

MAUI COUNTY CHARTER COMMISSION PUBLIC MEETING
Kihei Community Center, Kihei
Wednesday, July 25, 2001
6:30 p.m.

PRESENT

Teryl Vencl, Chair
R. Sean McLaughlin, Vice-Chair
Vince Bagoyo
Bill Fuhrmann
Gwen Hiraga
Stephen Holaday
Stephen Petro
Donn Takahashi

STAFF

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

EXCUSED

Carole Ameral
Karolyn Mossman
Erlinda Rosario

CALL TO ORDER

Chair Teryl Vencl welcomed those attending the public meeting at the Kihei Community Center by introducing herself and referring to the agenda that was available for all attending the meeting. She explained that the Commission had a couple of business items to address before beginning the public testimony.

Chair Vencl called the meeting to order and recognized that the following commissioners were present: Vince Bagoyo (Lana'i); Bill Fuhrmann (Hana); Gwen Hiraga (Wailuku); Steve Holaday; Stephen Petro (Moloka'i); Donn Takahashi; and Vice-Chair Sean McLaughlin. Excused Commissioners: Carole Ameral; Karolyn Mossman; and Erlinda Rosario. Staff present: Myles Inokuma, Mayor Apana's Executive Assistant; Brian Moto, Corporation Counsel.

Chair Vencl asked for an approval of the minutes from four meetings that were held on: June 4; June 18; June 20; and June 26. All minutes had been sent out to the commissioners beforehand, and they were asked to make any comments and corrections.

Commissioner Petro requested that the minutes from the June 4 meeting reflect that he was excused from that particular meeting because he was out of state. He also requested that whenever votes occurred, the minutes show that he was excused. Motion was made (Takahashi) and approved (Petro) to accept the minutes with Commissioner Petro's changes. All ayes; none opposed.

Chair Vencl mentioned that all commissioners had been given packets that included copies of all communications that came to her office regarding Charter Commission recommendations or issues, and requested that the commissioners put them in their binders.

Chair Vencl then discussed the process of the Charter Commission. The Commission has begun the process of going out into the communities to find out what the people think and feel about government, and about the Charter itself. She likened the charter to the "County Constitution," saying that it governs our government. This document is reviewed every ten years to see if any changes need to be made.

Copies of the Charter are available on the 7th floor of the County Building in the County Clerk's office for \$2.00. It is also available on the county website (www.co.maui.hi.us/charter.html) along with all minutes (the June minutes that had just been approved will be added) and charter documentation. You may also find them in our public libraries. Chair Venci said that she has received a lot of nice comments about the website and thanked those who have been working on it diligently.

Chair Venci mentioned that the Commission will begin to put together binders for the communities that will include a copy of the minutes, communications, etc. Moloka'i, Lana'i, Hana, and in the central area at the County Council. She said that if anyone had questions or wanted to be copied on anything, to call to let the Commission know.

The Commission wants to know what the community's thoughts are, and where the Charter could stand some improvement. The rules for testimonials are basically what is done at the Council: each person has three minutes to testify, and may take a minute more to conclude (a total of four minutes). Once everyone has had the opportunity to testify, those who wish to say more will be asked to return. After each person has spoken, the commissioners will be allowed to ask questions if any clarification is needed.

TESTIMONIES

MS. DOROTHY WILLIAMS, MAUI MEADOWS HOMEOWNERS ASSOCIATION PRESIDENT

Ms. Williams thanked the Commission for coming to the Kihei community and began her testimony by citing a couple examples in which the community plan, which should be used as a guide, is not enforced. She has worked on the community plan for several years to ensure that infrastructure is taken care of before development can proceed, but there has been very little enforcement of the community plan. While they're not interested in stopping development, they would like to see the infrastructure in first. Without enforcement of any rules or regulations, we don't have anything. A lot of laws are supposed to be governing everything, but it's not working because the enforcement is lax in every area.

She recommended that:

- 1) The basic laws governing Maui County be changed. One place to do that is in the Charter; another place to do that is in the general plan as mandated by the charter. She thought the community plan was enough, but evidently it's not, so she's asking that those two issues are taken care of in the Charter.
- 2) All water is a public trust and the state is the trustee. There's a problem regarding who has the last say on it, so that issue should be cleared up with the Charter as well.

MR. ROBERT NICHOLS

Mr. Nichols said that Maui County has a de facto population of 150,000 to 170,000 people with a government system that is having problems keeping up with the concerns of its people. He believes that Maui will have to decentralize at all levels in the future, and suggested some steps to help with the transition:

- 1) Under the Department of Planning, there should be permanent planning commissions for the county and all eight active communities. The community commissions should have nine members.

- 2) The County Planning Commission also serves as the County Board of Variances and Appeals; these should operate as separate bodies. The eight active communities should have separate Boards of Variances and Appeals, done by the recommendation of the mayor and approved by the Council.
- 3) The charter should make it clear that county and community plans are blueprints and guidelines for the growth and future of Maui. Planning commissions should recommend ordinances that they feel will best promote these blueprints and guidelines; the plans could serve as the primary reference when no ordinances exist in a given situation.
- 4) County departments such as Water, Public Works, and Parks that have planning sections should be required to advise the County and community planning commissions of their goals, objectives, and priorities at least once a year.
- 5) The Charter Commission should meet with various government departments and explain the Charter to them.

Vice-Chair McLaughlin asked if Mr. Nichols envisioned the district-based planning commissions being appointed similarly to the current method (mayor appoints, council approves) vs. an election process. Mr. Nichols replied that he prefers appointing people, and to avoid an unbalanced commission, local input should be used to ensure that there is representation from both the development and the community. His personal recommendation is that the community submit eighteen names to the mayor, who would then select nine people to serve on the commission.

MR. RON STURTZ

Mr. Sturtz addressed the sense of "disenfranchisement of voters," which shows up in low voter turnouts and presentations at hearings. He proposed the following:

- 1) Encourage greater public participation. The initiative process doesn't seem to be employed. He suggested that the percentage required to get a petition on the ballot be based upon the number of voters who voted in the prior election, as opposed to the number of registered voters.
- 2) The current number of 20% of registered voters should be significantly smaller (5 – 10%).
- 3) The provision that a petition needs to be submitted within thirty days is much too short. 90 – 120 days would make this a much more viable institution, one that might function more efficiently.
- 4) Adjust the above-mentioned numbers and timing to permit people to discuss issues and get things on the ballot more easily.

Mr. Sturtz Agrees with Ms. Williams that it is very frustrating with respect to the application of the community plans to what actually happens at the Planning Department. He claims that there are notable violations of the community plan that seem to go unnoticed or get glossed over. One example is that the community plan says Pi'ilani and Mokulele highways should be built out prior to construction of any major new development; this rule is being ignored. Mr. Sturtz agreed to come back at the end to continue speaking.

MS. DIANE SHEPHERD

Ms. Shepherd shared the following comments:

- 1) Part of the reason there is a feeling of disenfranchisement in the community is because we do not have representative democracy as far as Council elections go. There is no reason why Council members should be elected "at-large."

- 2) Moloka'i and Lana'i shouldn't have separate seats; Council seats should be divided up by population; House representatives have canoe districts, so the same should be applied to the Council. If people felt they were truly electing their representative, there'd be a much greater voter turnout. The fact that the Council is selected by the population based in Kahului and Wailuku is not right and is not working terribly well either.
- 3) If a Council truly represented and was elected by each district, we'd have much better planning and more "coherency." As it is, the community plan is an agonizing, inefficient, and ultimately useless exercise that takes months to be worked through and years to be approved by the Council, so when it is finally approved, it's what the community didn't want. For example, areas that have been designated as parks in the community plan are falling prey to deals being done in the back room (again, the feeling of being disenfranchised).
- 4) Regarding moving SMA approvals to the Council: given the present Planning Department, it's a terrific idea. At least elected officials will be responsible for decisions that are made on our coastline, where our economy is based.
- 5) Initiatives should be 10% of the voters.
- 6) There should be consistency between the community plan, the general plan, the zoning ordinance, and the zoning map.
- 7) There should be timetables in the community plan for when things will happen so that it isn't an exercise in futility.

In regards to district representation, Vice Chair McLaughlin asked if Ms. Shepherd has thought of other factors that could mitigate the feeling in remote communities. Ms. Shepherd responded with a question of her own by asking if those places are being well represented now, so she believes that they're not getting represented, and neither is South Maui. While she understands why traditionally, it's been the way it is, but she doesn't view the way the Council is elected at this point as being constitutional.

Vice Chair McLaughlin clarified that his question was whether or not Ms. Shepherd has looked at specific mitigating measures to address the concerns of the current structure, such as having some other elected delegate, or having an additional layer of representation for those specific remote communities. Is there a middle ground, a mechanism between the current "at-large" position and her proposal for district representation? Ms. Shepherd replied that it's very difficult for anyone except the incumbent to run for Moloka'i and Lana'i because if they live there, they have to come to Maui to run, which isn't right either.

MAYOR JAMES "KIMO" APANA

The Mayor explained that he needed to go to another meeting, so he proceeded to explain that the Administration is putting together a package. All departments are required to pass their proposals through him, and they'll get it down to the Commission. He agrees with the speakers on several things:

- 1) Our coastlines are deteriorating. Parcels are no longer sold in acres, but rather quarter acres, or ten thousand or eight thousand square foot lots, so land banking is non-existent; land will be sold, built, developed, etc. What they found out, especially with Palaua, is that time is of the essence. His personal project (as long as he is Mayor) is to put at least \$1 million dollars in coastal preservation to purchase land. He wants to see something that will last beyond his time as Mayor, and hopefully the County of Maui will be able to set aside at least 1% of their total gross revenues for land acquisition. Although this might not be enough to purchase the land that we deem precious, pristine, important, and historical, it's a good start. We have to start somewhere. Instead battling the Council

every year, the taxpayers should have the ability to say what they want. Putting it on the ballot, putting your wishes before the public, we might be surprised with what you find.

- 2) The Mayor agrees that the SMA belongs with the Council because the Planning Commission is supposed to be advisory. They are now given the authority of final approval, and I don't think that's the intention our forefathers and foremothers had. They were supposed to help the Council go out into the public, get in touch with the neighborhood areas, and report back to the Council. But now they have been given final authority with no real responsibility to anyone but themselves.

Chair Vencl thanked the Mayor and asked if the commissioners had any questions. Vice-Chair McLaughlin needed clarification regarding the specific authority in the Charter to the Planning Commission for coastal zone management: was the mayor suggested that taking it out of the Charter be considered? The Mayor replied in the affirmative

MR. BUCK JOINER

Mr. Joiner said the Charter is all in all a pretty good document, but there is room for a little fine tuning and some suggestions; there is some confusion in there. He offered the following comments:

- 1) Items 3-2 and 7-2 refer to every election as a "special election." Every single election for county officials is a special election. It is considerably misleading because it's Primary and General, and you're going to confuse the voters. A special election is one you hold that is not at the time of other "normal" elections. So this is just a verbiage change.
- 2) Section 3-4.1: delete the section "and, if the person succeeded . . . shall be a member of the same political party as the person succeeded." We don't have partisan elections in county elections, that's not "sensial."
- 3) Item 7-3.1: everything after the first sentence should be moved to a separate section (or moved to section 7.6).
- 4) Item 7-3 is something that could get us into some difficulty. "Moral turpitude" is not a sufficiently definitive legal term. It's not well defined (is a DUI included, does this include a misdemeanor?). A cursory review of information on the internet indicates there is tremendous argument and flexibility in the definition of "moral turpitude." Add some definition to that to define what the grounds are for dismissal.
- 5) 8-8.6 has been enumerated before. The general plan, the community plan: either put some teeth into them, make them enforceable, or delete them entirely. The Mayor is charged with the responsibility of enforcing the general and community plans as they are adopted by ordinance. However, Corporation Counsel has ruled that these are only guidelines, and are not enforceable. Either put teeth into the ordinances, or don't do it (waste of time, can't have it both ways). The Charter Commission must determine if an ordinance is a law or a guideline.
- 6) On the Cost of Government Commission, there has been extreme difficulty with the attendance of one member (two of the past fourteen meetings). Attempts to reach him have been unsuccessful. Removing such individuals under the current rules is extremely difficult. Proposal to add a section (13-2.18): at the recommendation of any board or commission, the Mayor shall be empowered to remove a member of any board or commission who has missed three, (50%) or more meetings within a six month period. This removal shall not require Council action. To have someone forcibly removed, you have to go through all the rules in the Committee, then you have to give it to the Mayor, who has to give it to the Council. Simplify this process.

Vice-Chair McLaughlin asked what type of enforcement Mr. Joiner wanted to see on the community plan. He replied that a lot of time was spent on making this document. Areas that have been clearly designated as parks . . . they have fought this battle in court before: does the community plan have legal standing? It went to the Supreme Court of the State of Hawai'i, and they said yes, the community plan has legal status. However, when it comes to Palauea, Corporation Counsel says, "well, different developer, maybe we like these guys better, so now the community plan has no significance." So which is it? We want to watch the situation in Sprecklesville and Baldwin Beach as to whether that designation of the community plan has viability. It is critical. Mr. Joiner said, either define it as an advisory plan, and if it's going to have some value and some enforceability, I'll help.

Commissioner Bagoyo said that when you designate certain property on the community plan, would you want to petition to down zone on that property, and are you willing to pay for down zoning? Because basically, the zoning prevails until the land is down zoned.

Mr. Joiner said they understand that there are going to be significant conflicts, and some of this will have to go to court. Palauea was very significant in that the owner bought that with the understanding that in the community plan, that was already designated park. The park existed already. Kama'ole Park's designation in the community plan was made at about the same time as Gattry. So how do you enforce it and to what extent? There will have to be some monetary compensation, and a lot of court cases.

Commissioner Bagoyo stated that throughout the public meetings like Pukalani and Lahaina, the theme of the testimonies has been to enforce and define the community plan. He's trying to determine what kind of enforcement mechanism should be considered.

Mr. Joiner pointed out that it just passed as an ordinance, it's signed by the County Council. An ordinance means that it's supposed to be followed. He states that he doesn't know if he has the legal background to be able to tell the commission or the Planning Department the experience in other communities. Kihei has to look at other places to find out where people would put more money and more resources to resolve the problem.

Commissioner Bagoyo then requested that Chair Venci ask Corporation Counsel to give their legal opinion as to how the community plan can be enforced because this has been a recurring theme, and as a commissioner, he wants to get some ideas about the kind of enforcement we need, if any. The community plan is not of zoning that far. There is a case of Kamehameha when the City and County of Honolulu tried to down zone the property close to Sandy Beach and had to pay a mega price, so he just wants to make sure that they're very careful about those things.

MS. SHERRI CARDEN-MCDONALD

Ms. Carden-McDonald thanked the Commission for being in Kihei, and thanked some people in the audience that helped out with the community plan. She expressed her concerns about the community plans; she sat in on many of the west side community plan meetings. They really thought they were going to get some park land, either in Olowalu or North Beach (Keka'a), but it turns out that both areas are being developed, so she understands the frustration of those involved, and was wondering where the accountability was. She presented the following comments:

- 1) The Planning Commission is kind of overstepping their boundaries a little bit. The Charter could put a little bit more of something in place to say that they are an advisory committee

to the Council, and let the Council have the final authority on that. We've elected them; they deserve to have that say. The community put their trust and their faith in them, and what they've seen the Planning Commission do is not in the best interest of their community.

- 2) She would like to see four-year terms for the Council members. Two years is just too short. It doesn't give them time to learn what they need to do.

Commissioner said Ms. Carden-McDonald indicated that the Planning Commission should be advisory and the Council should have the final decision-making authority. Is this only for SMA permits, or is this for special use permits as well? Ms. Carden-McDonald thinks it should be reviewed on a case-by-case basis so that the Planning Commission isn't just "rubber stamping," running amuck. There needs to be a lot more checks and balances.

MR. RON STURTZ

Chair Venci called Ron Sturtz back to finish up his testimony.

- 1) Mr. Sturtz said that it appears we have interesting guidelines or laws in place that provide discretion to the Planning Department to make decisions. That discretion appears to be one sided or abused, and creates a lot of frustration for the community. The Charter can provide the legal basis for the enforcement of various existing regulations. The issue of community plans being interpreted as law vs. guidelines can be solved by having the Charter say that general and community plans are legally binding; then these plans would be official county documents, not guides. If you have enough specificity in the County Charter on these issues, you provide the legal basis for enforcement.
- 2) Manning the various departments and how they exercise their discretion comes into the interplay between the executive, legislative, and administrative branches as to who they put in place and what kind of pressure they put on them to follow the laws. I don't think that's in the near purveu, but what you can do is set forth the constitution, the laws that someone else will look to for reinforcement.
- 3) Mr. Sturtz suggests stating as part of the Charter that the community and general plans must address certain issues, so that there is some guidance in the community plan process. These issues include: affordable housing; parks and open space; growth management; transit alternatives; shoreline protection; ag provision; and the preservation of historical and cultural resources for the native Hawaiian community to preserve what's there.
- 4) The sense of disenfranchisement that the people of Lanai and Molokai have because they can't intersect with the Council and give testimony may be alleviated by utilizing Maui Community College's interactive television. Then these people would be able to give their testimony. This is already being done on one island; it would be a relatively simple process to accomplish. Once you set it up for the County Council, you could also set it up for community meetings that are presently televised.

Vice-Chair McLaughlin stated there is a real opportunity in the Charter review to modernize the way that government proceeds to engage more of the public. He thanked Mr. Sturtz for addressing the "disenfranchised" issue, and said he is really looking for ideas to engage the public. In order to be an informed participant in deliberations, access to information in a timely manner is a critical ingredient to effective democracy. He asked Mr. Sturtz about his suggestion about trying to implement through technology a more interactive process to engage folks in remote areas, and if he had any other insights (enough access to information, is it timely)?

Mr. Sturtz replied that he does get the information he needs, but suggested that, especially on an issue that's going to have more than one hearing, with abundant notice as opposed to just

legally required notices, the people will really know what's happening. That requires interplay between the county agencies and the newspapers (maybe a page that's dedicated to these issues so people will know where to look).

Another alternative is to use the internet more as an information exchange. On issues that have significant public interest, the internet offers you the opportunity to poll the public. Vote.com puts key issues up before the public, the community. People who don't have email or internet access can access computers at their public library or a cyber café. It's working nationally with Vote.com, so we know it's an effective tool.

We have a lot of laws on the books, and we still run into the old boy network in our government processes. A lot of people don't participate because they feel that government doesn't listen to them, and the rules aren't being followed. In terms of public relations, we all have the opportunity all of the time to encourage those in positions of power to communicate, to issue press releases, have the press print them, and give opinions. Buck is doing a great job with hot topics, and Don is doing a great job on Opinions Maui. Channel 44 will help, unless you want to move it down to one of the basic channels so people can see it. There are lots of things that can be done. Maybe we have some office in the county that should be thinking about these things, ways to better communicate with the population, ways the community can respond that doesn't take away from their working hours, something they can do at home.

MS. DOROTHY WILLIAMS, MAUI MEADOWS HOMEOWNERS ASSOCIATION PRESIDENT

The public is very disgusted. We've got almost the same people here that were at the Mayor's Lounge the other day. There's a core group down here that comes to every meeting because they think it's important. The majority of the people have the theory that "it isn't going to do any good, why are you going?" That's the attitude. They want things done, but they want somebody else to do it. I don't know what you can do, but if you make it fun, they'd come.

MR. ROBERT NICHOLS

My background in working on a lot of plans. One thing that's unique about Maui plans is they're not finished. The last chapter isn't there. The last chapter is usually the lawyers telling you what laws you have to pass to make those plans legal. What has happened in the past is the plans have been sent to the Council without any ordinances to be approved or changed. As a result, the Council in effect accepts the plan and says this will be our law until we go. He used the example of the recommendation that a certain parcel should be a park. The county has no down zoning ordinance, the parks department hasn't given them the priority. By law all they can do is approve it wherever the developer wants. It's not what the community wants; the Council screwed up somewhere and didn't do the job. It's not the Planning Department, it's a judicial group. They have to be separate, we have to put some teeth into this thing.

You have Councilmen (and women) and people in various departments who have no idea what their legal status is, so they just go out and do what they know. So one of the things the Charter Commission can do is to sit down with each group and say, "This is how far you can work, and when you get to this point, you turn it over to the next point." At least tell the people what they can do.

MR. DAVID CRADDICK

Mr. Craddick discussed the following issues:

- 1) In the State Constitution, it not only says the state has the trust for taking care of the water, but it says "all political subdivisions thereof." It includes the County, and portion of the county of which the Water Board is a part. In the beginning of the Charter, under the Water Department, it says, "the Water Department is in charge of all water of the County."
- 2) The Water Department takes a very strong responsibility for our natural resources, spending 1% of their budget on that. They have been instrumental in forming the West Maui, Moloka'i, and Lana'i watershed partnership groups, and participate very fully in the East Maui partnership group that was formed in 1991.
- 3) Another issue, one that was left off his letter, is that the Water Department provides a fairly heavy subsidy to one particular group of people. He doesn't know why, if you're a customer of the Water Department, you have to provide that subsidy. He believes that ag is good for this county, including private water companies and the Water Department. I think this subsidy issue needs to be addressed somewhere in the Charter. If there's going to be a subsidy for any group, the County needs to decide on the subsidy, and pay for that subsidy as a whole.

Vice-Chair McLaughlin brought up the terms of enforceability and accountability, saying that the Commission has heard a lot about different boards and commissions that have real and substantial authority, and have heard proposals that the Board of Water Supply be elected, or that it be converted back into a county department. He then asked if Mr. Craddick wanted to make a comment on either of those proposals.

Mr. Craddick replied that they are preparing something for the Commission. They have taken about thirty water utilities across the country that are similar to ours, who are going through their charters, how they're formed and how they operate. The only fairly consistent factor through all of them is a lot of them have the water and wastewater. In California, there's now a trend where even storm water is included with the water agency of the county.

Beyond that, the research isn't complete yet, but one very interesting one he noticed was the Denver Water Department, regarding the issue of attendance. All board members were paid \$600 a year. Board members were charged \$25 for each missed meeting, and if they missed three meetings, they were off the Board.

The Santa Clara Board has a portion of them voted in, and a portion of them appointed. It's quite an operation there.

Mr. Craddick believes they should be operating as a utility; politics shouldn't enter into that, but it still does somehow. Vice-Chair McLaughlin clarified that the Water Department will be submitting further information regarding research information.

MR. RON STURTZ

Mr. Sturtz had some general comments to add:

He asked if the Commission worked with legal counsel in terms of the direction of the changes they're making. Chair Vencil responded that the Commission has Corporation Counsel, Council Services, who oversees and helps the Commission, and at a point where they need further assistance, the Commission may go out and get some more. The "who" or "when" has not been determined yet.

Mr. Sturtz explained that the reason he asked that question is because in order to have a county charter enforceable, it has to be specific enough that if someone looks at it from the outside (like a court), then they have something to enforce. If it's too vague, ambiguous, or general, they can't do anything about it. The MECO/IRP Plan was required by the Public Utilities Commission to comply with county laws, which are pretty general, so it's not very enforceable. The County Council is looking at redrafting or passing an ordinance setting forth with some precision what the alternative energy policy should be. This way the PUC would then follow what we want to do.

Mr. Sturtz wanted to add the following to his list of what the Charter should be directing the community plans to include: alternative energy language, language concerning encouragement of alternative resources to energy production besides just fossil fuels. Give it enough specificity so that it's enforceable. There was a general consensus in the public that it was desirable to try and get away from our reliance on fossil fuels. It's been frustrating because the law is just too vague and general. So he encouraged the Commission to be specific enough in all aspects of their proposals so that they are enforceable.

CONCLUSION

Chair Vencl said she wanted to share a little bit more about the process before closing the meeting so everyone knows where we go from here. The Commission has the entire month of August, each Wednesday night at 6:30, in a different community. They will then have covered the nine communities in our county.

After that, beginning in September, and through October and November, it is her intent that the Commission will put all of the ideas presented to them on the table, and begin to deliberate those things. At that point, they will call in people for research and expertise to help them determine where to go with the Charter.

She hopes that by December, or at the latest, January and February, the Commission will return to the communities to present what they have gotten from those particular communities, and get further input. It is her understanding that the Commission's written report about what they've done needs to be submitted to the Council by April. The report will then be turned back to the Commission so they can review the Council's comments and finalize the report. It will then be submitted to the County Clerk's office by July or August in order to get things ready for the ballot in November of 2002.

You are all welcome at any time to call or email or visit with any commissioners if you have further things that come to mind. Please don't hesitate to do that, because the more information the Commission has when they start looking at the ideas, the better it will be for them. The comments submitted in Kihei are appreciated. The floor was opened once again for further testimony.

TESTIMONIES (B)

TOM BLACKBURN RODRIGUES

Mr. Black wanted to thank the commissioners for volunteering their time. It is his understanding that much of what he's heard in various presentations and conversations is that the Commission is dealing with the mechanical aspects of government, and its overriding principle is to expand democracy and make it work better.

One of the issues not really on the table, and one we need to be aware of, is poverty in the County of Maui. There is hidden poverty in this county. Mr. Black would like the Commission to consider requiring the county government, or a particular department in the government, to issue an annual State of the County in terms of the county. What is the definition of affordable housing? What income do you need to have to own a home on Maui? What is a livable wage? How many people do not have health care? How many people do not or cannot afford childcare?

There are a lot of problems on Maui that we deal with which are unfortunate because they're caused by people making bad decisions, and sometimes we focus on those. But these are things that happen to families and individuals through no fault of their own. They work hard, they play by the rules, they don't have childcare, can't afford a place to live, they have trouble with transportation, a number of things. He thinks it would help shape and guide county policy and departmental policy. Whether it's Health and Human Concerns, Economic Development, or land use issue, so Mr. Black suggests that the county issue an annual State of the County report as it relates to the issue of poverty in Maui County. It's something we need to discuss and be frank about. We need to talk about more than land use, energy, and environmental issues.

HELEN NIELSEN

Ms. Nielsen testified as an individual, but she is the Director of the Maui Coastal Land Trust. She has an added interest in open space acquisition. Her message isn't very clear at the moment because she hasn't really resolved what the best approach is at this point, but she wants to put it in motion and in the Commission's consciousness that she would like to see money set aside for open space acquisition, whether it's a portion of the real estate transfer tax, or a portion of the property tax, she's not sure. She'd like to see what the numbers are with the property tax, and what percentages fare. Percentages vary so much throughout the state, in different areas that do set aside a lot of open space. The San Juan Islands set aside something like 4%, which is a lot. Even if it's a ½ % of our transfer tax, it would be a real big boost to finding money for such a noble cause. So she'd like to just put that on the agenda at some point and hopefully she'll follow up.

Chair Vencl asked Ms. Nielsen to please put her recommendations in writing and submit them so the commissioners can all have copies. She reiterated that the Commission intends to begin discussing this the first of September, after they spend August finishing up in the communities. The more ideas about how to do that, the better.

Vice-Chair McLaughlin referred to when the Mayor suggested setting aside 1% of the county's annual revenue, and asked if Ms. Nielsen would endorse the Mayor's proposal.

Ms. Nielsen replied that she most certainly would; it's a lot more than she ever dreamed of. She reiterated that she will put her comments in writing, and commended the Commission for putting out the notices to try to get the community to participate in the process.

JONATHAN STARR

Mr. Starr testified as an individual, although he is a member of the Maui Board of Water Supply. The Board considered testifying as a group, but decided to testify as individuals with full freedom to speak their hearts.

Mr. Starr feels very passionate about the way the Water Board is constituted. It's not set up in a manner that's really designed for success. Rather, they have an entity that's designed for failure

and tends to be dysfunctional. The Board has some really great members, but they are amateurs, not professionals. There's a huge amount of responsibility on them, but there's no accountability that goes with it. They still don't have the power to act decisively because they don't have any control over what happens with their rules or their budget. Mr. Starr doesn't think they can carry the load or that the decisive decisions that need to be made can be made by an entity like theirs.

There are several solutions. He's spent quite a bit of time at annual water conventions, talking to different people, going to seminars, and finding out how it's done in other places. It's done in a large variety of ways. We're only dealing with a very small portion of our water resources, and that puts us at a disadvantage. The entity that they are (a utility dealing with potable water resources for the community) should also be dealing with recycled water, and other types of products so they'd be in the position of marketing a number of different types of products. Perhaps it should even be a larger entity (public works, wastewater, and potable water).

One answer that Mr. Starr believed for a long time would be better than what we have now would be to put Water under the administration as a department, because then it becomes accountable. It would become more of an advisory board. The power, accountability, and responsibility would be under the administration, and the voters would be able to make a change if they didn't like what was happening.


Mr. Starr wrote a charter amendment about three years ago that was put forward by then Council member Sol Kahō`ohalahala. That was the same time the non-partisan issue was such a hot issue, so his proposed charter amendment was put on the back burner.

Another possibility would be to create a governmental corporation that would be managed by professional directors (like the Corporation is), but one that would still be a government entity, then rates would be set by the PUC. There would be a lot more accountability in a job that calls for a professional. That sort of organization tends to be immune to corruption because if paid directors abuse a situation, then there are very strict legal ramifications.

There are other possibilities available, and Mr. Starr would be happy to help if the Commission is looking for ways to change this. He put himself at the Commission's service. Chair Venci requested that Mr. Starr list the viable suggestions sometime before the end of August so that all the commissioners can review them.

CONCLUSION (B)

Chair Venci thanked everyone for coming, said the Commission would be in touch, and please don't hesitate to call. <applause> The meeting was adjourned.



Ke'ala Pasco, Charter Commission Assistant