complicated. Plus being interrupted by the timer disturbs their train of thought, and disturbs your listening to them.

(I just thought of a way to convince you of that: Spend one of your sessions where each Commissioner is restricted to three minutes at a time and Lisa interrupts after three minutes! And each Commissioner can only speak twice on an item, **as your rules say! Rule 3.8**, you should change this.)

Why not establish a variable rule for testimony: If five or fewer people want to testify, give them six minutes without the option of coming back. If six to twenty want to testify, give them three minutes plus the option of a later three (two?) minutes. If over twenty want to testify, (if ever!) give them three minutes with no option. (If Mr. Kushi says you can't, ask why.)

3. If your intention is truly to have public input, you have to think harder **about how people can find out what you are doing and what you are going to be taking up**. Especially the huge majority of people with no easy access to your meetings and to the Corp Counsel's office. Think DeGray Vanderbilt on Molokai, Matt Mano on Lanai. Someone in Hana.

In order to testify with relevance, the public needs advance knowledge of the specifics you are considering.

Having Akaku record and play your meetings will be of great help. But not everyone has cable, and not everyone can watch at the random times they play the meeting. Not everyone can spend three hours watching a video **that could be summarized in three pages of summary minutes**.

4. Transcripts are NOT required, but the lawyers love them. **Summary minutes** are much more useful as an aid to memory; they can be ready in a day, approved by the Chair and/or vice-Chair, and immediately posted on the website. (Change Rule 4.1C from "call for approval", to "approve".) If you hire a good Commission Secretary, you could have BOTH a transcript AND summary minutes. That way, if the Maui News continues to ignore you, those who are

interested can find out within a day what you did. And you can review sessions that you yourself miss, much more easily, and before the next meeting.

The agenda can include a standard item where any Commissioner who objects to anything in the minutes as approved can raise a question or an objection.

5. Transcripts involve unavoidable delay. Today is July 3, and the latest minutes on the website are for May 23. The minutes presented on 6/27 (for 6/8, 6/13, and 6/13) had not been available for reading, therefore can not be approved until the next general meeting on 7/11. Long delay is unavoidable.

6. Dave DeLeon was right to object to approving minutes, i.e. transcripts, when nobody had had a chance to read them. Tonya McDade is a gem of a court reporter, whose transcripts are the best I have ever seen, and remarkably timely compared to most transcripts for most commissions. You might appoint one of your members to actually read the transcript and report on errors if any. With meetings twice a month, it takes at least a month after the meeting before anyone can find out what happened, if you depend on only posting "approved" transcripts.

7. You could also change the rules to allow testifiers to testify at the **start** of the meeting **OR** at the **end** of the meeting (not both, so no increase in time). That way, they could give you immediate feedback on your actions during the meeting.

8. I do not apologize for using my public testimony to reach the Akaku audience and publicize the district voting measure I favor, i.e. **"ONE MAN ONE VOTE" -- AND SELF-RULE FOR LANAI AND MOLOKAI.**

If I had \$400,000 to spend on publicity county-wide, like the Mayoral candidates (an incumbent Mayor vs a former Mayor, pretty well known to begin with): or if I even had \$100,000, like Mike White, I would not have to stoop to getting free publicity wherever I could. But alas, I don't.

Getting the controversies out into the open might arouse interest in your meetings, until even the Maui News will have to cover you!

Good luck, aloha, and thanks for devoting your valuable time to this endeavor. I offer these suggestions in hopes they might result in a more efficient use of your time.

Sally Raisbeck

To: Josh Stone, Chair, Maui County Charter Commission, and Members

From: Sally Raisbeck
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Date: July 11, 2011

Subject: **ORAL TESTIMONY 7/11/11**
Items Exec IIA, IB, IC, II, IID, IIE, IVA, IVB, IVC

Good morning, Mr. Chairman and Members:

1. THE RIGHT ANALYST, THE RIGHT SECRETARY. Item Exec IIA
The most important thing you can do for your effectiveness is to hire the right analyst and the right secretary. They will be either helpful facilitators, or else inefficient, confusing bottlenecks in your work. The right ones will not guarantee you efficiency, organization, and comprehensiveness, but without the right ones you will have a very difficult time accomplishing anything.

2. ARE YOU INDEPENDENT OF THE COUNCIL, OR NOT? Item Exec IIA
Some members still seem to feel that your proposals need council approval. Mr. Kushi has told you that you must spend your last two months (April, May) in an elaborate back-and-forth with the Council. I would say that competent attorneys could have a different opinion. They would argue that the early parts of HRS Chapter 50 applied only to the very first Charter Commission. That would include Mayoral appointment of the Chair. They would argue that subsequent Commissions are subject only to Section 50-11 Charter Amendment and Revision.

§50-11 Charter amendment and revision. Every charter established under this chapter shall provide means by which the charter may be amended or revised. The provisions for amendment and revision must provide for approval of all amendments and revisions by referendum to the electors of the county. The amendment or revision shall be considered ratified if a majority of the electors voting on the amendment or revision cast their ballots in favor of adoption. [L 1963, c 73, pt of §2; am L 1965, c 65, §1(5); Supp, §143A-12; HRS §50-11]

The 2005-2006 Honolulu Charter Commission elected its own Chair, and did not follow the 2-month back-and-forth with the Council recommended by Mr. Kushi. They evidently did not consider themselves bound by the early parts of HRS Chapter 50.

Your time scale is so short that an additional two months would be of great value. You might at least try to get an **independent** second opinion (i.e., not Corp Counsel) about HRS Chapter 50 and what parts of it apply to you.

3. COMMUNICATION WITH THE PUBLIC Items IVA, IVB

Since the Maui News is refusing to cover your meetings, nobody has any idea what you are doing. for example, you had a public meeting in Hana July 5, a week ago. What happened in Hana? How can I find out? I have to wait a month for the transcript to be approved.

Here are some needed changes.

Rec'd 7/11/11 Reg - Raisbeck

Summary Minutes.

Item IB.

You need to have summary minutes taken by a skilled and objective secretary. They could be ready the day after the meeting, approved by the Chair or Vice-Chair, then posted as a draft on the website for all to see. This could be done within a day or two of the meeting.

A standard agenda item could ask for corrections or additions from the members before final approval.

From HRS Chapter 92:

§92-9 Minutes. (a) The board shall keep written minutes of all meetings. Unless otherwise required by law, **neither a full transcript nor a recording of the meeting is required**, but the written minutes shall give a true reflection of the matters discussed at the meeting and the views of the participants. The minutes shall include, but need not be limited to:

- (1) The date, time and place of the meeting;
- (2) The members of the board recorded as either present or absent;
- (3) The substance of all matters proposed, discussed, or decided; and a record, by individual member, of any votes taken; and
- (4) Any other information that any member of the board requests be included or reflected in the minutes.

(b) The minutes shall be public records and **shall be available within thirty days after the meeting** except where such disclosure would be inconsistent with section 92-5; provided that minutes of executive meetings may be withheld so long as their publication would defeat the lawful purpose of the executive meeting, but no longer.

(c) All or any part of a meeting of a board may be recorded by any person in attendance by means of a tape recorder or any other means of sonic reproduction, except when a meeting is closed pursuant to section 92-4; provided the recording does not actively interfere with the conduct of the meeting. [L 1975, c 166, pt of §1]

Transcripts are great for the permanent record, but are useless as tools to allow the public, or members who have missed a meeting, to find out what they missed. There is an unavoidable delay of at least a month in preparing them and approving them. At the moment, July 11, the latest transcripts online are from May 23, 7 weeks ago.

Few people have the time or energy to read the whole transcript to find out what happened.

Summary minutes would be **in addition to** the exemplary transcripts taken by Tonya McDade, who is the best court reporter I have ever seen.

The agenda packet.

Item IB

At a previous meeting, the chair agreed that the agenda packet should be posted on the website, so that the public could know the same details the members receive before the meeting. This is necessary so that testimony by the public can be relevant.

The packet for today, June 11, has not been posted.

It should also be true that any material given out to the members at the meeting by the secretary should be posted on the website, preferably before the meeting. For sure, after the meeting.

Communications from the public.

Item II.

On 7/3/11 I sent in a communication about your rules, intended for this meeting. It did not make it onto the agenda. Why is that? It was sent prior to the agenda being posted. Is it only listed by order of the Chair? Could not Communications be listed (and included) up to the deadline for the agenda?

If the agenda packet is not posted, could topics of the communication be listed? (i.e. for today's communications, "Request for purchase of GIS program", "BWS semi-autonomous or removed")

List of Proposed Amendments. (VERY important)

Item IVC.

Besides agenda and minutes and the agenda packet, you need to post on the website a running list of the proposed amendments, with names of the proposers and dates of proposal. Does the commission have such a list yet? If anyone has a private list, could they share it with me? (sallyraisbeck@earthlink.net)

4. PUBLIC TESTIMONY

Item IC

Tonight on Molokai you may have numerous testifiers for the first time. You can suspend your rules in order to limit testimony if you need to.

My communication of 7/3/11, Comments on Rules, contained my suggestions for your rules regarding public testimony.

5. WHAT ARE THE BIG THREE TOPICS?

So far, the big three are district voting, an Office of County Auditor, and the Board of Water Supply.

District Voting.

Dave DeLeon's proposed amendment will generate controversy in the public, which is good. If other Commission members weigh in with their views, the topic will get the scrutiny it needs. Many details need to be worked out, and you might reconsider your decision to postpone discussion till after the public meetings are over.

County Auditor -- probably a good idea. Very much thought required about how to ensure independence.

Board of Water Supply

Items IID, IIE

I served three years on the advisory BWS, which is useless. The change in 2002 happened because previously there was no accountability. David Craddick was Director for 17 years, had a weak semi-autonomous Board, and had become all-powerful and unresponsive to any public control. His favorite saying was "Maui has plenty of water", while the Iao Aquifer was being used up at a rate that was unsustainable, and the Council was approving developments with no thought about where the water would come from. Putting the water authority with the Mayor and the council at least made them realize that rampant development entailed corresponding demand for water.

If you think the pendulum needs to swing again, from Mayor and Council to a strong semi-autonomous (appointed) Board, at least examine in detail WHY the change was made in 2002. A weak semi-autonomous Board can be controlled by its Director. A strong semi-autonomous Board has a lot of power, and power corrupts. And citizens would have no ability to vote them or their Director out of office. As Dave Taylor implied, a strong semi-autonomous knowledgeable Board might mean continuity, but there would be much less accountability. I think continuing the present system, while eliminating the Board of Water Supply, is the best option.

Also, the Council would object VERY strongly to having its powers diminished. They are the ones who have the final authority over how much and where development occurs, and authority over water needs to be correlated with that. Otherwise you will get power struggles between the Council and the semi-autonomous Board of Water Supply.