

From: Tessa Tanaka
To: Moto, Brian; Ogasawara, Kay
Date: 1/23/02 9:07AM
Subject: emailing testimony for Charter Commission

Per Myles, testimony can be emailed using link on the County's website for the Charter Commission, or to: mayors.office@co.maui.hi.us.

From: <Keala33@aol.com>
To: <TVencl@aol.com>
Date: 1/21/02 8:33AM
Subject: Official Charter Commission Web Page

Aloha `oukou ~

The County of Maui website (and thus the official Charter Commission web page) has been updated. For your information, our web page can now be found at:

Maui County - Charter Commission

If you are unable to use the link above, please copy and paste the following into your web browser:

<http://countyofmaui.maui.net/boards/bDetail.php?BoardID=37>

This is a very important resource! On this page, you will find links to Agendas, Minutes, Issues (Proposals), and the updated Charter Commission Schedule. Mahalo!

~ Ke`ala

**Maul County Charter Commission
2002 Meeting Schedule**

Month	Date	Day	Times		Purpose	Location
January	7 th	Mon.	8:30	4:30	Commission Work	6 th Floor Committee Room
	15 th	Tues.	8:30	4:30	Commission Work	Prosecutors Meeting Room
February	6 th	Wed.	6:00	8:00	Community Input	Kihei Community Center Small Meeting Room
	13 th	Wed.	6:00	8:00	Community Input	Moloka'i Kaunakakai Cafetorium
	20 th	Wed.	6:00	8:00	Community Input	Lāna'i Hale Kupuna
	27 th	Wed.	6:00	8:00	Community Input	Pāyia Community Center
March	6 th	Wed.	6:00	8:00	Community Input	Old Hana School Cafeteria
	13 th	Wed.	6:00	8:00	Community Input	Wailuku Community Center
	20 th	Wed.	6:00	8:00	Community Input	Pukalani Hannibal Tavares Center
	27 th	Wed.	6:00	8:00	Community Input	Lahainaluna High School Chorus Room
April	1 st	Mon.	8:00	12:00	Commission Work	6 th Floor Committee Room
	3 rd	Wed.	8:00	12:00	Commission Work	7 th Floor Committee Room
	10 th	Wed.	8:00	4:30	Commission Work	7 th Floor Committee Room
	17 th	Wed.	8:00	4:30	Commission Work	7 th Floor Committee Room
	22 nd	Mon.			Submit to Council	

2/11/2002

MAUI COUNTY CHARTER COMMISSION

Website: <http://countyofmaui.maui.net/boards/bDetail.php?BoardID=37>

County Council Committee Room
Kalana O Maui, 7th Floor
200 South High Street, Wailuku

Wednesday, June 5, 2002
8:00 a.m. ~ 4:30 p.m.

AGENDA

COMMISSIONERS

Terryl Venci, Chair
R. Sean McLaughlin, Vice-Chair
Vince Bagoyo, Jr.
Ray DeMello
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

AGENDA ITEMS ARE SUBJECT TO CANCELLATION. For a confirmation of the meeting date and time, please contact Commission Staff Brian Moto or Kay Ogasawara at Corporation Counsel, 200 South High Street, Wailuku, HI 96793, 808-270-7741, 1-800-272-0117 (toll-free from Moloka'i), 1-800-272-0125 (toll-free from Lana'i), or 808-270-7870 (fax).

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RECEIVED

2002 MAY 29 PM 3:40

OFFICE OF THE
COUNTY CLERK

- I. Call to Order
- II. Approval of Minutes
- III. Accept Communications into Record
- IV. Presentation of Public Testimony
- V. Review, and consider possible actions in response to, proposed Charter amendments, recommendations, and other matters addressed in Council Resolution No. 02-63, Resolution No. 02-64, and Committee Report No. 02-58
- VI. Review, and consider possible modifications and revisions to, Charter Commission Final Report (inclusive of activities, findings, recommendations of proposed Charter amendments, with pros and cons, Ramseyer version of proposed Charter amendments, and proposed language and explanatory material as may be necessary for inclusion on the November 5 ballot)
- VII. Educational Campaign ~ Budget and Proposed Activities
- VIII. Adjournment

MAUI COUNTY CHARTER COMMISSION

Website: <http://countyofmaui.maui.net/boards/bDetail.php?BoardID=37>

County Council Committee Room
Kalana O Maui, 7th Floor
200 South High Street, Wailuku

Wednesday, April 10, 2002
8:00 a.m.

AMENDED AGENDA

RECEIVED
2002 APR -3 PM 2:33
MAUI COUNTY

COMMISSIONERS

Terryl Vencl, Chair
R. Sean McLaughlin, Vice-Chair
Vince Bagoyo, Jr.
Ray DeMello
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
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- I. Call to Order
- II. Approval of Minutes
- III. Accept Communications into Record
- IV. Presentation of Public Testimony
- V. Deliberations (the Commission will be deliberating and taking action on all proposals discussed to date, and will also consider the additional listed proposals that have arisen in community and prior meetings).
 - A. Seventeen Previously Discussed Proposals
 - 1. Proposal One - Adjust council districts
 - 2. Proposal Two - Lengthen terms of council members from two (2) to four(4) years
 - 3. Proposal Three - Eliminate term limits for council members
 - 4. Proposal Four - Eliminate second election if a candidate receives 50% of the vote in the first election
 - 5. Proposal Five - Allow council members to talk to and obtain information directly from county officers and employees
 - 6. Proposal Six - Clarify the responsibilities of the Corporation Counsel
 - 7. Proposal Seven - Broaden the powers of the Department of Public Works and Waste Management to include public transportation and environmental protection and change its title to the "Department of Public Works, Transportation, and Environmental Protection"
 - 8. Proposal Eight - Give the Public Safety Commission the responsibility to hire and fire the Fire Chief (with due process protections given to the Chief), and to review the budget of the Department of Fire Control
 - 9. Proposal Nine - Clarify the responsibilities of the Department of Planning with regard to long-range planning, cultural resources, enforcement, timely decision making and the community plans
 - 10. Proposal Ten - Create community district boards (CDBs) to make the Citizen Advisory Committees (CACs) permanent, adjust their boundaries and expand their powers
 - 11. Proposal Eleven - Provide due process protection in the event of the termination of the Director of Personnel Services
 - 12. Proposal Twelve - Stagger the terms of members of the Salary Commission
 - 13. Proposal Thirteen - Commit the County to a plan of Open-Space Acquisition
 - 14. Proposal Fourteen - Reduce the signature requirements for initiative and recall
 - 15. Proposal Fifteen - Provide greater notice of meetings
 - 16. Proposal Sixteen - Location of meetings
 - 17. Proposal Seventeen - Alternative options regarding the restructuring of the Department and Board of Water Supply
 - 17-A - Make the Department and Board of Water Supply more autonomous
 - 17-B - Make the Department of Water Supply a part of the Executive Branch, like other departments
 - B. Housekeeping Changes
 - 1. Utilize gender-neutral language throughout the Charter
 - 2. Utilize Hawaiian-language spelling for Hawaiian place names

MAUI COUNTY CHARTER COMMISSIONWebsite: <http://countyofmaui.maui.net/boards/bDetail.php?BoardID=37>

RECEIVED
2002 MAR 25 PM 1:10
OFFICE OF THE
COUNTY CLERK

County Council Committee Room
Kalana O Maui, 7th Floor
200 South High Street, Wailuku

Monday, April 1, 2002
Wednesday, April 3, 2002
8:00 a.m. ~ 12:00 p.m.

Wednesday, April 10, 2002
8:00 a.m. ~ 4:00 p.m.

AGENDA**COMMISSIONERS**

Teryl Vencel, Chair
R. Sean McLaughlin, Vice-Chair
Vince Bagoyo, Jr.
Ray DeMello
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

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- I. Call to Order
- II. Approval of Minutes
- III. Accept Communications into Record
- IV. Presentation of Public Testimony
- V. Deliberations (the Commission will be deliberating and taking action on all proposals discussed to date, and may also consider new proposals that have arisen in community meetings).
- VI. Adjournment

MAUI COUNTY CHARTER COMMISSION

Website: <http://countyofmaui.maui.net/boards/Charter>

2002 FEB 13 PM 12:59
CORPORATION COUNSEL

Lahainaluna High School Chorus Room
980 Lahainaluna Road, Lahaina

Wednesday, March 27, 2002

→ 6:00 p.m. ←

AGENDA

COMMISSIONERS

Terryl Vencl, Chair
R. Sean McLaughlin, Vice-Chair
Vince Bagoyo, Jr.
Ray DeMello
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

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- I. Call to Order
- II. Approval of Minutes
- III. Accept Communications into Record
- IV. Introductory Remarks (see Attached Proposals)
- V. Presentation of Public Testimony
- VI. New Business
- VII. Adjournment

RECEIVED
2002 FEB 13 PM 12:54
CORPORATION COUNSEL

MAUI COUNTY CHARTER COMMISSION

Website: <http://countyofmaui.maui.net/boards/Charter>

→ 6:00 p.m. ←

January 29, 2002	Lahaina Civic Center Social Hall
February 6, 2002	Kihei Community Center, Small Meeting Room
February 13, 2002	Kaunakakai Cafetorium, Moloka'i
February 20, 2002	Hale Kupuna, Lana'i
February 27, 2002	Pa'ia Community Center
March 6, 2002	Old Hana School Cafeteria
March 13, 2002	Wailuku Community Center
March 20, 2002	Hannibal Tavares Center, Pukalani

AGENDA

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R. Sean McLaughlin, Vice-Chair
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- I. Call to Order
- II. Approval of Minutes
- III. Accept Communications into Record
- IV. Introductory Remarks (see Attached Proposals)
- V. Presentation of Public Testimony
- VI. New Business
- VII. Adjournment

MAUI COUNTY CHARTER COMMISSION
Website: <http://www.co.maui.hi.us/boards/charter/index.html>

Prosecutors Meeting Room
Old Courthouse Building
200 South High Street, Wailuku
Tuesday, January 15, 2002
8:30 a.m.

AGENDA

COMMISSIONERS

Terryl Vencl, Chair
R. Sean McLaughlin, Vice-Chair
Vince Bagoyo, Jr.
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

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- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. January 7, 2002
- IV. Accept Communications into Record
- V. Decision-making of possible Charter Amendments including but not limited to: Water Department; Public Works; Ethics Commission; Boards and Commissions; Salary Commission; and any and all remaining correspondence. The Commission may consider any and all issues that have been brought forth to date, including those listed on Mr. Van Dyke's Summary Report (previously circulated).
- VI. Follow Up Reports by Staff and Analyst
- VII. New Business
- VIII. Adjournment

2001 MAUI COUNTY CHARTER COMMISSION

Website: <http://www.co.maui.hi.us/boards/charter/index.html>

Personnel Conference Room

Kalana O Maui, 6th Floor

200 South High Street, Wailuku

Monday, January 7, 2002

8:30 a.m.

AGENDA

COMMISSIONERS

Teryl Vencel, Chair

R. Sean McLaughlin, Vice-Chair

Vince Bagoyo, Jr.

William Fuhrmann

Gwen Hiraga

Stephen Holaday

Karolyn Mossman

Stephen Petro

Erlinda Rosario

Donn Takahashi

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- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. December 17, 2001
- IV. Accept Communications into Record
- V. Chapter 5 (Public Works)
- VI. Decision-making of possible Charter Amendments. The Commission may consider any and all issues that have been brought forth to date, including those listed on Mr. Van Dyke's Summary Report (enclosed).
- VII. New Business
- VIII. Adjournment

2001 MAUI COUNTY CHARTER COMMISSION

NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that a public meeting will be held by the Maui County Charter Commission on Monday, January 7, 2002, in the Personnel Conference Room, Kalana O Maui, 6th Floor, Maui, Hawai'i, beginning at 8:30 a.m., or soon thereafter, for the purpose of receiving public testimony recommendations and proposals to amend the Charter of the County of Maui (1983), as revised by amendments through 1992.

AGENDA

- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. December 17, 2001
- IV. Accept Communications into Record
- V. Chapter 5 (Public Works)
- VI. Decision-making of possible Charter Amendments. The Commission may consider any and all issues that have been brought forth to date, including those listed on Mr. Van Dyke's Summary Report (enclosed).
- VII. New Business
- VIII. Adjournment

Copies of the charter of the County of Maui (1993 edition) are on file in the Office of the County Clerk, 7th Floor, Kalana O Maui Building, 200 South High Street, Wailuku, Maui, for use and examination by the public during regular business hours. The charter may also be seen on the County of Maui website at

The Charter Commission shall receive testimony first from persons whose testimony forms are submitted prior to the convening of the public meeting. Initially, three (3) minutes will be granted, and at the discretion of the Chair, an additional minute may be granted to conclude the testimony. An additional three (3) minutes will be granted to those who are unable to conclude their testimony, after all others desiring to speak have been heard.

Thereafter, persons whose testimony forms are submitted after the public meeting convenes will be allowed to present oral testimony for three (3) minutes. The Chair may grant an additional minute to conclude the testimony.

Written testimony must be submitted to the Office of the Mayor during regular business hours or to the Chair prior to the commencement of the public meeting.

Individuals who intend to attend the public meeting and who have disabilities requiring special assistance should call the Office of the Mayor at 270-7855 at least three days in advance.

CHARTER COMMISSION
COUNTY OF MAUI

TERRYL VENCL, CHAIR

2001 MAUI COUNTY CHARTER COMMISSION
Website: <http://www.co.maui.hi.us/boards/charter/index.html>

County Council Committee Room

~~2001~~ Kalana O Maui, 7th Floor
200 South High Street, Wailuku

~~14~~ Monday, December 10, 2001
.8:30 a.m.

✓
AGENDA

COMMISSIONERS

Teryl Venci, Chair
R. Sean McLaughlin, Vice-Chair
Vince Bagoyo, Jr.
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
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- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. November 19, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
- VI. Follow Up Reports from Brian Moto and Jon Van Dyke
- VII. Discussion of Article VIII of the Charter
 - A. Chapter 11 (Water)
 - B. Chapter 5 (Public Works)
- VIII. Adjournment

2001 MAUI COUNTY CHARTER COMMISSION

NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that a public meeting will be held by the 2001 Charter Commission on Monday, December 10, 2001, in the County Council Committee Room, Kalana O Maui, 7th Floor, Maui, Hawai'i, beginning at 8:30 a.m., or soon thereafter, for the purpose of receiving public testimony recommendations and proposals to amend the Charter of the County of Maui (1983), as revised by amendments through 1992.

AGENDA

- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. November 19, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
- VI. Follow Up Reports from Brian Moto and Jon Van Dyke
- VII. Discussion of Article VIII of the Charter
 - A. Chapter 11 (Water)
 - B. Chapter 5 (Public Works)
- VIII. Adjournment

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CHARTER COMMISSION
COUNTY OF MAUI


TERRYL VENCL, CHAIR

2001 MAUI COUNTY CHARTER COMMISSION
 Website: <http://www.co.maui.hi.us/boards/charter/index.html>

County Council Committee Room
 Kalana O Maui, 7th Floor
 200 South High Street, Wailuku
 Monday, December 17, 2001
 8:30 a.m.

AGENDA

COMMISSIONERS

Terryl Vencel, Chair
 R. Sean McLaughlin, Vice-Chair
 Vince Bagoyo, Jr.
 William Fuhrmann
 Gwen Hiraga
 Stephen Holaday
 Karolyn Mossman
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- II. Presentation of Testimony
- III. Approval of Minutes
 - A. December 10, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
- VI. Follow Up Reports from Brian Moto and Jon Van Dyke
- VII. Discussion of Article VIII of the Charter
 - A. Chapter 8 (Planning)
- VIII. Adjournment

2001 MAUI COUNTY CHARTER COMMISSION

NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that a public meeting will be held by the 2001 Charter Commission on Monday, December 17, 2001, in the County Council Committee Room, Kalana O Maui, 7th Floor, Maui, Hawai'i, beginning at 8:30 a.m., or soon thereafter, for the purpose of receiving public testimony recommendations and proposals to amend the Charter of the County of Maui (1983), as revised by amendments through 1992.

AGENDA

- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. December 10, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
- VI. Follow Up Reports from Brian Moto and Jon Van Dyke
- VII. Discussion of Article VIII of the Charter
 - A. Chapter 8 (Planning)
- VIII. Adjournment

Copies of the charter of the County of Maui (1993 edition) are on file in the Office of the County Clerk, 7th Floor, Kalana O Maui Building, 200 South High Street, Wailuku, Maui, for use and examination by the public during regular business hours. The charter may also be seen on the County of Maui website at www.co.maui.hi.us/charter.html.

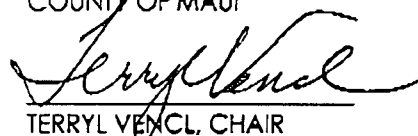
The Charter Commission shall receive testimony first from persons whose testimony forms are submitted prior to the convening of the public meeting. Initially, three (3) minutes will be granted, and at the discretion of the Chair, an additional minute may be granted to conclude the testimony. An additional three (3) minutes will be granted to those who are unable to conclude their testimony, after all others desiring to speak have been heard.

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Written testimony must be submitted to the Office of the Mayor during regular business hours or to the Chair prior to the commencement of the public meeting.

Individuals who intend to attend the public meeting and who have disabilities requiring special assistance should call the Office of the Mayor at 270-7855 at least three days in advance.

CHARTER COMMISSION
COUNTY OF MAUI


TERRYL VENCL, CHAIR

Attn: Tanya
270-7152

File in
public binder

2001 MAUI COUNTY CHARTER COMMISSION
Website: <http://www.co.maui.hi.us/boards/charter/index.html>

County Council Committee Room
Kalana O Maui, 7th Floor
200 South High Street, Wailuku
Monday, November 19, 2001
8:30 a.m.

AGENDA

COMMISSIONERS

Teryl Vencl, Chair
R. Sean McLaughlin, Vice-Chair
Vince Bagoyo, Jr.
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

AGENDA ITEMS ARE SUBJECT TO CANCELLATION. For a confirmation of the meeting date and time, please contact Commission Staff Brian Moto or Tanya Lopes at Corporation Counsel, 200 South High Street, Wailuku, HI 96793, 808-270-7741, 1-800-272-0117 (toll-free from Moloka'i), 1-800-272-0125 (toll-free from Lana'i), 808-270-7870 (fax).

ORAL OR WRITTEN TESTIMONY on any agenda item will be accepted at the beginning of each meeting. If written testimony is submitted at the meeting, 15 copies are requested. If written testimony is e-mailed or faxed, please submit at least 24 hours before the meeting so that copies can be provided to commissioners in a timely manner.

INDIVIDUALS WHO INTEND TO ATTEND THE MEETING AND WHO HAVE DISABILITIES REQUIRING SPECIAL ASSISTANCE should call the Office of the Mayor at least 3 working days in advance.

DOCUMENTS ON FILE WITH THE COMMISSION, which may include correspondence relating to the agenda items below, may be inspected prior to the meeting date. Photocopies may be ordered, subject to charges imposed by law (Maui County Code, Sec. 2.64.010). Please contact the Office of the Mayor to make arrangements for inspection or photocopying of documents.

- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
A. November 5, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
- VI. Follow Up Reports from Brian Moto and Jon Van Dyke
- VII. Discussion of Article VIII of the Charter (excluding Planning, Water, Public Works, and Ethics)
- VIII. Adjournment

2001 Maui County Charter Commission

Website: <http://www.co.maui.hi.us/boards/charter/index.html>

County Council Committee Room

Kalana O Maui, 7th Floor

200 South High Street, Wailuku

Monday, November 19, 2001

8:30 a.m.

AGENDA

COMMISSIONERS

Terryl Venci, Chair
R. Sean McLaughlin, Vice-Chair
Vince Bagoyo, Jr.
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

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- I. Call to Order
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- III. Approval of Minutes
 - A. November 5, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
- VI. Follow Up Reports from Brian Moto and Jon Van Dyke
- VII. Discussion of Article VIII of the Charter (excluding Planning, Water, Public Works, and Ethics)
- VIII. Adjournment

2001 MAUI COUNTY CHARTER COMMISSION

Website: <http://www.co.maui.hi.us/boards/charter/index.html>

County Council Committee Room

Kalana O Maui, 7th Floor

200 South High Street, Wailuku

Monday, November 5, 2001

8:30 a.m.

2001 OCT 29 AM 9:06

COMMUNICATIONS SECTION

AGENDA

COMMISSIONERS

Terryl Vencel, Chair

R. Sean McLaughlin, Vice-Chair

Vince Bagoyo, Jr.

William Fuhrmann

Gwen Hiraga

Stephen Holaday

Karolyn Mossman

Stephen Petro

Erlinda Rosario

Donn Takahashi

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- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. October 22, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
- VI. Guest Speaker
 - A. Charmaine Tavares
 1. Discussion of Articles III and IV: County Council
 2. Discussion of Articles VI and VII: Office of the Mayor
 3. Discussion of Article VIII, Chapter 8: Department of Planning
 4. Adjournment
- VII. Discussion of Articles III & IV: County Council
- VIII. Discussion of Articles VI & VII: Office of the Mayor
- IX. Discussion of Article VIII: Department of Planning
- X. Adjournment

RECEIVED

2001 OCT 29 AM 9:43

OFFICE OF THE MAYOR
COUNTY OF MAUI

2001 Maui County Charter Commission

NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that a public meeting will be held by the 2001 Charter Commission on Monday, November 5, 2001, in the County Council Committee Room, Kalana O Maui, 7th Floor, Maui, Hawai'i, beginning at **8:30 a.m.**, or soon thereafter, for the purpose of receiving public testimony recommendations and proposals to amend the Charter of the County of Maui (1983), as revised by amendments through 1992.

AGENDA

- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. October 22, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
- VI. Guest Speaker
 - A. Charmaine Tavares
- VII. Discussion of Articles III and IV: County Council
- VIII. Discussion of Articles VI and VII: Office of the Mayor
- IX. Discussion of Article V III, Chapter 8: Department of Planning
- X. Adjournment

Copies of the charter of the County of Maui (1993 edition) are on file in the Office of the County Clerk, 7th Floor, Kalana O Maui Building, 200 South High Street, Wailuku, Maui, for use and examination by the public during regular business hours. The charter may also be seen on the County of Maui website at www.co.maui.hi.us/charter.html.

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CHARTER COMMISSION
COUNTY OF MAUI

TERRY VENCL, CHAIR

2001 MAUI COUNTY CHARTER COMMISSION
Website: <http://www.co.maui.hi.us/boards/charter/index.html>

County Council Committee Room

Kalana O Maui, 7th Floor

200 South High Street, Wailuku

Monday, October 22, 2001

→ 8:30 a.m. ←

AGENDA

COMMISSIONERS

Terryl Vencl, Chair

R. Sean McLaughlin, Vice-Chair

Vince Bagoyo, Jr.

William Fuhrmann

Gwen Hiraga

Stephen Holaday

Karolyn Mossman

Stephen Petro

Erlinda Rosario

Donn Takahashi

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- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. October 8, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
 - A. Attorney General's opinion on HRS 50
- VI. Guest Speakers
 - B. Fire Chief
 - C. Parks Department
- VII. Discussion of Articles III and IV regarding the County Council
- VIII. Discussion of Articles VI and VII regarding the Office of the Mayor
- IX. Analyst Position
- X. Adjournment

2001 MAUI COUNTY CHARTER COMMISSION
Website: <http://www.co.maui.hi.us/boards/charter/index.html>

County Council Committee Room
Kalana O Maui, 7th Floor
200 South High Street, Wailuku
Monday, October 8, 2001
11:00 a.m.

AGENDA

COMMISSIONERS

Terryl Venci, Chair
Carole Ameal
Vince Bagoyo, Jr.
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Robert Sean McLaughlin
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

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- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. September 24, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
- VI. Guest Speakers
 - A. Elvin Kamoku (Fire Commission)
 - B. Don Couch (Board of Ethics)
- VII. Discussion of Recruitment, Selection, & Hiring of a Charter Commission Analyst (Action Anticipated)
- VIII. Adjournment

2001 OCT -2 AM 9:50

MAUI COUNTY
CORPORATION COUNSEL

2001 MAUI COUNTY CHARTER COMMISSION

NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that a public meeting will be held by the 2001 Charter Commission on Monday, October 8, 2001, in the County Council Committee Room, Kalana O Maui, 7th Floor, Maui, Hawai'i, beginning at 11:00 a.m., or soon thereafter, for the purpose of receiving public testimony recommendations and proposals to amend the Charter of the County of Maui (1983), as revised by amendments through 1992.

AGENDA

- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. September 24, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
- VI. Guest Speakers
 - A. Elvin Kamoku (Fire Commission)
 - B. Don Couch (Board of Ethics)
- VII. Discussion of Recruitment, Selection, & Hiring of a Charter Commission Analyst (Action Anticipated)
- VIII. Adjournment

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CHARTER COMMISSION
COUNTY OF MAUI


TERRYL VENCL, CHAIR

1. binder

2001 MAUI COUNTY CHARTER COMMISSION

Website: <http://www.co.maui.hi.us/boards/charter/index.html>

County Council Committee Room

Kalana O Maui, 7th Floor

200 South High Street, Wailuku

Monday, September 24, 2001

12:00 p.m.

AGENDA

COMMISSIONERS

Terryl Vencel, Chair

Carole Ameral

Vince Bagoyo, Jr.

William Fuhrmann

Gwen Hiraga

Stephen Holaday

Robert Sean McLaughlin

Karolyn Mossman

Stephen Petro

Erlinda Rosario

Donn Takahashi

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- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. September 10, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
- VI. Guest Speakers
 - A. Roy Hiraga (County Clerk)
 - B. John Min (Planning Director)
 - C. David Craddick (Water)
- VII. Announcements
- VIII. Adjournment

2001 Maui County Charter Commission

Website: <http://www.co.maui.hi.us/boards/charter/index.html>

County Council Committee Room

Kalana O Maui, 7th Floor

200 South High Street, Wailuku

Monday, September 24, 2001

12:00 p.m.

AGENDA

COMMISSIONERS

Terryl VencI, Chair

Carole Ameral

Vince Bagoyo, Jr.

William Fuhrmann

Gwen Hiraga

Stephen Holaday

Robert Sean McLaughlin

Karolyn Mossman

Stephen Petro

Erlinda Rosario

Donn Takahashi

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- I. Call to Order
 - II. Presentation of Testimony
 - III. Approval of Minutes
 - A. September 10, 2001
- Accept Communications into Record
- Introductory Remarks
- Guest Speakers
- A. Roy Hiraga (County Clerk)
 - B. John Min (Planning Director)
 - C. David Craddick (Water)
- Announcements
- Adjournment

2001 SEP 14 PM 1:37
CORPORATION COUNSEL

2001 Maui County Charter Commission

NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that a public meeting will be held by the 2001 Charter Commission on Monday, September 24, 2001, in the County Council Committee Room, Kalana O Maui, 7th Floor, Maui, Hawai'i, beginning at 12:00 p.m., or soon thereafter, for the purpose of receiving public testimony recommendations and proposals to amend the Charter of the County of Maui (1983), as revised by amendments through 1992.

AGENDA

- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. September 10, 2001
- Accept Communications into Record
- Introductory Remarks
- Guest Speakers
 - A. Roy Hiraga (County Clerk)
 - B. John Min (Planning Director)
 - C. David Craddick (Water)
- Announcements
- Adjournment

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CHARTER COMMISSION

COUNTY OF MAUI

TERRYL VENCL, CHAIR

2001 MAUI COUNTY CHARTER COMMISSION

Website: <http://www.co.maui.hi.us/boards/charter/index.html>

County Council Committee Room

Kalana O Maui, 7th Floor

200 South High Street, Wailuku

Monday, September 10, 2001

12:00 p.m.

SECOND AMENDED AGENDA

<p><u>COMMISSIONERS</u></p> <p>Terryl Vencl, Chair</p> <p>Carole Ameral</p> <p>Vince Bagoyo, Jr.</p> <p>William Fuhrmann</p> <p>Gwen Hiraga</p> <p>Stephen Holaday</p> <p>Robert Sean McLaughlin</p> <p>Karolyn Mossman</p> <p>Stephen Petro</p> <p>Erlinda Rosario</p> <p>Donn Takahashi</p>	<p>AGENDA ITEMS ARE SUBJECT TO CANCELLATION. For a confirmation of the meeting date and time, please contact Commission Staff Brian Moto or Tanya Lopes at Corporation Counsel, 200 South High Street, Wailuku, HI 96793, 808-270-7741, 1-800-272-0117 (toll-free from Moloka'i), 1-800-272-0125 (toll-free from Lana'i), 808-270-7870 (fax).</p> <p>ORAL OR WRITTEN TESTIMONY on any agenda item will be accepted prior to the discussion of each agenda item. If written testimony is submitted at the meeting, 13 copies are requested. If written testimony is e-mailed or faxed, please submit at least 24 hours before the meeting so that copies can be provided to commissioners in a timely manner.</p> <p>INDIVIDUALS WHO INTEND TO ATTEND THE MEETING AND WHO HAVE DISABILITIES REQUIRING SPECIAL ASSISTANCE should call the Office of the Mayor at least 3 working days in advance.</p> <p>DOCUMENTS ON FILE WITH THE COMMISSION, which may include correspondence relating to the agenda items below, may be inspected prior to the meeting date. Photocopies may be ordered, subject to charges imposed by law (Maui County Code, Sec. 2.64.010). Please contact the Office of the Mayor to make arrangements for inspection or photocopying of documents.</p>
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- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. August 29, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
- VI. Guest Speakers
 - G. Wes Lo (Finance Director)
 - H. David Goode (Public Works Director)
1. Announcements
2. Adjournment

2001 Maui County Charter Commission

Website: <http://www.co.maui.hi.us/boards/charter/index.html>

County Council Chambers
Kalana O Maui, 7th Floor
200 South High Street, Wailuku
Wednesday, August 29, 2001
6:30 p.m.

AGENDA

COMMISSIONERS

Terryl Venci, Chair
Carole Ameal
Vince Bagoyo, Jr.
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Robert Sean McLaughlin
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

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- I. Call to Order
- II. Approval of Minutes
 - A. August 22, 2001
- III. Accept Communications into Record
- IV. Introductory Remarks
- V. Presentation of Testimony
- VI. Announcements
- VII. Adjournment

2001 MAUI COUNTY CHARTER COMMISSION

Website: <http://www.co.maui.hi.us/boards/charter/index.html>

Wednesday, August 22, 2001
Lana'i Community Center, Lana'i
6:30 p.m.

RECEIVED

2001 AUG -8 PM 12:15

OFFICE OF THE
COUNTY CLERK

AGENDA

COMMISSIONERS

Terryl VencI, Chair
Carole Ameral
Vince Bagoyo, Jr.
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Robert Sean McLaughlin
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

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- I. Call to Order
- II. Approval of Minutes
 - A. August 15, 2001
- III. Accept Communications into Record
- IV. Introductory Remarks
- V. Presentation of Testimony
- VI. Announcements
- VII. Adjournment

2001 MAUI COUNTY CHARTER COMMISSION

Website: <http://www.co.maui.hi.us/boards/charter/index.html>

Wednesday, August 15, 2001

Mitchell Pau'ole Community Center, Moloka'i

6:30 p.m.

RECEIVED

2001 AUG -8 PM 12:16

OFFICE OF THE
COUNTY CLERK

AGENDA

COMMISSIONERS

Teryl VencI, Chair
Carole Ameral
Vince Bagoyo, Jr.
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Robert Sean McLaughlin
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

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- I. Call to Order
- II. Approval of Minutes
A. August 8, 2001
- III. Accept Communications into Record
- IV. Introductory Remarks
- V. Presentation of Testimony
- VI. Announcements
- VII. Adjournment

2001 MAUI COUNTY CHARTER COMMISSION

Website: <http://www.co.maui.hi.us/boards/charter/index.html>

Wednesday, August 8, 2001

Old Hana School Cafeteria

6:30 p.m.

AGENDA

COMMISSIONERS

Terryl Vencl, Chair

Carole Ameral

Vince Bagoyo, Jr.

William Fuhrmann

Gwen Hiraga

Stephen Holaday

Robert Sean McLaughlin

Karolyn Mossman

Stephen Petro

Erlinda Rosario

Donn Takahashi

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- I. Call to Order
- II. Approval of Minutes
 - A. August 1, 2001
- III. Accept Communications into Record
- IV. Introductory Remarks
- V. Presentation of Testimony
- VI. Announcements
- VII. Adjournment

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2001 AUG - 1 PM 2:29
OFFICE OF THE
COUNTY CLERK

RECEIVED

2001 JUL 23 PM 4:17

2001 MAUI COUNTY CHARTER COMMISSION

Website: <http://www.co.maui.hi.us/boards/charter/index.html>

Wednesday, August 1, 2001

Pa'ia Community Center

6:30 p.m.

AGENDA

COMMISSIONERS

Terryl Vencel, Chair

Carole Ameral

Vince Bagoyo, Jr.

William Fuhrmann

Gwen Hiraga

Stephen Holaday

Robert Sean McLaughlin

Karolyn Mossman

Stephen Petro

Erlinda Rosario

Donn Takahashi

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- I. Call to Order
- II. Approval of Minutes
 - A. July 25
- III. Accept Communications into Record
- IV. Introductory Remarks
- V. Presentation of Testimony
- VI. Announcements
- VII. Adjournment

2001 MAUI COUNTY CHARTER COMMISSION

Website: <http://www.co.maui.hi.us/boards/charter/index.html>

Wednesday, July 25, 2001

Kihei Community Center

6:30 p.m.

AGENDA

COMMISSIONERS

Teryl Venci, Chair
Carole Ameral
Vince Bagoyo, Jr.
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Robert Sean McLaughlin
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

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- I. Call to Order
- II. Approval of Minutes
 - A. June 4
 - B. June 18
 - C. June 20
 - D. June 26
- III. Accept Communications into Record
 - A. Water Department
 - B. Public Safety Commission
 - C. Letter from Police Commission
- IV. Introductory Remarks
- V. Presentation of Testimony
- VI. Announcements
- VII. Adjournment

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2001 JUL 17 PM 3:37
OFFICE OF THE
COUNTY CLERK

CHARTER COMMISSION
County Council's Committee Room
Kalana O Maui, 7th Floor
200 S. High Street, Wailuku
June 18, 2001
1:30 p.m.

RECEIVED

2001 JUN -6 PM 2:00

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AGENDA

COMMISSIONERS

Terryl Venci, Chair
Robert Sean McLaughlin, Vice Chair
Carole Ameral
Vince Bagoyo, Jr.
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

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ORAL OR WRITTEN TESTIMONY on any agenda item will be limited to three minutes. The Chair may allow an additional minute to conclude the testimony. If more time is necessary, the Chair may allow the testifier to have an additional three minutes after all other testifiers have testified. If written testimony is submitted at the meeting, 13 copies are requested.

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- I. Roll Call
- II. Presentation and Testimony
- III. Minutes
 - A. June 4, 2001
- IV. Committee Reports
- V. Communications
 - A. Instant Runoff Voting Video
- VI. Unfinished Business
 - A. Staff Requirements
 1. Clerical
 2. Consultant
 - B. Chapter 50, Hawaii Revised Statutes
- VII. New Business
 - A. Investigative Committees
 - B. July 9, 2001 Meeting
- VIII. Announcements
- IX. Adjournment

2. greater control memo
• Roy Hiraga

2001 MAUI COUNTY CHARTER COMMISSION

Website: <http://www.co.maui.hi.us/boards/charter/index.html>

County Council Committee Room

Kalana O Maui, 7th Floor

200 South High Street, Wailuku

Wednesday, September 10, 2001

12:00 p.m.

AMENDED AGENDA

COMMISSIONERS

Terryl Venci, Chair

Carole Ameral

Vince Bagoyo, Jr.

William Fuhrmann

Gwen Hiraga

Stephen Holaday

Robert Sean McLaughlin

Karolyn Mossman

Stephen Petro

Erlinda Rosario

Donn Takahashi

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- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. August 29, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
- VI. Guest Speakers
 - A. Wes Lo
 - B. David Goode
 - C. David Craddick
- VII. Announcements
- VIII. Adjournment

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CORPORATION COUNSEL
2001 SEP 30 PM 12:58

2001 MAUI COUNTY CHARTER COMMISSION

NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that a public meeting will be held by the 2001 Charter Commission on Wednesday, September 10, 2001, in the County Council Committee Room, Kalana O Maui, 7th Floor, Maui, Hawai'i, beginning at 12:00 p.m., or soon thereafter, for the purpose of receiving public testimony recommendations and proposals to amend the Charter of the County of Maui (1983), as revised by amendments through 1992.

AMENDED AGENDA

- I. Call to Order
- II. Presentation of Testimony
- III. Approval of Minutes
 - A. August 29, 2001
- IV. Accept Communications into Record
- V. Introductory Remarks
- VI. Guest Speakers
 - A. Wes Lo
 - B. David Goode
 - C. David Craddick
- VII. Announcements
- VIII. Adjournment

Copies of the charter of the County of Maui (1993 edition) are on file in the Office of the County Clerk, 7th Floor, Kalana O Maui Building, 200 South High Street, Wailuku, Maui, for use and examination by the public during regular business hours. The charter may also be seen on the County of Maui website at www.co.maui.hi.us/charter.html.

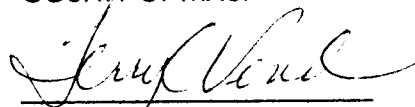
The Charter Commission shall receive testimony first from persons whose testimony forms are submitted prior to the convening of the public meeting. Initially, three (3) minutes will be granted, and at the discretion of the Chair, an additional minute may be granted to conclude the testimony. An additional three (3) minutes will be granted to those who are unable to conclude their testimony, after all others desiring to speak have been heard.

Thereafter, persons whose testimony forms are submitted after the public meeting convenes will be allowed to present oral testimony for three (3) minutes. The Chair may grant an additional minute to conclude the testimony.

Written testimony must be submitted to the Office of the Mayor during regular business hours or to the Chair prior to the commencement of the public meeting.

Individuals who intend to attend the public meeting and who have disabilities requiring special assistance should call the Office of the Mayor at 270-7855 at least three days in advance.

CHARTER COMMISSION
COUNTY OF MAUI


TERRYL VENCL, CHAIR

Maui County Charter Commission Public Meeting
County Council Committee Room, Maui
Wednesday, June 5, 2002
8:00 a.m.

Present

Terryl Vencel, Chair
R. Sean McLaughlin, Vice-Chair
Vince Bagoyo
Ray DeMello
Bill Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
Stephen Petro
Erlinda Rosario
Donn Takahashi

Staff

Brian Moto, First Deputy Corporation Counsel
Ke'ala Pasco, Charter Commission Assistant
Jon Van Dyke, Charter Commission Analyst

CALL TO ORDER

Chair Vencel called the meeting to order at 8:00 a.m. She thanked Mr. Moto and Mr. Van Dyke for answering the council members' concerns at their meeting.

Chair Vencel wanted to begin with testimony then move into the agenda. Testifiers would have three minutes with one to conclude, or come back once everyone has testified for an additional three minutes.

TESTIMONY

Mr. Don Couch

Mr. Couch testified about Proposal 13 concerning the Board of Ethics (he's a former Chair). He asked the Commission to consider what the Council recommended and to not move forward with its recommendations.

- 1) After a long discussion and a lot of deliberation, the Board decided that the Code of Ethics should remain the same.
- 2) The Board wants to protect everyone. It wants the public to be confident that their government is fair, just, and ethical. The overall good of the Code of Ethics needs to be upheld.

Vice-Chair McLaughlin stated that the Code of Ethics is operated on a case by case basis and asked how many times the Lana'i Company issue came up during Mr. Couch's time on the Board. Mr. Couch replied that in four years, the issue came up six or seven times (recusing from the vote but not discussions).

Vice-Chair McLaughlin continued that Proposal 13 also reduces the criteria for ownership. Mr. Couch responded that they decided to leave the financial interest the same because it depends on the overall scope (they have to look at the whole situation). As Chair, he always wished they had a strict rule to follow, but after looking at the facts, he realized that it's better that they didn't.

Commissioner Mossman asked if she heard his previous testimony correctly: employees asked him to make them ineligible to vote because it'd put them in an untenable situation. Mr. Couch believed it happened once in his first year.

Mr. Jim Smith

Mr. Smith thanked the Commission for the opportunity to participate. He also expressed his gratitude for the Commission's participation, time, and effort.

- 1) Mr. Smith said the Code of Ethics became a part of our constitution in 1968. The Commission would be trying to make a general law, but the individual counties and their legislatures should define their own terms.
- 2) Mr. Smith supports the Council's recommendation that this proposal be deleted, but consider changing the Code by adding a Chapter 10.5 that would make it a misdemeanor. Then people would think twice whether they have a financial interest or not.
- 3) Consider amending the provision in which financial interest occurs. The County Council would have the authority and shall prescribe the definition. That would answer everyone's problem.
- 4) First Article, Section One. We need to distinguish our Charter from other business. Having a legal definition as a person of equal worth and dignity is terribly significant. It connects people to the State Constitution and the United States Constitution as an entity.

Mr. Anders Lyons, Director of Maui Programs for the Nature Conservancy

Mr. Lyons thanked the Commission and said he hopes it continues to support the open space fund. He suggested the following wording change to further clarify the purpose of the fund and how it'd be used:

"Should an Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund be created for the purpose of protecting land around rivers, streams and coast to preserve water quality, protect native forests and wildlife habitat, preserve native Hawaiian historical and cultural sites, improve recreational opportunities, and protect agricultural lands that might otherwise be developed, to be funded by a minimum of 1% of existing property tax revenues and should the unspent yearly revenues not lapse and thereby accumulate in the fund from year to year?"

Mr. Lyons concluded that this language further clarifies the intent of this amendment, and fits in with other Charter amendments that were created. He also clarified that they'd like to see this language on the ballot with further clarification in the Charter if needed.

Mr. Dale Bonar, Maui Coastal Land Trust Executive Director

Mr. Bonar suggested the following minor clarifications for one pro and one con of the amendment regarding open space acquisition.

- 1) PRO: "Having an established fund would allow the funds to be leveraged to increase the amount of land that can be purchased.
- 2) CON: This proposal could encourage the County to protect additional land for open space only by direct acquisition rather than also utilizing other strategies, such as zoning of

privately-owned land, to maintain open space.

The above suggestions were developed through consultation and analysis with the Nature Conservancy and the Trust for Public Land. Theresa McHugh allowed him to sign in her absence.

When questioned about the Maui Coastal Land Trust's available funding, Mr. Bonar replied that they currently have two very large grants in the works and anticipate several million dollars. They also have County money.

The criteria for procurement of land is numerous. They look at a variety of things that may be important for the land, or for recreational purposes that are important to the public. They consider threats from development or invasive species; potential environmental effects degrading an area; the willingness of the land owner to work with them; availability of funding, etc. They prioritize land with a numerical ranking system then make their judgment.

Mr. Bonar offered to provide more information on this. At present, they don't have a priority list for the whole county, but they are working on it. He concluded that they appreciate and are in awe of all the Commission has had to do to get to this point.

Mr. John Min, Planning Director

Mr. Min submitted his testimony in writing before commenting on the Council's alternative proposal to establish permanent CACs. He questioned their proposal for the following reasons:

- 1) The Commission's proposal requires an annual report that would ensure closer monitoring of the implementation provisions of the general plan and community plans with opportunity for review and comment by the public and the County Council.
- 2) The Planning Department is preparing proposed revisions to MCC Chapter 2.80A to address issues in the current planning process. A draft bill for an ordinance will be transmitted to the County Council's Planning Committee within a few weeks.
- 3) The establishment of permanent CACs would double the number of boards and commissions currently supported by the Planning Department and substantially increase the workload of current staff. It is questionable whether adequate additional staffing and resources will be made available to undertake this increased work. There is also a real possibility that the scope and duties of CACs will expand over time and result in a greater workload for the department.
- 4) There are current challenges in filling vacancies for existing boards and commissions that will be compounded by the addition of eight permanent CACs.

Mr. Min concluded that the Commission's proposal for a "limited duration" CAC to guide the formulation and adoption of a community plan update is a practical approach for public participation in the planning process that won't unduly burden the Planning Department's staff and operations. He verified that this is the administration's feeling as well.

When asked about the difference of cost and staff burden between a "limited duration" CAC and a permanently existing CAC, Mr. Min said changes need to be made in the next generation of updates of community and general plans; the fundamental change is that it can't take ten years to adopt a community plan, so they've set up a Long Range Planning division. The second fundamental issue is that CACs are very necessary. The question is how they should function. The Commission's proposal is a very practical, common sense approach.

Mr. Min said one of the reasons they're proposing a regional general plan is to integrate

community plans if taken one by one. The islands of Lana'i and Moloka'i are looked at as a whole while Maui is looked at in six different districts. It could take ten years to adopt, so it needs to have integration, so they're looking for a framework for subsequent community plans. They have to look at a big picture; look at the island as a whole.

The Committee of the Whole report suggests deleting deadlines and timetables. Mr. Min said they're subject to time limits as a department. They're a good way to keep them on track, and the way it's proposed provides for internal guidelines. It's very reasonable for the Council to act on that in one year.

Commissioner Mossman stated for the record that while the Commission wrestled with putting more or less language, they decided on less (making sure key ingredients were there) with the understanding that it would be followed by an ordinance.

Mr. DeGray Vanderbilt

Mr. Vanderbilt, a resident of Moloka'i, distributed a handout. He made several points about public involvement in the government process.

He stated that when the public adopted the Charter in 1982, we had 81% voting participation. In our last election, Maui County had 54%, the lowest in the state. One of the major issues that came up was the four year term; it was defeated 2 to 1.

Initiative got no help from this Commission. The last Commission proposed the same thing as all other counties; that was approved for ballot. It was a close vote; it failed 15,000 to 14,000. He claims it was mainly due to Mr. Mancini's wording, which he thought was very deceptive.

Mr. Vanderbilt's three minute allotment was up. Chair Vencl permitted him to conclude with three additional minutes, as there was no one else waiting to testify. Mr. Vanderbilt continued:

- 1) Initiative would give the public a chance to put things on the ballot such as district voting. In the 1992 minutes, which were verbatim, Moloka'i and Lana'i all voted as long as they were lumped in with Hana.
- 2) Proposal 13 (Amend the Ethical Standards Governing Decisionmaking on Boards and Commissions) was not taken out to the public, and was proposed by the attorney for the Lana'i Company affiliate. Only one person not connected with the Lana'i Company testified in support of this. There is no groundswell, yet the Commission would subject the whole county and Moloka'i to this. They've said the unions would protect the employees, but what if they don't have a union? You don't have to fire someone to make their lives miserable.
- 3) Mr. Vanderbilt supports deleting Proposal 13, and as many as possible.
- 4) He referred to a list of all amendments since 1982 as an example of how to word things. Some are very well worded, and others aren't.

Discussion turned to initiative. Chair Vencl said she'd allow the discussion to continue although testimony was not being taken on anything not in the Commission's report.

Mr. Moto confirmed that advance notice had not been given on the posted agenda for any new proposals. Secondly, adding a new proposal at this stage is problematic because the Council wouldn't have the opportunity to address it; they confined their work to the Final Report.

Mr. Van Dyke clarified what the Commission was focusing on today. They decided as a body to

operate under the Hawaii Revised Statutes Chapter 50. The Council has made suggestions of things the Commission should consider, and it's been listed properly on the agenda. The time for new proposals has passed.

Mr. Vanderbilt reiterated that he believes Proposal 13 should be deleted. He asked if the Commission was going to work on the wording of the pros and cons today because he hopes the public would get to testify on the ballot language and see the draft. Mr. Van Dyke informed him that the draft ballot language had been posted on the website for at least the past couple of days.

Chair VencI clarified that the ballot language is a different issue than pros and cons. When he was reminded that the Commission had been discussing the pros and cons throughout this whole process, Mr. Vanderbilt said it's critical and very important that the ballot language is clear. Mr. Van Dyke replied that the Commission would be happy to receive such comments.

Chair VencI called a ten minute recess.

RECESS

Chair VencI called the meeting back to order, and said that Mr. Vanderbilt had found the ballot language and reviewed it during the break. He asked if he could testify again, and by motion (Petro), second (Hiraga), and unanimous approval, Mr. Vanderbilt resumed his testimony.

Mr. DeGray Vanderbilt

Mr. Van Dyke's proposed language regarding Ethics still isn't clear; it's very misleading. The public will think that sounds good. It needs to say *"should the ethical guidelines be modified to allow employees to vote on matters involving the companies they're employed by?"*

This major change in the Charter would strengthen the lock government has on the public's legitimate participation. Put that language in there for the people who haven't read the paper or heard various sales pitches.

If Proposal 13 isn't deleted, Mr. Vanderbilt asked that the Commission consider the following alternative ballot language (additions underlined, deletions bracketed):

"Should the ethical guidelines governing decision making on boards and commissions be modified to permit members who are employees of companies to vote or take action on applications that have been submitted to the board or commission by the respective employers of the members, unless they the members (A) are employed in a management or representative capacity by the company, or (B) have a controlling interest in the company? [, or (C) believe that their vote or action would tend to create a conflict with the public interest?]

The last sentence should be deleted. Individual members already recuse themselves if they feel they have a conflict, and they ask the Board of Ethics if they're not sure.

Mr. Vanderbilt concluded with his acknowledgement that this is the Commission's first run at this. He said he appreciated the opportunity to testify, and thanked the Commission for allowing him to testify again.

Chair VencI asked for an approval of the numerous testimonies that had been sent to the Commission. Motion was made (Mossman), seconded (Petro), and unanimously approved to

accept all correspondence. Motion was also made (Petro), seconded (Holaday), and unanimously approved to accept the minutes from April 17.

Chair VencI said she'd like the commissioners to work off the Committee of the Whole's report (No. 02-58), and Mr. Van Dyke's report.

- Assistant's Note: The Council's Committee of the Whole Report and Mr. Van Dyke's report can both be found on the official County of Maui Charter Commission website at <http://www.co.maui.hi.us/boards/bDetail.php?BoardID=37>. Please click on the Issues link.

The Department of Public Works sent in testimony, but Milton Arakawa wouldn't arrive until after lunch. It was decided that the corresponding section would be addressed once Mr. Arakawa arrived.

Chair VencI said that because he was a little more involved with the Council, Mr. Van Dyke would explain what they've suggested. Mr. Van Dyke said that he and Mr. Moto were in front of the Council for two days. The Council had many of their own ideas.

PROPOSAL ONE: AMEND THE PREAMBLE TO RECOGNIZE THE EQUAL WORTH AND DIGNITY OF EVERY INDIVIDUAL (Section 1-1)

Commissioner Mossman moved to delete Proposal 1. Vice-Chair McLaughlin seconded the motion, saying he's not sure it's possible to anticipate all the consequences of this action. He doesn't believe it's needed to act in the best interest of the citizens. It's also hard to define exactly what "equal treatment" would be.

Discussion

- Commissioner Bagoyo said he'd be voting no on the motion to delete Proposal 1. Every individual, every race, should be treated equally.
- This change in language is unnecessary. Only one person requested this philosophical change, and we should be respectful of the voters' time. This proposal is obscuring the really important questions on the ballot, so remove this from the ballot.
- Commissioner Petro spoke against the motion. He thinks it's good for government to state in the preamble that we recognize the equal worth of each and every individual. Don't be afraid of a lawsuit; if it's going to come, it's going to come.

Chair VencI called for the question. In favor of the motion to delete: McLaughlin and Mossman. Commissioners not in favor of the motion: Bagoyo; DeMello; Fuhrmann; Hiraga; Holaday; Petro; Rosario; and Takahashi.

Chair VencI asked for ballot language. Mr. Van Dyke explained that the Commission instructed him to provide neutral language that was as clear as possible, and to provide as much information about what the proposal would do to the voter.

Proposals 7 and 9 are quite long due to the number of subparts in Water and Planning. The issue may come up about whether or not they should be broken up or made more voter friendly; his guideline was to be forthright and honest. Proposal 1 was the easiest one.

Commissioner Holaday commented that using the word "recognize" bothers him because it implies we don't already do so. He asked to change it to "confirm."

It was clarified that the section in question is really Article 1, not the preamble. This would be an amendment to Article 1-1.

When asked if the Ramseyer version would be available to the public, Mr. Van Dyke said that the Final Report is presently on the website, and the revised Final Report would be on the website as well. It would also be published in the newspaper (it may not be available at each precinct for voting booths). The public has the responsibility to come prepared with information that will be made available during the educational campaign.

Chair Vencel reread the language for Article 1: "Should Article 1 be amended to confirm ... " Motion was made (McLaughlin), seconded (Petro), and unanimously approved to accept it.

PROPOSAL TWO: LENGTHEN TERMS OF COUNCILMEMBERS FROM TWO (2) TO FOUR (4) YEARS (Section 3-2(5))

Mr. Van Dyke said that regarding Proposal 2, the Council discussion concerned only the transition material. In his analysis (letter), he suggests first that the transition material be taken out of Proposal 16, which would then be eliminated altogether. The transitional material could be moved into Proposal 2 itself.

Regarding the Commission's approach for determining two or four year terms, the Council referred to Honolulu's way of determining this (if the total number of mayoral votes was odd, then the odd districts would get the four year terms, if the number was even, then vice versa). In our proposal, the top five votes get four years. When campaigning, candidates won't know which term length they're running for. Lana'i and Moloka'i don't have numbers, but it's not a huge difficulty to overcome; they're referenced on Maui in Section 3-1. Each residency district has a number, but it's not commonly used.

Regarding Councilmember Nishiki's issue, he felt awkward that a whole sentence was put in just for him. It also seemed to make others uncomfortable.

Resuming the previous conversation, Commissioner DeMello suggested eliminating Proposal 16 and leaving Proposal 2 as is, saying that the Council should decide. Chair Vencel reminded the Commission that the first suggestion was to delete Proposal 16 and incorporate it into Proposal 2. Mr. Van Dyke cautioned that if commissioners couldn't agree that Proposal 16 should be eliminated after transitional material is incorporated into Proposal 2, the voters would be presented with some problems.

Motion was made (Petro), seconded (McLaughlin), and unanimously approved to delete Proposal 16 and incorporate transitional material into Proposal 2.

Chair Vencel asked which idea should be used to select four year terms, the Commission's, the Council's, or Commissioner DeMello's. Motion was made (Bagoyo) and seconded (McLaughlin) to retain the Commission's plan (leaving in the final sentence).

Discussion

- Could the Council's solution be structured to meet the five/five requirement as well?
- Voters should have foreknowledge of whether they're voting for two or four year terms.

Mr. Van Dyke said it could be structured however the Commission wants. Commissioner Mossman was against Commissioner Bagoyo's motion to leave the language as is. All except

commissioners Hiraga, Mossman, and Takahashi voted in favor of retaining the Commission's plan (leaving in the final sentence).

Mr. Moto asked for clarification regarding term limits, saying that the Charter doesn't specifically say that people would be limited to twelve consecutive years. Mr. Van Dyke referred to 3-2(5), which says that no member of the Council shall serve more than three consecutive terms or twelve years, whichever shall be longer (page 7 of Commission's report, second paragraph). This would be put into the report for clarity.

Mr. Van Dyke will provide ballot language to reflect that terms are to be staggered, with three consecutive terms or not more than twelve consecutive years. Motion was made (Mossman), seconded (Petro), and unanimously approved to allow Mr. Van Dyke to come up with ballot language that would clearly define term limits.

Mr. Moto then asked for another clarification. If a councilmember changes residency, would he or she still be subject to ordinary terms?

Discussion

- The Councilmember would have to be elected in the new district, and then it'd start again.
- The voters would have to decide.
- If we try to do our best to cover all our bases, everyone will understand our intent.
- For the record of legislative history, it should be stated that the intent of this Commission is for twelve years to be the maximum length of service (this will be added to the report).
- This raises the issue of twelve consecutive, full years vs. three full terms; Mr. Moto should research this.

It was decided that the Commission would finalize the pros and cons of each proposal once ballot language is determined. The importance of capturing all arguments in the pros and cons was emphasized.

PROPOSAL THREE: CLARIFY THE RESPONSIBILITIES OF THE CORPORATION COUNSEL (Section 8-2.3)

The Council didn't offer any recommendations, so discussion turned to its language. Motion was made (Petro) and seconded (Mossman) to accept it as is.

Discussion

- The proposed language is too long. Is it possible to condense it?
- The goal was to put what the proposal would do on the ballot. It's a lot of language for a modest, symbolic change, so frustration is understood; however, if we're forthright and open with the voters, we'd be more likely to get a response from them (if they're confused or uncertain, they'll vote no).
- Chair Venci had a ballot from the Big Island that had 16 proposals. Some of their language is certainly as long as the Commission's Proposal 3, and several are at least as long. She didn't know how to take something out but still get the point across.

Chair Venci called for the question; it was unanimously approved.

PROPOSAL FOUR: GRANT INVESTIGATORS WORKING FOR THE PROSECUTING ATTORNEY THE POWERS AND PRIVILEGES OF POLICE OFFICERS WHILE ACTING WITHIN THE SCOPE OF THEIR

OFFICIAL DUTIES (Subsection 8-3(3))

Mr. Van Dyke reported that it was discovered that the Big Island dealt with this by ordinance rather than as a Charter amendment. The Council seemed supportive of what Mr. Bissen was trying to accomplish, and suggested implementing this by ordinance and taking it off the ballot. Chair Vencel said Mr. Bissen was agreeable to this. Motion was made (McLaughlin) and seconded (DeMello) to delete Proposal 4.

Discussion

- Concern was expressed about the decision people made ten years ago.
- We should keep this proposal because we don't know how long the County Council will take to make this change. We can't afford to wait because it could save lives; it was presented as a liability issue.
- We should delete Proposal 4. Handling this by ordinance would be the most appropriate procedure. We'd be clouding the ballot with additional questions.
- Mr. Bissen wanted to withdraw his proposal a few days after the Council meeting. He was told to submit it in writing, but nothing has been received yet.
- The ordinance should be in the framework of the Charter, which would allow people, rather than nine Council members, to vote.
- The Commission shouldn't withdraw the proposal based on one person's decision to go about it another way. Once it got to this point, this is the Commission's, not Mr. Bissen's.
- Mr. Bissen believed that others took care of this through their Charter; he didn't know it could be done by ordinance. He's willing to go whichever way is easiest. It'd be up to him to push it through the Council. On the other hand, it should be put out to the public. If it fails, he could still try an ordinance (this doesn't necessarily mean it's not approved by the people).
- If we delete this provision, we'd be simplifying the ballot and emphasizing that this is not the correct route.
- What's the best, most sure way this will pass? Should this be a people's decision?
- This would be confusing to voters.
- We didn't take this out to the public.
- Giving limited police power to the Prosecuting Attorney's staff is a drastic change. It should be placed on the ballot for the public to decide.
- We didn't ask the Chief of Police what his opinions were. This could be ascertained through the ordinance process.

Chair Vencel called for the question; the motion is to delete this proposal. Ayes: Vencel; McLaughlin; DeMello; Hiraga; Holaday; Petro; Rosario; and Takahashi. Nays: Bagoyo and Fuhrmann. Commissioner Mossman abstained; the motion passed. Commissioner Bagoyo suggested that the Commission make a strong recommendation in its report that the Council acts on this as quickly as possible.

Chair Vencel said Proposal 5 would be dealt with after lunch in order to allow Mr. Arakawa to be present.

PROPOSAL SIX: RENAME THE DEPARTMENT OF FIRE CONTROL TO BE THE "DEPARTMENT OF FIRE AND PUBLIC SAFETY," RENAME THE PUBLIC SAFETY COMMISSION TO BE THE "FIRE AND PUBLIC SAFETY COMMISSION," GIVE THIS COMMISSION THE RESPONSIBILITY TO HIRE AND FIRE THE FIRE CHIEF (WITH DUE PROCESS PROTECTIONS GIVEN TO THE CHIEF) AND TO REVIEW THE BUDGET OF THE DEPARTMENT OF FIRE AND PUBLIC SAFETY, AND CLARIFY THE DUTIES OF THE FIRE CHIEF (Article 8, Chapter 7)

Mr. Van Dyke said the Commission labored long and hard on this proposal. Chief Ishikawa came to the Council meeting and testified at length on two different days regarding his views, many of which were quite different from those of the fire fighters that testified before this Commission.

There are quite a few separate issues that need to be addressed, the easiest being a mechanical change. In his report, paragraph 4 of Proposal Six says, "powers and duties as may be assigned by the Mayor or as may be provided by law." It should read "by the commission or as may be provided by law." Motion was made (Mossman), seconded (McLaughlin), and unanimously approved to allow Mr. Van Dyke to make this minor word change.

Mr. Van Dyke then moved on to the third paragraph. The original proposal reads, "The fire chief shall monitor the construction and occupancy standards..."; it should be changed to "the fire chief shall monitor the standards for construction and occupancy..." Motion was made (Mossman), seconded (Petro), and unanimously approved to accept this change as well.

The paragraph right above that refers to the type of emergency services that the Fire Department provides. Chief Ishikawa said they don't provide all the emergency services, they provide "first responder" emergency services. He wanted to make it clear that that's all they're doing. Motion was made (Petro), seconded (Mossman), and unanimously approved to add the appropriate wording as Chief Ishikawa requested.

The paragraph above that is for the title of the department. We went back and forth on this; ultimately the Commission's recommendation was the Department of Fire and Public Safety. Public Safety was included because it's tied to the Public Safety Commission. The chief said it's misleading because people will think Public Safety includes law enforcement (police, medical emergency) so he didn't want Public Safety there. He and Elvin Kamoku want it to be just the Fire Department. They use MFD on their shirts; they're known as the Maui Fire Department.

Discussion

- For Charter references, it's the Department of Fire Control.
- What if we left it as it is and add (Maui Fire Department) at the end? There's a fraternal value and honor of being the "Maui Fire Department," but this is our Charter, our legal document. We need to try to clean up the language and provide the best document.
- They'll call themselves the Maui Fire Department regardless of what the Charter says.
- The Fire and Public Safety Commission would remain as such; they're just concerned with the Fire Department.
- Vice-Chair McLaughlin said that when we say Public Safety, we're referring to the existing Public Safety Commission that's in the Charter already. It was configured to have responsibility for the Civil Defense agency and to have some oversight over the Department of Fire Control. The meaning of public safety isn't clarified to citizens that this commission or department is responsible for fire and civil defense, which is how the name evolved. He moved that instead of public safety, we should change it to the Department of Fire and Civil Defense; he then withdrew the motion due to lack of support.
- Commissioner Bagoyo suggested maintaining our proposal; the Fire Department is free to use MFD. He has no objections.
- They made it clear that they'd use MFD no matter what.
- Let's not confuse people. The chief should refer to the Charter as just a formal document

under which he operates.

Motion was made (Mossman), seconded (Bagoyo), and unanimously approved to leave the language as it is.

BREAK

Chair VencI called a ten minute break. The meeting was called back to order at 10:55 a.m.

Mr. Van Dyke continued that the fire chief didn't like Section 8-7(4), section B, which lists various standards. The chief candidly said it's too detailed; they don't have the training to meet or exceed the national standards. Recruitment and promotion are the responsibility of the Department of Personnel Services, so he wanted to delete it.

The Committee of the Whole recommended that the Commission delete the proposed Subsection B (page 5 of their report). The motion to delete this was made (McLaughlin) and seconded (Petro).

Discussion

- We had a very intense discussion regarding this proposal. At no time did we get anything from the fire chief regarding this during our discussion. Mr. Kamoku had the opportunity to come to this Commission before, and to come today.
- Chair VencI said that under B, numbers 1, 2, and 3 were actually handled by Personnel Services.
- The most important aspect of this provision is to give that commission the authority to hire and fire the chief. The Public Safety Commission was never engaged as an oversight body. This section would detail the methodology of how that department is going to function. We've taken this important policy step; we should leave all these details to them. It's inappropriate for the Commission to handle this in the Charter. Give the new commission the authority to address the specific issues of this department.
- Commissioner Mossman was concerned that the chief didn't discuss his reservations with the Commission even though he was invited to do so.

Chair VencI called for the question. All were in favor with the exception of commissioners Bagoyo and Hiraga.

Mr. Van Dyke said the final matter is somewhat mechanical; the transitional provision (Section 15-2) should be included directly within this proposal to avoid any confusion that would occur if Proposal 6 were ratified, but Proposal 16 were rejected, or vice versa. Motion was made (Mossman), seconded (Holaday), and unanimously approved.

Mr. Van Dyke didn't think anything the Commission did changes the ballot proposal. He put in a, b, c, and d to help voters understand the various proposals being done. This is the longest one so far, but it clearly lists exactly what's being covered.

Vice Chair McLaughlin moved to approve the language as proposed with the exception of the parenthetical phrase in C "with due process protections provided in the event of a firing." Commissioner Petro seconded the motion.

Commissioner Mossman said that in the last sentence, "standards" should be moved to the end to be consistent with other changes that had just been made ("and monitoring the standards for

construction and occupancy of buildings"). The Commission unanimously approved.

PROPOSAL SEVEN: CLARIFY THE RESPONSIBILITIES OF THE DEPARTMENT OF PLANNING WITH REGARD TO LONG-RANGE PLANNING, CULTURAL RESOURCES, ENFORCEMENT, TIMELY DECISION-MAKING, AND THE COMMUNITY PLANS (Section 8-8)

Mr. Van Dyke said there is an alternative to Proposal 7. The proper thing to do would be to consider the Council's alternative because the HRS is very specific: we have to either accept or reject the alternative proposal.

Motion was made (Mossman) and seconded (Bagoyo) to keep the Commission's proposal. Chair VencI said that if the Commission chose to push its proposal forward, both the proposal and the alternative would go on the ballot. Mr. Moto clarified that under HRS 50, the Commission is required to submit its own proposals and any others that weren't accepted. The version set forth is a modified version of the Planning Committee proposal.

Chair VencI commended Councilmember Charmaine Tavares for the work she did, she did a lot of work on this, and it helped the Commission. She's heard that the Commission is moving in the direction that people want. It would be fair to let them decide if they want the additional cost of a permanent CAC versus what the Commission tried to do, which was to make a compromise of both parties' suggestions. Councilmember Tavares had a lot of people at her meetings that supported the alternative ballot suggestion; a movement in that direction is evolving.

Commissioner Mossman clarified that the motion is to adopt what we currently have. CACs are a very important element, but she's not sure citizens would join on for a ten year obligation (being part of a non-ending body for a ten year cycle). She's not sure they considered all the unintended consequences of having a body existing for that long a period. Their whole idea of continuity means they'd have to be there that long. Those citizens would be able to provide feedback as the process goes along, but what we need is for them to be involved in the planning process and then sunset at its completion.

Commissioner Bagoyo wanted to include one of their recommendations, Section 8-8(5), which would then be 7. He moved to include a new item that states the Planning Director shall prepare an annual report for the Mayor and the County Council. Commissioner Rosario seconded the motion.

Mr. Van Dyke said that the Committee of the Whole's language needed to be compared to the Commission's. He said it'd be more orderly and elegant to combine them, so he'd just add "to the Mayor and the Council" at the end of the Commission's Proposal 6.

More discussion followed. Chair VencI said she'd like recognize David Raatz because he was there as the legal representative for the Council. She asked him to help clarify things for the Commission.

Mr. Raatz, a staff member for the County Council, said the main difference in language proposed by the Council is that the implementation report would go to the Mayor and the Council. That language wasn't specified in the Charter Commission's language.

Vice-Chair McLaughlin thanked Mr. Raatz for supporting this Commission from the beginning. He asked if Commissioner Bagoyo's proposal was to be taken as a friendly amendment (yes), and expressed support of the main motion as amended. This proposal would significantly change the long range responsibilities of the Planning Department and would affirm the existence of the

CACs in the Charter for the first time. He asked Corporation Counsel what the process was for resolving differences if both the Commission's proposal and the alternative were adopted. Mr. Moto said that if both receive a majority of yes votes, then the one with the most votes wins.

Commissioner Takahashi asked Mr. Moto about the language regarding sending to the registrar the ones we didn't accept from the Committee of the Whole in this report. Mr. Moto responded that the Council itself didn't propose a ballot question; it's up to the Commission to draft ballot questions. He continued that Mr. Raatz wrote the Committee of the Whole report. On page 13, in the first partial paragraph, the very last sentence, "at a minimum, residents of Maui County deserve the opportunity to vote on the following question: "Shall there be a permanent citizen advisory committee for each community plan district?" Mr. Raatz confirmed that it was the Council's suggestion. The County Clerk would formally prepare any ballot language.

Further discussion ensued to assist commissioners with clarification. Mr. Van Dyke said to look at the proposed ballot language in #7 of his report. Mr. Moto suggested pulling out E to make it a separate ballot question; the Council's proposal would be juxtaposed with that one. All the others would remain as they are.

Chair VencI said the motion is to keep the Commission's proposal for CACs with the change on #6. She called for the question; it was unanimous.

Commissioner Mossman said she'd like to leave the language in E up until the first comma, and delete everything up until the second comma. Only that part should be removed for a separate ballot question (leave in all of E except for the section between the first and second commas).

Chair VencI clarified the ballot language. Motion was made (Mossman) and seconded (Petro).

Discussion continued until Mr. Van Dyke asked for comments on the general proposition. He asked if the Commission was comfortable with the ballot proposal and its subparts. It's the longest ballot proposal yet, but he thinks it's forthright and honest in what it proposes. He thinks they're all understandable concepts, and they're all an integral part of the whole.

Discussion

- Does the Commission have to separate E? Keep the Commission's proposal intact; we're taking a position. It's up to the Council to recall or retract. Why do we try to figure out how we word our question?
- One tactic would be to leave everything together so people would understand the continuity vs. splitting it out. We know what the Committee of the Whole likes or doesn't like. We could put those on nine, then split out and reword the others. If you put 7 with its points up against their language, there's a good risk people will want it without understanding its complexity. Let's look at grouping these things so that most of what we have here will pass.
- Mr. Van Dyke said that's assuming our proposal is broken up (our long convoluted proposal may be rejected).
- There's no other way to get this across; we need to have the whole thing there. Keep everything together except for the one piece that's the same as the Council's.
- We want CACs to have permanency until the Council adopts the plan. We want timelines in there. Mr. Van Dyke interjected that although Mr. Min testified that these deadlines weren't binding, they are.
- The motion is to pull out only the section between those two commas. That would leave the

Commission's Proposal 7 intact except for the part that would be a separate section to be dealt with in a comparison amendment.

- If the Council decides to push an alternative, one section would be permanent; another section would say that the CAC would remain in existence until the plan is adopted.
- Mr. Moto said one question would have everything you see (one yes/no question). This would be followed by two shorter questions regarding permanent CACs vs. CACs with a limited duration (yes/no question).

Mr. Raatz said that the Council wasn't making a formal proposal that this should be the ballot question; it's the committee's statement on what the consensus of the councilmembers seems to be. The statement "at a minimum, the residents of Maui County deserve the opportunity to vote on the following question" presupposes that they might need to get into more detail depending on exactly what the Council's alternative is going to be up against with the Charter's proposals for CACs. The County Clerk would have to flesh it out later.

More discussion ensued regarding Council actions, their ballot questions, whether the Commission would have input on them, and the possible repercussions of various actions. The Commission submits its proposals to the Council, which has ten days to act on it. The Council could decide not to present an alternative, so the Commission should stop anticipating and presuming, and just focus and act on its own proposal.

Vice-Chair McLaughlin said the motion now is to take out part of 7E and to rephrase it as a new proposed question. Mr. Van Dyke said the motion must also explain what part of the new proposed language in the Charter should be taken out. Vice-Chair McLaughlin then offered a friendly amendment to the motion, that the last sentence that was specific to the duration of the CAC go with the piece of 7E in the Charter language. Mr. Van Dyke said that if the Council's proposal receives more votes, then the Council's language plus the Commission's Proposal 7 would all become part of the Charter. Mr. Moto or Mr. Raatz would then need to decide upon new language for the Charter.

There was extensive discussion in which commissioners tried to clarify this further. Chair Vencel called a five minute recess to allow the commissioners to read what the requirements and provisions are after the Charter Commission receives the Council's alternatives. She then decided that the Commission would recess for lunch so commissioners could have some time to think and get their thoughts together.

BREAK

The meeting was called back to order at 1:15 p.m. She stated that the Commission had been discussing its Proposal 7 and what the Council recommended. She asked if anyone had come up with any ideas. Commissioner Mossman asked if we'd still have an alternative measure on the ballot if we agreed with the Council's concept but not their format and language. Mr. Van Dyke responded that it depends on how strongly the Commission feels about the disagreement. An option would be to combine the two and incorporate the best of both. They'd have ten days and if they agree that we captured the essence of theirs, they'd withdraw theirs and go with ours. But if they disagree, they'd keep theirs.

Much discussion followed until Chair Vencel said to clarify the motion and then move on. Commissioner Mossman said her motion on the floor was to keep all of Proposal 7 with the modification of E. Mr. Van Dyke said that as part of her motion, she also needs to make clear what part of the language she's moving out. If the Commission adopts Commissioner Mossman's motion, we will have a Proposal 7A that would be juxtaposed against the Council's

proposal.

Looking at Section 8-8(5) in the Final Report, Mr. Van Dyke explained that there were two language options:

1. Take out the last sentence of section 3 in Section 8-8(5).
2. Take out paragraphs 3, 4, and 5.

The advantage of the first is that you're focusing in on exactly what the issue is. The disadvantage is that there could be an awkward situation if the Council's proposal (Resolution 02-63) is adopted with Commission's because they'd be inconsistent. Some of 3, 4, and 5 is identical. The difference is that in the Council's version, CACs would continue to monitor the implementation and enforcement of the general plan and the community plan, and they'd have a specific duty to do a comprehensive revision every ten years. It was his understanding that our version wouldn't want them to do that; we'd have a new CAC. He concluded that his recommendation is to put 3, 4, and 5 in 7A because it's the cleanest, most straightforward way of dealing with this.

Chair VencI said that at this point, the Commission is adopting Proposal 7 and taking out the piece of E that begins with the word "that" and ends with the word "plan." There was further discussion as commissioners tried to get more clarification on Commissioner Mossman's motion and the Council's proposal.

Chair VencI said she wasn't comfortable with changing the Council's alternative, and thought their wording simply meant for CACs to be permanent. However, the Council's resolution doesn't say that. Mr. Van Dyke explained it's because when they are formed, it's understood that all boards and commissions are permanent. According to HRS 50-10, the Commission has a role in structuring the ballot proposal even for the Council's alternative. Perhaps the way to move forward is to come up with a ballot proposal for the Council and see if they're okay with it.

Mr. Moto agreed with Mr. Van Dyke's interpretation of HRS Chapter 50. It gives the authority to the Commission to prepare the form of ballot question. If the Commission chooses to do so, it could write the question for the Council. They have a suggested version already in their committee report, but it's just a shorthand way of expressing what they're trying to achieve. It was always anticipated that, as a result of the Commission's work today, a revised report would be developed and given to the Council. Chair VencI added that the report would be given to them as a courtesy, and there'd be a cover letter specifically stating what we did with their two alternatives.

Mr. Raatz said the language talks about reviewing comprehensive revisions in the usual community plan updating process. He doesn't think there's an intention to create a duplication of the process. It's to recognize in the Charter the CACs' role in community plan updates.

After much discussion, Chair VencI reminded the Commission that they still have a motion with regard to the section of E in question. It either has to be dealt with, or if appropriate, changed to deal with Mr. Van Dyke's summary.

Commissioner Mossman restated that either all of E would be removed and in its place in sub A would be all of 3, 4, and 5 in 8-8(5). The council's part would be all of theirs for 7B. Or as she previously stated, leave E except for that part, and on the ballot substitute language that says the role of the CAC is to review and recommend and they'd remain in existence for... and the two sentences for the Council's revision ... knowing that those ballot measures mean substituting

3, 4, and 5 or all of this language in the body. Rather than having the whole thing on the ballot, we'd have a couple sentences that explain the difference of those two proposals. Commissioner Mossman said her motion was to do it the second way.

Mr. Van Dyke said it's clear that it should be done the second way. However, the Commission still needs to have in backup material what Charter language is connected to what ballot proposal.

More questions came up about the voting process (the highest number of votes would prevail). There was also more discussion about the strategy of the ballot language (don't want to lose many provisions that aren't in dispute or have only part get accepted, creating a mismatch). Mr. Van Dyke pointed out that our language in 5 says the community plan, once accepted, becomes part of the general plan, so put that back in if we think it's important. They don't have it specifically in their language.

Commissioner Mossman modified her motion to take out all of E; Vice-Chair McLaughlin seconded it. Chair Vencel called for the question.

Mr. Van Dyke said our language would say: "Should the role of the CACs be to review and recommend revisions in the community plan, and to stay in existence until its recommendations are approved, modified ... and should the community plans, once approved, become part of the general plan?"

Their language would be: "Should the role of the CACs be to review and recommend revisions to community plans, 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 CACs be permanent for each community plan?"

Chair Vencel asked the Commission to vote on the CAC part of Proposal 7. All were in favor except Commissioner Takahashi.

Mr. Moto said that Planning already has the force to administer ... Chair Vencel said it should be "require to enforce zoning ordinances."

PROPOSAL FIVE: BROADEN THE RESPONSIBILITIES OF THE DEPARTMENT OF PUBLIC WORKS AND WASTE MANAGEMENT TO INCLUDE ENVIRONMENTAL MANAGEMENT AND CHANGE ITS TITLE TO THE "DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL MANAGEMENT" (Section 8-5(3))

Chair Vencel thanked the Commission for leaving this until Public Works could be here. She said Mr. Van Dyke would explain. There was an omission initially, but in addition to that, the Commission has received testimony from Public Works since the Council meeting that further clarifies what they really want in this language. That testimony originally came to the Commission in January. Did the Commission just overlook it, or was there a conscious decision to not address it?

Mr. Van Dyke said there were some mechanical aspects to this and a couple of substitute issues. Starting with the mechanical ones, in the previous Final Report, he forgot to put brackets around the words "and maintain county buildings." Then more substantively, there was language in the purpose material but not in the operative material about what exactly the department was supposed to do with this extended role of management. In his letter, he's given a sentence that that he thought reflected the Commission's wishes, but he asked for suggestions. The language is "supervise environmental management in control of pollution including recycling, litter control,

and protection of the beauty of Maui County." Motion was made (Mossman), seconded (Petro), and unanimously passed to adopt Mr. Van Dyke's suggested language.

Chair VencI mentioned 8-5(1) to 8-5(3), referring to the correspondence commissioners received in the mail. She pointed out that what's new about the communication received on June 3 is that they'd like us to consider taking the environmental management part off their name; they're suggesting they simply be called the Department of Public Works.

When asked if the Commission was only supposed to be dealing with Council recommendations, Chair VencI said that this information was at the Council meeting, but it wasn't talked about. She asked Milton Arakawa if he had anything to add for clarification.

Mr. Arakawa said that the language before the Commission (regarding powers, duties, and functions) was submitted back in January, but the Council didn't have this proposed language. They're just proposing this for consideration.

Mr. Van Dyke said that as long as the Commission is trying make sure that the actual proposal reflects what it wanted to have happened, there should be no problem. He had changes in his proposal, so it was fine if the Commission wanted to make adjustments.

Vice-Chair McLaughlin said if the Council didn't support Mr. Arakawa's proposal, it makes it a little difficult for the Commission to support it now. Mr. Arakawa replied that the language in front of the Council was for the existing Charter. He believes the Council saw their proposed language. Mr. Van Dyke said there hadn't been a lot of discussion on this.

Commissioner Hiraga didn't have a problem with this because he's making it more orderly and clearer. She moved to accept the revised wording.

Mr. Van Dyke added that another reason this was appropriate was because, to some extent, their language overlapped his, so some choices need to be made. He asked the Commission if they wanted a little bit of both, or if they wanted to forget about one.

Discussion

- They're deleting environmental management and keeping the existing waste management. Emphasize the environmental aspect; the fundamental difference is that we replaced "waste" with "environmental" (no objections to items 1 - 6).
- The new language just added in would also be included in that.

Commissioner Hiraga proposed taking items 1 - 6. Commissioner Holaday seconded the motion, which was then unanimously approved.

Mr. Van Dyke clarified that the Commission just adopted their language and our proposed language, and we left environmental management in their title. He suggested that solid waste collection be referred to as well. Motion was made (Petro), seconded (Bagoyo), and unanimously approved.

PROPOSAL EIGHT: PROVIDE DUE PROCESS PROTECTION IN THE EVENT OF THE TERMINATION OF THE DIRECTOR OF PERSONNEL SERVICES (Section 8-9(2))

Mr. Van Dyke said the Council thought this was insignificant and recommended deletion; it's not a problem needing a solution. No director of Personnel had ever been terminated without such, and there's no doubt that the director would have due process protection.

Commissioner Mossman stated that the current language doesn't allow them to be terminated at all; it may be a housekeeping issue. Mr. Van Dyke said the consensus was that anyone hired could be unhired.

Commissioner DeMello moved to delete Proposal 8. Vice Chair McLaughlin seconded the motion.

Discussion

- Commissioner Hiraga and Vice Chair McLaughlin recalled that the Commission hadn't seen any authority to terminate the director of Personnel Services. The Civil Service Commission appoints the director, and there were no provisions for the removal of the person they hired. This would not be supported unless there is solid proof that this provision isn't needed. The real issue is that this hasn't been completely resolved.
- We need to come up with as clean a document as possible. Either leave it in or put it in housekeeping.
- It should be consistent with fire, police ... This would replace Proposal 8. Allow the Civil Service Commission within the Charter to appoint and remove the director (speaking against the motion).

Chair VencI said the motion is to delete Proposal 8. Ayes: DeMello; Holaday. Nays: VencI; McLaughlin; Bagoyo; Furhmann; Hiraga; Mossman; Petro; Rosario; and Takahashi. The motion failed.

Commissioner Takahashi moved to relocate the language that would allow the Civil Service Commission to fire the director down to 8-9(4), the same place it is with Liquor, Fire, and Police. It shouldn't be up with the director. Vice-Chair McLaughlin seconded the motion.

When Chair VencI asked if all were in favor, Commissioner Mossman said what we have now is more consistent, so she voted no to put it under the description of the person being hired.

Commissioner Takahashi moved to reconsider his motion, restoring the original motion to leave it where it was. The motion was unanimously approved.

Chair VencI called a ten minute recess to allow Akaku to change its tape. As soon as the meeting was called back to order, motion was made (Mossman), seconded (Holaday), and unanimously approved to adopt the ballot language for Proposal 8.

PROPOSAL NINE: RESTRUCTURE THE DEPARTMENT AND BOARD OF WATER SUPPLY TO GIVE IT MORE AUTONOMY (Section 8-11(1))

Mr. Van Dyke said this is the second situation with an alternative. The Commission could choose to reject or accept it. This would bring water under the Mayor with legislative oversight. The Council said they'd appreciate more guidance as to what the intent of the language to coordinate private water systems was and how it should be interpreted. They also pointed out a

potential inconsistency: although the Commission's proposal gives more autonomy, it also gives the Council power to enact legislation that may be appropriate in light of an audit. They wanted to have some guidance as to whether there were any limitations on what the Council could do (does it include the power to regulate rates?); the Council wondered if we wanted to be more detailed and specific about power and authority.

Motion was made (McLaughlin) and seconded (Petro) to reject the Council's alternative proposal. Vice-Chair McLaughlin said it's ironic he made the proposal since he supports the Council's alternative, but by rejecting their alternative, we create the opportunity for the public to choose between the two. We've done our best; it's important for voters to make this call.

Chair Vencel called for the question. All were in favor of rejecting the alternative with the exception of Commissioner Mossman.

Mr. Van Dyke invited discussion on the following two matters so he could put wording in our document to provide guidance for the future if our proposal were to be adopted: first, to clarify the first authority to coordinate private water systems, and second, if there are any limits on the Council's power to enact legislation in light of an audit.

Discussion

- Commissioner Mossman said that we'd initially put language that said something about water being a public trust issue. The concept is that water is a public resource; private development still needs to be under public domain with coordination of other services so people have access to water. The intent is to make sure water is a public resource to be reserved for public use.
- Mr. Van Dyke clarified that it'd be appropriate to refer to the constitutional provisions in the Water Code language. He continued that our language gives the Board the authority to coordinate private water systems in order to promote the policy stated in the Hawai'i State Constitution and other applicable state laws while also respecting private property rights.
- Stating all of that in this document is rather wordy, but it's our reference.
- Mr. Van Dyke said that our proposal gives the Department of Water Supply some role, which may be different from the State Water Code or the Constitution. Those documents don't say much about how the County should structure the water system.
- The State Water Commission has roles particularly in areas that are designated water management areas, but that's not the case for the rest of Maui. The state can preempt some of these duties, but except for Moloka'i, they haven't.
- The Charter is like a constitution. It's a living document, so the language that's adopted has to be interpreted at that time.
- This was relative to development. There should be one body controlling water for development; it's a precious limited resource.
- We need more publicly developed water systems.
- This allows the Department to work with private developers to develop wells knowing that they share the public resource.
- The language is clear enough; we don't need to change the operative language, we just need more explanation.
- The second issue was the power of the Council following an audit. Our language gives the Board power to set rates without review, but it also calls for an audit followed by Council review. The Council asked if this really gives them the power to reverse a rate or to substitute its own view.

- The language gives them the right to enact legislation.

Commissioner Mossman moved to delete "and if necessary..." The motion was seconded by Commissioner Bagoyo and unanimously approved.

Mr. Moto had a question regarding the drafting of the ballot question. His question is about the word "once." He doesn't see that explicitly in the technical language on page 24 of the Charter Commission report. In the underlined portion of Section 8-11(3), the technical language says, "The appointed members shall serve for three year terms and can be reappointed." Insert the word "once."

Everyone agreed, so the Commission moved on to the ballot language. Mr. Van Dyke said that again, this is a long series of things that are part of a composite set of recommendations.

Motion was made (Bagoyo) and seconded (Petro) to approve the ballot language with the exception of "have more autonomy" on the first line.

Discussion

- It'd be a disservice to the voters to remove "more autonomy" because it'll help them, so opposing motion on this basis.
- The Council didn't say "less autonomy" in their proposal. Some people may think it's physical; they don't understand autonomy. The important thing is trying to list their responsibilities.
- If you remove those words, you'd be obscuring the difference between the two proposals. What's the distinguishing part of the language?
- The difference is the underscored section in the Council's alternative. Section 8-11(5) says the Mayor appoints the director, which is in clear contrast to being hired by the Board. The rates in our proposal come from the Board; in theirs, it's by the Mayor and the Council. A lot of people may not understand the concept of more or less autonomy.
- We should err on making it as clear as possible; stay with "more autonomy."
- Consider changing the motion: "Should the Board of Water Supply have more control to operate?" Autonomy is to the Board, not the Department.

Chair Vencil restated Commissioner Bagoyo's amended motion: "Should the Department and the Board of Water Supply have more control to operate..." The motion was seconded by Commissioner Petro and unanimously approved.

Commissioner Mossman moved to separate this into two ballot items. One would take A and B and compare it to the Council's issue, then compare C - G. The second one has to do with the autonomy issue. There was no second; the motion died.

Mr. Van Dyke offered the following wording for the Council's alternative: "Should the Department and Board of Water Supply be restructured to make the department a regular County agency subject to the Mayor's executive management and the Council's legislative oversight, and eliminate the Board of Water Supply's autonomy and final decision making authority by making it an advisory body, and by assigning the Mayor the power to appoint the director?" This language is taken primarily from Committee of the Whole report.

Motion was made (McLaughlin) to support the proposed language. Commissioner Hiraga seconded it.

Discussion

- The Council has added language unrelated to the management. Is any of that significant?
- Have the Commission's proposals parallel the Council's.
- Mr. Van Dyke said there should be something that makes it clear that the Mayor and the Council would have final say under the Council's proposal.
- Everything the Council wants is in Report 02-64. It parallels what the Commission has in Proposal 9.
- We'll have two on the ballot. Would the existing Board of Water Supply automatically go away?
- In order to survive at all, the ballot proposal must receive the majority of the yes votes. If both the Council's and the Charter's proposals are voted down then the Charter would remain unamended.
- There was prolonged discussion for clarification purposes. Chair Vencel promised that the Commission would get the education out there to inform the public.
- Proposal 7 has a lot of "shoulds"; take them out.

Motion was made (McLaughlin) and seconded (Hiraga) to include Mr. Van Dyke's language.

Discussion

- Commissioner Bagoyo was concerned about the director being appointed by the Mayor and confirmed by the Council because the rest don't have that.
- For consistency, should the Commission take out "autonomy" and insert "control"?
- Mr. Van Dyke said he took this from the Council's own language.
- Vice-Chair McLaughlin said that although these are long and complex questions, they meet the criteria of providing a clear distinction between Council and Charter proposals.
- There are too many "shoulds" in this Proposal. Mr. Van Dyke said he could easily take out "shoulds" and substitute them with wherebys.

The motion was unanimously approved.

PROPOSAL TEN: CREATE A NEW DEPARTMENT OF TRANSPORTATION (Section 8-14)

Mr. Van Dyke said the Council recommended deleting Proposal 10 and that the administration is against this. They explain in their report that it's premature.

Motion was made (Holaday) and seconded (Bagoyo) to push Proposal 10 forward.

Discussion

- Vice-Chair McLaughlin said that this was one the Commission took out to the public and reviewed a lot. He didn't hear anything new at the Council meeting, so he supports the motion. The Commission thought it was being progressive instead of reacting.
- According to Mr. Van Dyke, the Council suggested that having any jurisdiction over air and water was unrealistic. The County's role is limited (even over highways), creating more bureaucracy.
- Chair Vencel explained that the reason for adding air, sea, and even highways was to continue partnerships. She assured everyone that they all realize they don't make those decisions. She felt that the conversation on the floor from the Council dealt with the cost

- as well; voters should know about the cost as well.
- Commissioner Mossman said the proposal is nowhere else in the Charter so leave it in. Transportation needs to be recognized

All were in favor of leaving the Department of Transportation as a new department except Commission Hiraga.

Motion was made (Mossman) and seconded (Bagoyo) to adopt Mr. Van Dyke's language for Proposal 10. Chair VencI called for the question; the motion was unanimously approved.

PROPOSAL ELEVEN: STAGGER THE TERMS OF MEMBERS OF THE SALARY COMMISSION (Section 8-16(1))

Mr. Van Dyke said he tried to adapt this to the state law, which was just changed this very session. He recommended in his report that we go back to the language the Commission was working on earlier (for staggered terms). The Commission has the responsibility over elected officials, so it's logical unless anyone has new thoughts.

Motion was made to amend Proposal 11 as suggested (leaving the word "establishing"). The motion was seconded by Commissioner Petro and unanimously approved.

Mr. Van Dyke also asked about the ballot language. Motion was made (DeMello), seconded (Holaday), and unanimously approved to accept Mr. Van Dyke's wording.

PROPOSAL TWELVE: COMMIT THE COUNTY TO A PLAN OF OPEN-SPACE ACQUISITION (Article 9 & Section 8-6)

Mr. Van Dyke said the Council was quite happy with this proposal. They did not submit a recommendation.

Motion was made (McLaughlin) and seconded (Rosario) to amend the ballot language to reflect the wording offered by the Trust for Public Land. Commissioner Bagoyo said the language is important; we need to let voters know that a minimum of 1% of property tax revenues would be for open space.

Regarding the motion to accept Diane Zachary's language, Mr. Moto said it should say "certified real property tax revenues." Another point about this version and Mr. Van Dyke's: neither of them makes it clear to voters that this is to be done on an annual basis ("each fiscal year").

Vice-Chair McLaughlin offered an amendment to his motion to change "existing" to "annual" (near the last part of MCLT's testimony). Mr. Van Dyke said it shouldn't be funded annually by a minimum of 1% of real property tax revenues.

Commissioner Bagoyo asked if a friendly amendment should be developed because he thinks in the body of our proposal, it says the fund can accumulate from year to year without lapsing. Vice-Chair McLaughlin said to stick with the amended motion and not accept the friendly amendment.

Chair VencI clarified that the motion on the table is to use MCLT wording with two minor amendments ("annually by a minimum of 1%") for the ballot question.

Commissioner Holaday thinks the language says you can only acquire lands around streams, rivers, and coasts. He would oppose this intent if his interpretation were correct. Commissioner Takahashi supports Commissioner Bagoyo to put 1% up front.

Chair VencI asked for those in favor or putting in 1%. Only Vice-Chair McLaughlin, so the motion failed.

Commissioner Mossman moved to adopt Proposal 12 with the addition of "real" in front of property and after revenues "for each fiscal year." Chair VencI said "certified" is language that came from the Department of Finance. Commissioner Petro seconded the motion; it was unanimously approved.

PROPOSAL THIRTEEN: AMEND THE ETHICAL STANDARDS GOVERNING DECISIONMAKING ON BOARDS AND COMMISSIONS (Subsection 10-4(1)(f))

Chair VencI said that possible language had been forwarded to the Commission. Mr. Van Dyke said the Council wanted to delete this proposal entirely because they were opposed to the substance of it. The backup alternative was to ask the Commission to add provisions (public officials, and the public). Chair VencI said she'd received testimony from Councilmember Nishiki late last night.

Vice-Chair McLaughlin moved to delete this proposal. Commissioner Petro seconded it for discussion purposes.

Vice-Chair McLaughlin strongly encouraged his colleagues to reject this proposal. The basic salient points, his primary considerations are: this proposal wasn't taken out as a group to the public, and we didn't have the benefit of hearing from all the communities. Secondly, at a time when some colleagues are being faced with indictments and the trust level is low, changing the definition of conflict will seriously erode and do significant damage ... as our people lose faith in our government. Third, while most of the discussion has been very well intended, perhaps electing ... Lana'i then give latitude for them. It's very disingenuous to pretend that's the only proposal ... to lower the standard of when a board or commission member must recuse himself.

Commissioner Mossman is still against doing this because it passed by a bare majority. The Council and Board of Ethics are opposed to this. She agrees with Vice-Chair McLaughlin, saying we set ourselves up. She feels for Lana'i and Hana, but this doesn't solve that problem; it creates a bigger problem for the rest of the community. She restated that she supports deletion.

Commissioner Petro said that he supported this proposal simply because he felt for them, but he needs to reconsider this relative to the situation on Moloka'i. It would be best for them not to be allowed to vote on issues because it's a question of being employed or unemployed. He'll vote in favor of the motion to delete.

Chair VencI said she struggled with this issue. She initially voted no, then changed it to yes, with the understanding that we were offering the Ethics Board some help. She could see how being an employee would be difficult, but there is a place for these people to contribute to discussion. Thus, she is in favor of the motion.

Chair VencI called for the question. With the exception of Commissioner Fuhrmann, all were in favor of deleting Proposal 13.

PROPOSAL FOURTEEN: PROVIDE GREATER NOTICE OF MEETINGS (Subsection 13-2(11))

Mr. Van Dyke said the Council had a couple wordsmithing suggestions. They're back to the old concern of being sued if we set the standard too high. Looking at the proposal we adopted before (Final Report), we use the language "most accessible technology." The Council warned that it might get us in trouble and suggested that we change the language. The drafted language in 13-2(11) refers to public meetings. It's a suggestion to provide greater notice for meetings and public hearings.

Mr. Moto said that with rare exception, in general, regular meetings are never published in newspaper. Some are, especially when required by law. In the proposed Charter amendment language, he reads that it'd begin to require providing notice. It's a very significant change in the daily practice of boards and commissions.

Commissioner Mossman moved to adopt the amendment, deleting "of their meetings and hearings" on the top of page 4 in Mr. Van Dyke's report. Commissioner Hiraga seconded the motion.

Commissioner Takahashi said this is important so we don't want it taken away. Because this could have future liability issues, perhaps the Commission should take a stance to delete this one but send letters to various commissions to recommend that they provide as much notice as possible with the means available to them. Chair Vencel said the Commission could add a strong recommendation in its report.

Vice-Chair McLaughlin supported Commissioner Takahashi's comments, saying that it wouldn't be logistically practical to have to provide newspaper notification. This terrible problem undermines what we're trying to do to engage the public. He concluded with regret that the Commission needed to go back to the drawing board to draft serious recommendations.

Commissioner Mossman agrees that it's not an end all solution, but she supports the motion because it draws attention to this dilemma.

Mr. Van Dyke asked if we could just say that all meetings should be published on the County website. Commissioner Mossman responded that the only concern is some people don't have internet access, so we're going to put it in the language that while we want more done in this area, we're not setting ourselves up.

Chair Vencel called for the question. The motion is to pass Proposal 14, amending its title and taking out "of their meetings and hearings."

Vice-Chair McLaughlin proposed a further amendment that basically reinserted the words after, and also "of their meetings and hearings through other means." There was no second; this motion failed.

We're back to the main motion as amended. Only Commissioner Mossman supports it. The motion fails.

Commissioner Takahashi moved to delete Proposal 14 and to have Mr. Van Dyke draft a letter to the Mayor and the Council to place greater emphasis on notification through various means of communication. Commissioner Bagoyo seconded the motion. All were in favor except for Vice-Chair McLaughlin, who abstained.

PROPOSAL FIFTEEN: ALLOW BOARDS AND COMMISSIONS TO MEET IN ACCESSIBLE, PRIVATELY OWNED LOCATIONS (Section 13-9(2))

Mr. Van Dyke said both he and the Council had comments. Motion was made (Petro) and seconded (Holaday) to approve the language in Proposal 15.

Mr. Moto said a comment had been made to him that the technical language could be revised: delete the hyphen in privately owned.

Chair VencI restated the motion as a motion to approve the language in Proposal 15 without the hyphen. It was unanimous except for Commissioner Bagoyo, who'd stepped out of the room.

PROPOSAL SIXTEEN: TRANSITIONAL CHANGES

Mr. Van Dyke said he'd omitted the previous Proposal 16. In the final housekeeping one, he lists seven or eight things we're doing.

Commissioner Bagoyo requested to recess. Chair VencI said we still had to cover pros and cons and the educational campaign, but that the Commission would recess very soon.

Commissioner Mossman moved to adopt; Commissioner Petro seconded the motion. All were in favor, so the motion was unanimously approved.

Chair VencI asked who could be here tomorrow ... Mr. Van Dyke said she could have ten commissioners now or six tomorrow.

Commissioners Mossman and Petro had to leave. Mr. Van Dyke asked if it'd be possible to have the staff do this and not reconvene.

Chair VencI asked if it'd be possible for anyone with concerns regarding the pros and cons to submit them to her or Mr. Van Dyke. She said she could email the educational campaign information to commissioners for further approval.

Commissioner Takahashi said it'd take two minutes for her to walk through it, so Chair VencI explained what was written on the board. There'd be a one time run of one full page. The Maui News is one Sunday full page and two Sundays of the Election Tabloid. The direct mail piece (twelve panels) would be \$13,000. Chair VencI mentioned the possibility of an additional Sunday page, saying that the Commission has \$40,000 in the budget. The idea is to encumber the money before the end of the fiscal year.

Chair VencI also asked if anyone else was interested in helping. She said it's not going to look like anything we've had; the information will have to be very much condensed. She expressed concern with this, saying that she really wanted these pieces to look like a real ballot so people could make notations and have something to look at in the booth.

Commissioner Takahashi moved to approve the budget with one suggestion. He said it might be more practical to ask for an insertion that people could read and take out, something the size of a pamphlet, but folded only once. The insertion cost won't be that much. Commissioner Holaday seconded the motion.

Vice-Chair McLaughlin said this phase is very important. He and the commissioners have a lot of

confidence in the Chair. We all have a responsibility to get the word out. This could wreak havoc on polling places if people aren't educated. If that means having inserts available at polling places, we could leverage what little resources we have.

Chair VencI called for the question. In favor: Commissioners Fuhrmann, Takahashi, Hiraga, Holaday, Rosario, and DeMello; and Chair VencI and Vice-Chair McLaughlin.

Mr. Raatz added that the commissioners would have the authority to make corrections. He thanked the commissioners for this assignment and congratulated them, saying that he really enjoyed it.

Mr. Moto clarified that the Commission's authority would also extend to revisions. Mr. Van Dyke asked that any suggestions for pros and cons be sent to him; Chair VencI stated that Mr. Vanderbilt had comments that he'd send to the Commission.

Commissioner Takahashi publicly recognized Mr. Van Dyke's ability, saying he did an outstanding job. He also thanked Mr. Moto for steering the Commission through uncharted waters. Commissioner Hiraga echoed his comments, thanking Chair VencI and Ms. Pasco for their hard work in meeting quick turn around times.

CONCLUSION

Chair VencI's final comment aside from thanking everyone was that the Council meeting would be on June 21. Her aim is to get this report to the Committee of the Whole Chair by the June 13 so it could be included in their agenda for the June 14. Her only concern is that it won't give much time to get it to the Commission and for the Commission to respond. It will be put on the website for the public.

Chair VencI concluded by thanking everyone, saying it had been a pleasure to work with such independent thinkers and she appreciates everyone's efforts. She believes this was probably the most well attended Commission; everyone's commitment showed in their attendance. The meeting was adjourned at 4:40 p.m.

Ke'ala Pasco, Charter Commission Assistant

MAUI COUNTY CHARTER COMMISSION PUBLIC MEETING
County Council Committee Room, Maui
Wednesday, April 17, 2002
8:00 a.m.

PRESENT

Teryl Vencel, Chair
R. Sean McLaughlin, Vice-Chair
Vince Bagoyo
Ray DeMello
Bill Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
Stephen Petro
Erlinda Rosario

STAFF

Ke'ala Pasco, Charter Commission Assistant
James Takayesu, Corporation Counsel
Jon Van Dyke, Charter Commission Analyst

EXCUSED

Brian Moto, First Deputy Corporation Counsel
Donn Takahashi

CALL TO ORDER

Chair Vencel called the meeting to order at 8:10 a.m. Present: Vice-Chair McLaughlin; Commissioners Bagoyo, DeMello, Fuhrmann, Hiraga, Holaday, Mossman, Petro, and Rosario. Staff present: Pasco; Takayesu; and Van Dyke. Commissioner Takahashi and Deputy Corporation Counsel Brian Moto were excused.

Chair Vencel asked for an approval of the minutes. Motion was made (Bagoyo), seconded (DeMello), and unanimously approved to accept the minutes from April 10 (excused: Takahashi). Vice-Chair McLaughlin mentioned that Akaku's (unedited) videotapes are available to the public.

Communications were received from Valley Isle Electric, Bug Man Termite & Pest Control, Janet and Vincent (last name?), and Roy Hiraga. Motion was made (Bagoyo), seconded (Rosario), and unanimously approved to accept these communications into record (excused: Takahashi).

TESTIMONY

MR. MYLES INOKUMA

Mr. Inokuma testified about Proposal 14, which would reduce the length of service for boards and commissions from five to three years. He's not sure this proposal would actually do what it's intending to do.

- 1) Boards and commissions created by the Charter are the ones we have many appointments for; it's the ones established by ordinance that we're having problems with.
- 2) Once the notice goes out, there's a time requirement. They meet every day, all day; it's very intense. It's hard to get people for the street lighting and naming committees.
- 3) Gender equality and geographical representation need to be actively pursued (keeping in mind the flight schedules for Lana'i and Moloka'i, and the inconvenience of driving from Hana).
- 4) We also need parity in the political aspect.
- 5) Decreasing the length of term would create more vacancies to fill every year.

- 5) What about the environment? Some members expressed concern, but what happened? It got left in Public Works, which is already overloaded. The county and this Commission seems satisfied to leave it to the feds and the state. This county's going the same way as LA.

Mr. Vanderbilt hadn't finished his testimony by three minutes. He asked to come back to conclude.

MR. JIM SMITH

Mr. Smith returned to continue his testimony. He had three additional minutes.

- 1) Attach items to the agenda so the public can review it at least six days prior to the meeting. He asked the Commission to continue this to another meeting, so at least there's more time for them to prepare. Timing shouldn't be more important than substance ... don't focus on getting this out today.
- 2) Regarding Water, Mr. Smith asked what "successive statutes" means (it's open ended). If you're giving them the power to coordinate, and reports to make it autonomous, and interweaving with the Water code (which has to be amended when community plans are amended). Update them at least every five years ... this is very confusing.
- 3) Mr. Smith questioned "subject to approval of Council as provided by law." What law? He's confused about where that's going. An audit or the Council can initiate legislation. Work isn't done on this issue. Address this before sending it out.
- 4) He referred to minutes and audio tapes, saying that whenever there's a conflict, the existing tapes should be the authority rather than the account of what happened.

MR. DEGRAY VANDERBILT

Mr. Vanderbilt apologized in case he offended anyone by being less than calm. He said it's really hard for the public who really cares about the government; they sometimes have to speak out to ensure the public's role is protected. He continued:

- 1) Four year terms is another strengthening of the establishment. You haven't made recall any easier. Four years is too long to wait because it's all about name recognition. You don't need to reeducate the Council. Unless the public really wants it (not the developers), forget it. He thinks this has been on the ballot maybe once or twice, and asked why it should be put out again.
- 2) John Min and David Craddick don't have the time to prepare if they're to sit on the Water board.
- 3) Rethink initiative. Make the public feel like they're wanted in the public process.

Chair Venci closed testimony. Mr. Van Dyke commented that the document the Commission is looking at today was drafted after the last meeting; it's a working document (his attempt to summarize). The commissioners should look at the staff document first. Copies have been made for people who want to follow along.

Chair Venci added that she was still looking up dates and filling in blanks yesterday, so the document wasn't ready. This is the last meeting before the document goes to the Council. The public will have an opportunity to testify to the Council, and to the Commission again in June.

Commissioner Mossman expressed her displeasure that the public didn't get the document when commissioners got it. Commissioner Petro clarified that this isn't new; it's just a summary (a

Both "public hearing" and "public informational meeting," had been used in regard to meetings; "public meetings" would be used instead. Kaunakakai Cafetorium was changed to Kaunakakai School Cafetorium. {5}

Vice-Chair McLaughlin thought they were going to look at combining or restructuring the number of questions on the ballot. He was open to clarifying the number of proposals. Chair VencI said it's appropriate to suggest that they mesh some of the proposals.

Chair VencI turned the discussion to Council terms. Mr. Moto made a stylistic change. Regarding Council members, he wants the sentence to end after "for those Council members serving at time of transition." Commissioner Mossman commented that because Mr. Moto points out that there could be more than one person in that position, the wording needs to be changed to "if any." {8}

Mr. Van Dyke said that all nine are up for reelection in 2004. The top five vote getters will get four year terms. Mr. Takayesu added that after Council member Charmaine Tavares, everyone else has less than four years. No one has to drop back to a two year term.

Much discussion followed for the purpose of clarifying the terms; it was determined that twelve years is the key. Mr. Van Dyke referred to the last sentence of 15-1, saying that Council member Nishiki would be able to run, but only for two years because of the twelve year limit (he'll have served ten years as of 2004). {8}

Chair VencI reminded the commissioners that they haven't dealt with Commissioner Mossman's suggestion to change "if one" to "if any." Commissioner Mossman just wanted to make it clear that they weren't singling out anyone. If using "any," we need parentheses wherever it's appropriate. {8}

Mr. Moto addressed a grammatical issue. "Shall" is mandatory; "will" is indicative (one is a command, and the other is a prediction). It was decided that any time the word "will" is used, it should be changed to "shall." Mr. Van Dyke asked about "council member" vs. "councilmember." It was decided that it should be one word. {8}

Commissioner Fuhrmann questioned "twelve consecutive years" vs. "full terms." Terms will be gauged by the length of time served, which would be a total of twelve years.

Much discussion followed regarding whether or not the pros and cons should be debated or expanded upon during this meeting. Mr. Takayesu said it's appropriate to discuss, as the Commission should do as much as possible to provide people with notices up front.

Discussion ensued regarding 8-2(3)(b), in which Mr. Takayesu said he liked adding "the County of Maui," because ODC made it very clear that the County of Maui is their client. It's consistent with their rules of professional comment. A semi colon should be added after "Maui," and "through" should be deleted. Mr. Moto said to change it to its council, and to leave the word "all."

Under pros, delete "independent." Then there's no question if there were dependent boards and commissions. {10}

Moving on to Proposal 5, Vice-Chair McLaughlin noted that the meaning of Environmental Management isn't clarified until the pros are described. It should be up to the new department to determine its responsibilities, but he asked how the Commission should explain this. Mr. Van

community, they want some action. He asked how a provision could be included that would force action by the Council.

Vice-Chair McLaughlin expressed support for further discussion on enforceable language. He asked how the adoption of a community plan fits into this time requirement. Mr. Van Dyke answered that in 8-8(5) (number 5 at the top of page 19), it states "shall be part of the general plan." There is no time limit.

For 8-8(6), motion was made (Mossman), seconded (McLaughlin), and unanimously approved to delete the wording after "planning director" in numbers 3 and 4 (excused: Takahashi). {18}

There was further discussion about CACs, deadlines, timelines, enforcement, and provisions for when the Charter isn't followed. Chair Vencel said there might be further clarifications when it comes back to the Commission. Mr. Van Dyke said lawsuits could be brought to challenge the Council's lack of action.

BREAK

Chair Vencel called a ten minute break. The meeting was called back to order at 10:45 a.m.

Conversation picked up from page 20. Mr. Moto pointed out that there was a blank line to fill out at the bottom of the page. {22}

Mr. Moto's first comment for page 21 was to clarify the main reason the Board of Water Supply is semi-autonomous is because its rates and fees are set by administrative rules. Chair Vencel said we'd keep nine board members on the Board, two of which will be the Director of Planning and the Director of Public Works. {22 - 23}

For the bottom of page 21, motion was made (Mossman), seconded (McLaughlin), and unanimously approved to delete the state water code, all the way to statutes, and substitute "other applicable state laws." {23}

Mr. Takayasu said there was some concern with saying "approval" because some counties didn't regulate private water systems, and subdividers might not have the sophistication necessary for the long term. Change the ordinance to follow the Big Island. Under subdivision laws, we can get into this area, and to a different source of authority. Commissioner Bagoyo said subdivisions are still approved by the Department of Public Works, and the water system must comply with the specifications and so forth under the code. He asked what wasn't being complied with; Mr. Takayasu said back up wells. They're looking at subdivision standards (national fire codes) to try to avoid problems.

Mr. Moto brought attention to the few changes on page 22: change bracketing for "shall be"; alternate wording for "these community..."; and specify the date for the adoption of the Charter amendment (January 2, 2004). He said the other changes were minor. {23 - 24}

Chair Vencel moved on to the cons for the Department of Transportation. Commissioner Mossman said that testimonies expressed concern about adding additional cost to government. She wanted to recognize that concern with language ("increase the size of government"), but Commissioner Bagoyo wasn't comfortable with the language and said we didn't have enough information. Commissioner Mossman conceded; Chair Vencel said to strike it.

whole intent is not to confuse 1% as being part of any other funds; it's a new fund for a new purpose. Commissioner Holaday said that can be achieved by ending the sentence after "historically made." {30}

Vice-Chair McLaughlin supported Commissioner Mossman's idea initial to generalize it a little bit more, saying that it wouldn't be inappropriate to use these funds to buy a drainage easement. If we were going to buy a park anyway, the open space fund shouldn't be used. We shouldn't be using the new fund for traditional uses that would have been done anyway. Leaving it as just Parks and Recreation is being too narrow.

Motion was made (Holaday), seconded (McLaughlin), and unanimously approved to end number 3 after "historically made" (excused: Takahashi). {30}

Further discussion ensued regarding Section 9-11, Lapse in Appropriations. Mr. Van Dyke said to add "or for the opens space fund established in Section 9-19." He also reiterated that specific language would prevail over any generalized language, but they're putting language in after the capital improvement to make it crystal clear. {30}

Chair Venci moved on to page 28. Mr. Moto said it was entirely up to the Commission whether they accepted his first comment regarding certified real property tax. A more substantive issue concerned the phrase "or take any official action on," which broadens the scope (as defined in the state ethics code). Although the preparatory language talks about the Lana'i Planning Commission, it might also affect situations such as the Molina incident. If that is the case, whether by intent or consequence of language, shouldn't the narrative disclose that? Does this mean that members would be prevented from other things like participating in discussions? Mere participation and discussion is not an official act.

Mr. Takayesu said the interpretation that has been applied to the state code is that they can participate, but they can't vote. Mr. Moto continued that the reason this amendment may affect this is because of "any matter affected by such financial interest." Instead "any matter of business or undertaking ..." Whether you can vote or not, would you be voting on a matter affected by business or such undertaking (management, controlling interest, or officer or employee? Mr. Moto said it seems to alter the grounds, so he wanted to make sure he was reading it correctly.

Commissioner Hiraga asked Mr. Takayesu if it was appropriate or inappropriate, and if he saw a problem with this language. He replied that the code of ethics is in HRS, but it applies to the state. If you feel the definition is a good one, then reference it instead of HRS.

Both Commissioner Mossman and Vice-Chair McLaughlin wanted it noted for the record that they're very concerned about this. Mr. Takayesu said that trying to set guidelines yet make it sufficiently clear whether this is by the code of ethics or not is a hard area. Almost every activity affects Congress; they've been using that to take over. "Substantial effect" might not have that much meaning, but it can be used. Have language that could be a little bit more specific; the present language might be too vague and too restrictive. We want some type of objective standard.

Commissioner Petro said if we take the language stated in HRS 84-3 and insert it in there, it'd help the Ethics Commission determine what "substantial financial interest is." There was much discussion until a motion was made (McLaughlin) and seconded (Mossman) to delete Proposal 13 in its entirety. These are very complex issues; the current Charter established the Board of

Chair Vencel moved on to page 33. The existing Public Safety Commission is being renamed and taking on added responsibility. Commissioner Bagoyo expressed concern that when the current Public Safety Commission was confirmed, it was with their current responsibilities. We don't know if these people are qualified to handle the ability to hire and fire so it's all new (one of the captains that testified didn't even know the public safety commissioners). Chair Vencel said she understands Commissioner Bagoyo's concern, but she has faith in the people.

Commissioner Bagoyo moved to make a change; there was no second, so the motion failed. Vice-Chair McLaughlin abstained (excused: Takahashi).

Motion was made (Mossman), seconded (Petro), and approved to add a sentence clarifying that the current Public Safety Commission would continue to hold office with regard to the new Fire and Public Safety Commission. Opposed: Bagoyo (excused: Takahashi). {36}

Chair Vencel moved down to Section 15-3 regarding the Salary Commission. Mr. Moto said it may be fine as it is; it's just wordsmithing. {36}

Chair Vencel then moved on to Proposal 18 – Housekeeping Changes on page 33. Vice-Chair McLaughlin noted that we received districts from the County Clerk, and said there were no diacritical marks. He suggested getting Commissioner Fuhrmann's help.

Mr. Van Dyke expressed appreciation to Roy Hiraga and Don Medeiros for their rapid response on a difficult job. It was decided that we'd include what we received today along with a map that shows these areas. Mr. Van Dyke affirmed that we want to put these three pages in with their diacritical markings. Vice-Chair McLaughlin clarified that it's a housekeeping measure because we're trying to define the boundaries of these areas (we're not moving boundary lines). {38}

Chair Vencel confirmed that everyone was okay with this, then moved on to D. Eliminate References to Political Parties. Commissioner Mossman thought we didn't agree to do this and said it shouldn't be here. Vice-Chair McLaughlin said he thinks she's referring to board and commission appointees; this is consistent as a housekeeping measure (not a substantive one).

Motion was made (Fuhrmann) and seconded (McLaughlin) to clean up the language as a housekeeping measure. All were in favor (excused: Takahashi). {38}

E. Change "Crime of Moral Turpitude" to "Felony." All were in favor (excused: Takahashi). {38}

F. Clarify Restrictions on County Employees Appearing Before Boards and Commissions. Mr. Takayasu and Mr. Van Dyke explained why this was such a complicated area, citing the Waiahole case. Mr. Van Dyke said we may want to tidy it up or go into more detail. He suggested letting matters develop as they will, and letting the next Charter Commission deal with it if they choose. Everyone agreed to leave it as it is (excused: Takahashi). {39}

Chair Vencel confirmed that everyone agreed. She moved on to policy recommendations on page 37. She mentioned that there were two bullet points, and asked if we should add "consider consolidating boards and commissions designed by ordinance." Commissioner Bagoyo said yes, and that we should also encourage the current administration to look at how to combine current responsibilities.

prepare for the County Clerk, even if there are no alternatives from the Council. Mr. Takayesu added that administratively, the Commission would be discussing the educational process.

Chair Vencel then brought up the Budget Review since Mr. Takayesu brought up the educational campaign and Mr. Van Dyke would like to look at the wording sooner rather than later. She asked that Ke'ala's contract, which ends 6/30, be extended to October 1. There will be lots of things to do to prepare for the educational campaign. Mr. Van Dyke's part of this will be over on June 30; his contract will not need to be renewed.

Chair Vencel continued that she sent out a request for quotations for the educational campaign (newspaper ads, radio spots, collateral, etc.). Responses received thus far fall within the \$20,000 - \$25,000 range. She also suggested compiling an "executive summary" that would summarize what we've done. This would be a quicker way to disseminate information than doing the mail out or newspapers; it would be available after the primary but before the general election. She'd like to bring this back in a more complete manner on June 5, so she's asking for this and to extend Ke'ala's contract.

She continued that we have a \$44,000 balance as of today. With the educational campaign, we'd be lapsing about \$20,000; the Mayor already has \$20,000 back in the budget. Ke'ala gets \$600 a month; \$15,000 had already been set aside in the budget (so this is already accounted for). Motion was made (Bagoyo) and seconded (Holaday).

Commissioner Bagoyo suggested encumbering the \$20,000 before it lapses on June 30 because in his experience, \$20,000 is not enough for placements. He had several questions about the cost of the educational campaign (inserts, strategies for ad placements, etc.). Motion was made (Mossman), seconded (Petro), and unanimously approved (excused: Takahashi) to give Chair Vencel the ability to research and encumber funds as she deems appropriate, and to convey that information by email by June 5.

Chair Vencel said that she used a "request for quotation." If we go over \$25,000, then we have to do a "request for proposal." Mr. Moto said there's nothing to prevent her from breaking up the items (the job doesn't have to be done by only one person).

There was a motion on the floor. Commissioner Petro said he had faith that the Chair would prepare the best price. Vice-Chair McLaughlin also supports the proposal. He knows from working with Chair Vencel for the last year that she will make the best decision. We need to educate the voters and balance the pros and cons, not sell the Commission's proposals to the voters. They need to be encouraged to vote either way; we need to provide clear information and a balanced perspective. There may be a League of Women Voters on Maui whose goal would be to educate voters in a non-partisan way.

Mr. Takayesu said the key thing is that we're asking voters to take a longer time than they're used to. We want to make them understand how important it is to vote, and that this is their opportunity. When in doubt, don't vote. This is a big part of the process; we need to get the message out and create interest so people will take the time.

Chair Vencel said another idea in addition to the educational piece was to have a cutout they can take to the booth. We'd deal with the clerk's office to make it look like the ballot.

Commissioner Mossman said that while there are a lot of good suggestions, people can email the Chair. We should move on. All were in favor of the motion (excused: Takahashi).

Vice-Chair McLaughlin brought up HRS 50, Chapter 13 regarding commissioners being reimbursed. That's a \$11,000 liability per state law that perhaps we haven't dealt with. He reiterated that he'd dedicate his money to Akaku. He asked if there was a way to handle the reimbursement so that there wouldn't be any tax implications.

CONCLUSION

Chair Venci excused Commissioner Bagoyo. She asked Mr. Moto and Mr. Takayesu to prepare a waiver for commissioners who decided to donate the money back to the Commission.

Chair Venci thanked Akaku, Mr. Van Dyke, the attorneys, and all the commissioners, saying she was very proud of their commitment, expertise, and efforts on the Commission. She reminded them that she'd see them on June 5. The meeting was adjourned at 3:00 p.m.


Ke'ala Pasco, Charter Commission Assistant

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Chair VencI then mentioned that several people brought up the need to add addresses and TMKs in public notices. It's getting easier to pinpoint; but we should add the addresses whenever they're available. {42}

It was okay with everyone (excused: Takahashi). Chair VencI called a five minute break.

BREAK

The meeting was called back to order at 2:27 p.m. We'd finished with the basic document but discussion continued on policy recommendations. Commissioner Mossman said it was okay to handle CACs in the Charter, but other things needed to be looked at through ordinance; "continue to review and revise the planning processes through ordinance." Commissioner Petro said it might be a policy statement to acting on a timely pace; Chair VencI said that's the enforcement issue.

Vice-Chair McLaughlin also commented on that issue. He said what we have in our current policy is that one has to do with the code of ethics (13.10 penalties for violating the Charter itself). "council shall by ordinance..." Although the Charter instructs this, we're not aware that it has as it's existing now; it seems to him that this provision affects that. We're asking councilmembers to basically enforce themselves (the only enforcement is already existing). How do we get past this? Mr. Takayesu said there's no existing ordinance. With the exception of Commissioner Takahashi (who was excused), everyone agreed with Mr. Van Dyke's suggestion that it be recommended that all County officials enact the ordinances called for in Section 10-5 and 13-10 of the Charter. {41}

Chair VencI said the Commission wouldn't be meeting for another month. She brought everyone's attention to a change in the schedule. The agenda said the next meeting is on June 3; however, the meeting will now be held on 6/5. That agenda will be sent out at the appropriate time. It will begin at 8:00 a.m., and she's keeping it open ended.

Chair VencI added that nothing's been posted yet, but she thinks the Council will be looking at this through the Committee of the Whole on May 8. This is basically the document that will be given to the Mayor on Monday.

Commissioner Bagoyo said the only thing he'd like to ask is that everyone's signatures are included. It's important that everyone that participated in this process sign it.

Mr. Van Dyke said we could do a signature page before we leave ... and that he'd email the report for Ke'ala to check formatting. Then it can be presented to the Mayor. Mr. Moto said it should be personally delivered by the Chair. Mr. Van Dyke suggested calling a press conference. Chair VencI said she'd forward Mr. Van Dyke's email to everyone.

Vice-Chair McLaughlin wanted to revisit the process to help him understand. Chair VencI would transmit the report to the Council, which has 30 days to transmit their feedback to us. Then the Commission meets again. If no changes are recommended, do we have further action to take? We sign off when it's really final. We accept or not, then we sign off on it when it's really final. Our final report goes to the clerk's office to be prepared for the ballot.

The Council is within their own window to place ballot measures themselves, so they have a separate time frame. The public may be looking for the next venue. Checks and balances afford multiple additional opportunities. Mr. Moto added that HRS 50 requires the Commission to

Ethics. They haven't recommended any of these changes; thus, it'd be inappropriate for this Commission to go ahead.

Chair VencI called for the question; the motion on the floor is to delete Proposal 13. Ayes: McLaughlin and Mossman. The rest of the commissioners were opposed (excused: Takahashi).

BREAK

Chair VencI said we'd break for lunch until 1:00 p.m. The meeting was called back to order at 1:07 p.m. Commissioner Hiraga had to leave for a meeting, but she'll try to come back if the meeting is still going.

Chair VencI said we're still on pages 28 and 29 regarding Proposal 13. Mr. Moto said assuming for the sake of argument that we stick with the Charter language as proposed, the narrative that describes it will need to be attached (the amendment also redefines and modifies those circumstances in which a county officer can be disqualified from voting). Everyone was okay with that.

Extensive discussion followed. It was ultimately decided to go with what we have and use HRS language. {32}

Motion was made (McLaughlin) and seconded (Rosario) to strike Proposal 14. Vice-Chair McLaughlin reiterated his belief that we put a lot of questions on the ballot, and there's already a difficulty in filling spots. While the proposal is well intended, it doesn't address the core issues.

Commissioner Bagoyo opposed the motion. If a person is reappointed, it'd give him six years. We also had some input regarding this, so he wants to stick with what we have.

After further discussion, Chair VencI called for the question regarding deleting Proposal 14. All were in favor except Commissioner Bagoyo and Chair VencI. Abstained: Mossman. Excused: Takahashi.

Chair VencI then moved on to Proposal 15, Providing greater notice of meetings. Mr. Van Dyke needed clarification on 13-2(11). He said he'd follow Mr. Moto's suggestion.

Chair VencI moved on to Proposal 16 on page 31. Commissioner Bagoyo said he had some concerns about holding any public meetings on private grounds; the primary location should be a public building. We need to specifically state the date, time, and place consistently so the public knows where those meetings are. Private meeting spaces should be a last resort. Vice-Chair McLaughlin said another con is it might show favoritism (public facilities are neutral).

There was extensive discussion until Mr. Van Dyke suggested "in the event a public building is not available or appropriate, the meeting can be held in another public facility that's accessible to the public." Motion was made (Holaday) and seconded (Bagoyo).

More discussion followed. The Commission ultimately voted unanimously to accept Mr. Van Dyke's wording. {34}

Chair VencI stated that the next item should be Proposal 17, on the bottom of page, but she opened discussion about an important question on the bottom of page 32. The state law has a provision in case there's a tie for fifth place. Vice-Chair McLaughlin said that they'd both be elected; it'd just to determine who gets the longer term.

Conversation about the Salary Commission dealt with the mayor's authority to appoint someone and whether or not the five year terms conflict with the proposal to reduce terms. Vice-Chair McLaughlin said staggering diminishes the authority of the current mayor; we need to explain what the underlying policy is. Regarding a possible conflict with terms, Mr. Van Dyke replied that specific wording always overrides any general provisions.

Chair VencI said to leave it at five, Vice-Chair McLaughlin supported having it longer than the mayor, and Commissioner Hiraga said she didn't support reducing terms from five to three years. Mr. Takayesu said to try to make it consistent with the new law taking effect in July.

Motion was made (McLaughlin) and seconded (Petro) to incorporate Mr. Takayesu's input: "The commission shall determine the compensation of elected officials and make recommendations to the mayor for the compensation of appointed directors ..." {28}

Change "establishing" to "evaluating the compensation of appointed department heads ..." Commissioner Mossman said that goes against the intent of the law (to allow the administration to deal with these separately) so she doesn't support the motion. {28}

Discussion continued until Mr. Van Dyke suggested new wording (page 28). All except Commissioner Mossman were in favor (excused: Takahashi). Chair VencI commented that the new language would be more in line with the state's. {29}

Moving on to Proposal 12, Mr. Van Dyke said he utilized language people gave us and adapted it slightly. Mr. Moto said he struck the word "council's" on page 27. {29}

Commissioner Fuhrmann said we should set the procedure and mandate how funds are to be spent (not letting it just sit there and accrue). The Council could say how these acquisitions are made; legislation could require public hearings prior to any acquisition (the ordinance could specify "before the action is closed").

Commissioner Mossman requested clarification on number 2, asking if it said this program would be operated under the Department of Parks and Recreation. Chair VencI read it to mean that the fund was not to be used for Parks, that this was over and above that.

Commissioner Mossman then asked if number 4 entailed the typical processes and language for all of the funds, or if we were setting up for all the "ordinance stuff." Mr. Moto answered that this language is a bit more detailed than language of this type that's included in the County Charter. The current Charter doesn't provide for many funds; those sections don't go into as much detail as we do here.

Motion was made (Mossman), seconded (Hiraga), and unanimously approved (excused: Takahashi) to delete the wording after "expenditures of the revenues in this fund." Commissioner Hiraga said we should just have the first sentence. {30}

Motion was also made (Mossman), seconded (Rosario) to insert a provision that where the money would fall would be determined by ordinance. Mr. Van Dyke said the administration of this fund shall be determined by ordinance. Commissioner Hiraga said to delete number 2. Commissioners Mossman and Rosario withdrew the motion and second.

Changes include moving sentence 2 to the end of paragraph, adding "administration and" between the expenditures, and renumbering the items accordingly. Further discussion addressed where this new fund should go (the mayor was looking at it to go under Parks). The

Dyke said his notes were in conflict on this so he included what he thought there was a consensus on (dealing more with pollution than protecting endangered species. Protecting the beauty was a catch all phrase. Commissioner Mossman liked that we were talking about environmental waste. {11}

Mr. Van Dyke said he called it the Public Works department so it refers to the previous one and the future one. Mr. Moto conceded, but then Commissioner Hiraga said each department should be called what it really is. His description talks about existing functions, but we're looking at changing the name of the department. It was decided that Department of Public Works and Waste Management would be used. The word "powers" should be changed to "responsibilities." {11}

Mr. Van Dyke asked for clarification on Proposal 6. It refers to the Department of Fire and Public Safety (not "Control"). {13}

Vice-Chair McLaughlin and Commissioner Bagoyo had questions regarding not engaging legal consultants in 8-7(2) on page 13. Mr. Moto replied that it's so the record reflects that that's not the intent, and so future lawyers would have the proper information. He further explained that contracts originally made out of the Fire Department would be signed by the Department of Finance. Discussion continued; Commissioner Hiraga asked if it should be completely taken out. Mr. Moto said that while he hadn't originally thought about it, he agreed with Commissioner Bagoyo regarding independent contract authority (they can always go through the procurement process). Vice-Chair McLaughlin supported Commissioner Hiraga, saying that they were trying to mirror the Police Commission. All were in favor of taking the sentence out completely (excused: Takahashi). {14}

Chair Vencl said page 14 mostly had stylistic changes. Commissioner Mossman brought attention to the very first line on page 15; it should read, "accordance with the following." "High degrees of education" was changed to "appropriate education ..." {15}

Mr. Van Dyke asked about the capitalization of general plan and citizen advisory committees. The decision was left up to him (consistency was the only request). {17}

The discussion continued. It was decided that pages 17 and 18 were fine as suggested.

Chair Vencl there was concern from the Council (and maybe Planning) about numbers two and three at the top of page 18. They had concerns about the number of days listed here; the Council might not have received the document in a timely manner.

Mr. Moto summarized his first major substantive comment on the draft: the County of Maui doesn't have inherent zoning power. The state statute (section 46-4) concerns the County's ability to zone; it raises the question of what's important. This requirement that zoning actions be done by ordinance states that the power of zoning must be a distinct legislative act. The term ordinance in this country means law or by authority. An ordinance is equivalent to legislative action. Now we're having legislation by inaction, which counters what an ordinance is. You don't have an ordinance, and you won't have one. You can't force it.

Mr. Moto then addressed the length of time provided. In his experience, 180 days is short. There are a number of zoning and land ordinance bills that take longer. Commissioner Petro said the whole issue of giving a time limit came as a result of testimony; the inaction (seven years) is much too long. There should be a provision that CACs shall remain intact until they act, and we wanted them to act in a timely fashion. He continued that community plans are so dear to the

collection of actions taken). He asked Corporation Counsel about compliance with the sunshine law.

Mr. Takayesu affirmed that the Commission was in compliance. This is the first Charter complying with HRS 50; it'll be available for the next several months. There will be additional opportunities to appear before this Commission and the Council.

Mr. Takayesu then addressed Mr. Smith's concerns about the state water code and "as provided by law." When it comes to drafting style, the more general approach is better because when the state law changes, you're subject to it. Broader language (an organic act of the County) doesn't have to have the detail of ordinances or rules and regulations.

Commissioner Mossman clarified that her concern was about the Commission doing the right thing (the public was told that this draft would be given out when the commissioners got it). Commissioner Hiraga said she raised that concern in the meeting on April 3. Mr. Takayesu noted that only the agenda needed to be available. Mr. Van Dyke said the public would have time to see it. When another meeting was mentioned, Chair VencI reminded everyone that the report was due to the Council by the following Monday. Commissioner Bagoyo specifically asked before the last meeting adjourned for this information to be available to the public simultaneously (he got the draft yesterday by email).

Chair VencI wanted to move ahead with the document. Mr. Vanderbilt interjected that he'd requested the draft report through her office yesterday.

Mr. Moto commended Mr. Van Dyke on excellent work. He put his comments on paper so the Commission could get his thoughts right away.

Chair VencI said she wanted to take the draft item by item. Since the page numbers on Mr. Van Dyke's report got lost in the transmission, it was suggested that the Commission work with Mr. Moto's report and deal with his changes as they went through the document.

➤ Assistant's Note: Page numbers within the minutes correspond to Mr. Moto's report. Numbers shown as {such} correspond to pages of the official Draft Report. This report can be found at (<http://www.co.maui.hi.us/boards/bDetail.php?BoardID=37>) under Issues. It is also available through Corporation Counsel (808-270-7741).

DRAFT REPORT

The cover letter was changed to include Council Chair Kawano. The word "review" was deleted wherever "Maui County Charter Review Commission" was used. Dates and words were added or corrected for accuracy and clarification.

Vice-Chair McLaughlin asked to delete geographical designations under "Background," saying it implied that those commissioners were handled differently. As there were no objections, the geographical designations were deleted. {3}

To expedite this process, Commissioner Bagoyo said Corporation Counsel should be trusted to double check any dates (including when the public meetings that were held); Commissioner Petro concurred. Vice-Chair McLaughlin moved to adopt all changes up to page 6.

MR. JIM SMITH

Mr. Smith said there were things at the last meeting that concerned him. He mentioned the following:

- 1) The definition of financial interest shouldn't be assigned by the state legislature as they amend the statutory code continuously. This subverts our charter. We should be relying upon our own code. Once you take an organic document and turn it into the legislative mix, it weakens the document. If you accept the idea that the Council shall define financial interest, then you don't need to specify who'd be prohibited.
- 2) Eliminate paragraph I. You could put it in the legislative frame; but it'd be more effective if you further add "shall be subjected to administrative fine." Protect whoever's appointed to the Board of Ethics. Let the County Council define those terms and take care of who coerces someone.

Mr. Smith testified for three minutes. He asked to come back to complete his testimony.

MS. KELLY ARBOR

Ms. Arbor testified as an individual. She expressed her disappointment that the Commission deleted the provisions for initiative and recall (particularly in light of four year terms).

- 1) She urged the Commission to especially consider making it easier for recall.
- 2) She said there's fear in the community that initiative would be abused, but it may actually be helpful for the Council to have that impetus. Right now, it's just so difficult to get anything on the ballot.
- 3) She asked the Commission to look at some of the positive benefits of this.

Vice-Chair McLaughlin reminded Ms. Arbor that the Commission probably wouldn't review the initiative issue. Current provisions in the Charter are very strict. Initiative can only put a very specifically worded question to the Council. He asked her if she'd considered proposing initiative to the Council for them to add. She replied that it's clear that certain areas are complex. In general, the idea of having a direct democracy opportunity like this would be helpful for steering. He concluded that the onus is now on the proponents of this issue, and it's now up to the Council.

MR. DEGRAY VANDERBILT

Mr. Vanderbilt said he was really upset with this final meeting. He addressed the following:

- 1) The article in The Maui News (4/16) gave a brief overview of proposals that might have come out from the meeting on April 10. He checked the website and there was no reference to the minutes or to the draft.
- 2) The agenda for April 10 listed everything; the one for April 17 didn't.
- 3) Today was the first chance for the public to review the draft proposal. He didn't have time to focus his testimony.
- 4) He claimed the Commission was represented by industry lobbyists or major developers. The majority of policies proposed that would assist the public and balance out the old boy network went down the tubes. There were no minutes from the meeting on April 10, no testimonies, but plenty from the developers.

MAUI COUNTY CHARTER COMMISSION PUBLIC MEETING
Hannibal Tavares Community Center, Maui
Wednesday, March 20, 2002
6:00 p.m.

PRESENT

Terryl Vencel, Chair
R. Sean McLaughlin, Vice-Chair
Vince Bagoyo
Ray DeMello
Bill Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
Donn Takahashi

STAFF

Brian Moto, First Deputy Corporation Counsel
Ke'ala Pasco, Charter Commission Assistant

EXCUSED

Stephen Petro
Erlinda Rosario
Jon Van Dyke, Charter Commission Analyst

CALL TO ORDER

The meeting was called to order at 6:00 p.m. Present: Chair Vencel and Vice-Chair McLaughlin; Commissioners Bagoyo, DeMello, Fuhrmann, Hiraga, Holaday, Mossman, and Takahashi; First Deputy Corporation Counsel Brian Moto and Assistant Ke'ala Pasco. Excused: Commissioners Petro and Rosario; Analyst Jon Van Dyke.

Chair Vencel explained the procedure for giving testimony. Testifiers will have an initial three minutes plus another minute to conclude, or they can opt to return for three additional minutes.

A motion to accept the minutes from our previous meeting was needed. Motion was made (Takahashi), seconded (Holaday), and carried unanimously to accept the minutes from Wednesday, March 13, 2002.

Motion was made (Mossman), seconded (Takahashi), and unanimously approved to accept into record communications from: Mercer Vicens, Jeff Faulkner, Tady Arisumi, Lucia Gouveia, Mark Fritzen, Michael Singlehurst, Jimmy Kawamura, Leiane Goo, Don Varni, Ted Fritzen, Ron Silva, Frederick Wong, Carl Takumi, Gregory Figueira, and the Maui Contractors Association; Tom Godfrey, Don Medeiros, and Sean Lester; and the Kula Community Association (provided handouts but will speak).

Chair Vencel greeted those present, saying that the Commission did its first round of public hearings last summer. They gathered input, deliberated, and came up with the 17 proposals outlined on the boards and printouts. The Commission is now receiving input on these proposals.

Final deliberations will begin the first week of April; a draft will be submitted to the County Council on April 19. The Council has thirty days to review the draft and make recommendations, and the Commission has thirty days to consider those recommendations. The final report is due in the County Clerk's office by the end of June to be prepared for the ballot.

An educational campaign (utilizing newspapers, mailings, radio announcements, Akaku, etc.) will begin by the first week of October. Commissioners are available to speak to various groups.

Chair Vencel introduced the first testifier.

TESTIMONY

MS. LYNNE WOODS

Ms. Woods is president of the Maui Chamber of Commerce. The Chamber supports the following proposals:

- | | |
|----------|---|
| Two | Lengthening Council members' terms to four years |
| Three | Eliminating term limits |
| Nine | Clarifying the Planning Department's responsibilities |
| Thirteen | Committing the County to an Open Space Acquisition Plan |
| Sixteen | Regarding accessible public meeting spaces |

The Chamber does not support:

- | | |
|----------|--|
| Four | Eliminating a second election |
| Five | Allowing Council members to deal directly with County officers and employees |
| Seven | Regarding the Department of Public Works |
| Ten | Regarding Community District Boards and Citizen Advisory Committees |
| Fourteen | Reducing signature requirements for initiative and recall |
| Fifteen | Providing greater notice of meetings |

A few commissioners asked for clarification on certain items. Ms. Woods reiterated that the Chamber's position on Proposal Fourteen is to keep the percentage where it is. The Chamber supports specifying a minimum of 1% in the plan for open space acquisition. Many of the issues regarding future transportation needs and environmental concerns can be addressed with added efficiency (so don't need to create a new position). There have been a lot of talks about costs and how to pay them; this needs to be addressed down the road. Ms. Woods commented that if the Water issue appears on the ballot, she hopes we'd spend as much time as possible in the education phase.

MR. THEODORE R. HUNTER

Mr. Hunter shared his concerns about community projects (litter on Thompson Road) and proper land development. He says land development is a disaster unfolding at a faster rate than we realize. It's out of control; it's in control of the developers. The plan could work but it's not being enforced, and it's not clear enough. The government is afraid to stand up to developers.

Mr. Hunter supports Proposal 13 with a minimum of 1%. If you put a minimum in, it helps to ensure that it will really happen.

Construction people think they're fighting for their jobs, but the growth will happen; the question is how we want it to happen. People have rights but they need to stay within the plan.

Mr. Hunter also supports Proposal 9. Turn the Department of Planning into something effective. This is a very serious issue. Don't underestimate it; it's huge.

MR. DAVID CRADDICK

Mr. Craddick said the issues we face include political, legal, environmental, management, human relations, and public education concerns. These are all very complex and interwoven issues, and we need solutions that are truly for public good as a whole. There is no one right

answer. We must stay true to ourselves and to the community around us. Personal judgment tends to enter the equation, but these discussions help us navigate the issues more safely.

Mr. Craddick quoted first century AD Sextus Julius Frontinus (Water commissioner of Rome). "I am moved not only to devote diligence but even love to any matters under my care which I bring now to the duties of Water commissioner, duties contributing partly to the convenience, partly to the health, even to the safety of the city." He said this is all he wants for Maui, and repeated his request for support of Proposal 17A, which allows for a fully semi-autonomous Board.

MR. MICHAEL QUINN

Mr. Quinn, a member of the Water Board, supports Proposal 17A. He said that Water issues are emotional, so he'd speak to facts only. When the Board was semi-autonomous in 1989, total assets were \$153.9 million, a 90% increase. In the 1980 - 1989 period, we experienced a 217% increase in projects, and this was done with the lowest water rates. We're the first state to utilize state-of-the-art technology that allows people to pay their bills from home with their computer. There's been a 50% increase of water storage in Central Maui, a 100% increase of water storage Upcountry, and a 53% increase of water to customers. Water is critical to this island, and while there are clearly accomplishments, there are still areas that need improvements. Introducing a new policy into the mix could bring this momentum to a halt.

MR. PAUL SEITZ

Mr. Seitz, a Kula resident, supports Proposal 17A. He's been in the water business in Hawai'i since 1974. He's been a member of the American Water Works Association for over 20 years, and served seven years on the Board of Directors of the Hawai'i Section of the AWWA and as the Section Chair in 1994 - 1995.

Water management is highly technical, frequently controversial, often evokes emotions, and is always complicated. Water management and planning are long term affairs; continuity is key. Having the Department under the County Administration, which changes every few years, will take away that continuity. Politics also tend to affect rate structures, capital improvements, and system expansion. These are two of the prime reasons all other counties in Hawai'i have adopted a structure of a fully semi-autonomous Water Board.

Mr. Seitz believes that the checks and balances already in place ensure utility fairness and accountability. He concluded by saying that the people of Maui deserve the best, most reliable, and safest water system.

MR. TOM PIERCE

Mr. Pierce, president of the Maui Coastal Land Trust, reminded the Commission about the technical aspects and emphasized what purpose it's serving. The Commission has an opportunity to do something that is politically impossible to do on a yearly basis: put before the taxpayers something they can't do in the political process.

He supports Proposal 13, and said that the first three words, "commit the county," can be achieved by putting a minimum on it. the original resolution suggested 3%, but MCLT will live with 1% and he thinks voters will live with that too. The County is spending at least that much already. Let the voters decide if they or the county should be appropriating that 1% every year. Without it, there will be no commitment.

Mr. Pierce said he could submit an amendment regarding an advisory body and make a proposed resolution part of his testimony. This committee would have the support of many different interest groups (environmental committee, land planning, natural resource management). He said recommendations would be made through a series of public meetings then submitted to the County Council, which would remain responsible for final decisions.

Further discussion followed in which Mr. Pierce fielded questions about what lands needed to be protected, how the money would be handled, and stewardship. When discussing funding, he said that waiting until property is condemned would mean paying much more; MCLT's purpose is to buy properties before prices are inflated.

Mr. Pierce stressed that "open space" is an incredibly generic term that means different things to different people. The language should be tailored more closely to specific issues. "Open space" doesn't mean the land is open to everyone to walk on. Either the owner won't allow it, or it's too environmentally sensitive to allow that.

We're looking for a funding mechanism. Give voters the opportunity to say it's important to spend money on these issues. MCLT is prepared to do anything the Commission needs.

Chair Vencil reported that an open space zoning bill is working its way up to the Council, and asked how the Commission should talk about open space if the bill's definition isn't the same as the Charter's. Mr. Pierce said to look at these as two separate issues. We need to draft language that will meet the IRS' code requirements to purchase land. We want to use tax benefits that are available to land owners to allow them to make a bargain sale and reap the tax benefits. Have Proposal 13's acquisition language reflect that (it has to have a qualified provision purpose). Zoning is one issue, and it can't take care of all the problems we have to face. Keep it separate.

The majority of money raised is coming from private owners, developers, and conservation groups. This money allows us to start talking to mainland grant and funding sources to request matching funds. MCLT has been incorporated with 501(c)3 status since January 2001, so they've already made it through the most difficult period. They're now in the process of hiring an executive director; they got a grant, and are raising funds to help.

There are more opportunities than money right now. Part of it is purposeful; they want to make sure to tread slowly at first. More discussion regarding appropriations followed.

MR. WILLIAM F. CROCKETT

Mr. Crockett chose to continue MCLT's discussion, saying that he likes Proposal 13 as is. They're not asking for a mandatory dedication each year; they're just setting up a mechanism for the County Council to use as necessary.

What he finds distressing is the mandatory appropriation for these funds and wants to focus on that. Consider the number of needs the County has to take into consideration. Mandating through the Charter to appropriate funds every year is putting handcuffs on government when they're working on the budget. This leads to bad government.

Mr. Crockett said that government pays attention to long range planning too, and make provisions for that. You don't find mandatory provisions for a particular purpose every year. What happens if there's an emergency? Or if other special interest groups see this and get the Council to write special provisions into the Charter for them too?

In short, it's a good idea to set up a framework to acquire property, but to mandate this would tie the hands of the Council. It can only lead to a very bad government.

MS. ROBYN LOUDERMILK

Ms. Loudermilk is a Pukalani resident and a planner with the Planning Department. Some of these initiatives piqued her interest.

- 1) She supports Proposal 2, lengthening Council members' terms (stagger them).
- 2) She is opposed to eliminating term limits as set forth in Proposal 3. She believes eight to ten years is sufficient (if four year terms, then two terms; if two year terms, then five terms is fine).
- 3) Yes to Proposal 4; it could be a mechanism to get people out to the primary.
- 4) No to Proposal 5. As a county employee, she believes that what we have now is sufficient.
- 5) In Proposal 7, the intent is good but premature. We don't have transportation except for MEO, and they get funding. As for the maintenance of County buildings, the wording should definitely should be changed. Each department should have their own ability to maintain their own buildings.
- 6) She supports Proposal 8 (regarding the Public Safety Commission and the Department of Fire Control).
- 7) In general, she supports Proposal 9 for the Planning Department. There are various conflicting statements (check the cons); it's up to the councilors to make a determination.
- 8) She doesn't support Proposal 10. Why fight bureaucracy? We should look at something else.
- 9) Regarding Proposal 13 and open space, she supports the intent, but has lots of questions about spending County money, and not having control.

Commissioner Bagoyo pointed out that while one of the number one issues is traffic, the current Charter doesn't focus on this. He asked which department (Planning, Public Works, or Managing Director) should handle looking at the whole planning of physical infrastructure and moving people. Ms. Loudermilk replied that it's very interesting because transportation has a variety of roles that are all separate and distinct. There are models that get plugged in. They all have to work together, especially for the CIP. She's not sure which department would be best.

Commissioner Takahashi asked if Proposal 9 had enough emphasis on long range planning, or if we needed to work on this a little bit more. She replied that the short answer would be yes; however, we need details on how the General Plan would evolve. It depends on if we want flexibility or have something very specific in mind. If you have a vision, you need steps to meet that vision, but the planning process is ultimately a public process done by elected officials or various board and commission volunteers. If we look at the current General Plan, anything fits, but it's a public policy decision that decides whether it gets done. Community plans are supposed to implement the General Plan, but there's no mechanism ... zoning is way behind. Perhaps an advisory panel could assist the Planning Department with the General Plan and respective community plans. It's interesting, and we're going in the right direction.

In the event of two competing public interests, who has the final say? Most people just want basic information. Honolulu does an annual report, but they have a group of five people in addition to their planners that can use the data to support their report. We need to create our own, but we need to decide what we want to get out of it, and how to do it in a way that everyone can understand. We need to be able to translate, communicate, and understand the information.

MR. JAMES P. RUST

- 1) Mr. Rust supports Proposal 17A, making the Water Department more semi-autonomous. He was a Water member from 1991 to 1996. Mike Quinn gave a lot of facts. Please support more autonomy if possible.
- 2) He supports four year Council terms. They need more time before the next election.

NIKHILANANDA

Nikhilananda has testified at other meetings. He reiterated things he'd mentioned before:

- 1) He wants all 17 Proposals on the ballot.
- 2) He suggests adding a Proposal 18: "Do you prefer the current at large system of electing our county council, or should we move to a 9 or 11 district system? Establish a six month commission to investigate this.
- 3) Regarding the composition of District 12, Precinct 3. Commissioner Fuhrmann gave him the task of talking to neighbors, who unanimously agreed that Huelo/Pa'ia is much more tied to Ha'iku than Hana, but they're part of that Council district. Please clean that up.
- 4) Commissioner Bagoyo's question about transportation was right on. The problem is that we're trying to catch up. Under Article 8, include the Department of Transportation (includes infrastructure); create a separate Department of Environmental Protection. These are two departments we need. It's way past time.

Nikhilananda's three minutes were up. He chose to come back for three more minutes.

MS. JULIE HIGA

Ms. Higa is a planner in the Planning Department. She testified as a resident of Pukalani.

- 1) She doesn't support Proposal 1. The current voting procedure is against constitutional rights, it violated her rights. With a population of only 17,000, her vote is only 1/9 of the County Council vote, so she doesn't think we should adjust Council districts. We should either leave it as is, or make it fairer.
- 2) She supports Proposal 2. A four year term might be appropriate, but clarify term limits (two or three?).
- 3) She doesn't support Proposal 5 because the current system works. Staff can come to the office, look at files, and get information like anybody else. If they're allowed to speak directly to employees, it could create more problems.
- 4) She doesn't support Proposal 7. She believes it's a conflict of interest. It'd be nice to have separate environmental protection and transportation departments. It might work in Planning if the role is clarified.

Ms. Higa will come back. She has other recommendations.

MR. MARK RUDD

Mr. Rudd is on MCLT's Stewardship Committee. He also participates with Community Work Day and is a member of the Surfrider Association. He's waiting for these lands to happen and will take volunteers to clean up and prepare these lands. He's really excited about preservation, and encouraged the Commission to do whatever can be done to preserve Maui's beauty.

As far as people voting, he wants people involved. Once it passes, he wants volunteers, not government, to take care of the land. Once it takes place, volunteers can take care of these properties. The environment is critical to all of us, so please do what you can to take care of Maui.

MS. CHERYL VANN

Ms. Vann is a resident of Makawao; she works at Keone'o'io. She has gone down there to collect data and poll visitors and residents about the kind of activities they do while there. It's a volunteer program to protect natural resources, archaeological sites, spinner dolphins, the reef, etc.

She supports Proposal 13. While she'd love 5%, she'd be happy with 1%. It's important to put away a little every year for open space. According to a visitor survey done three years ago on whale watches, one of the main concerns was preserving open space and natural resources.

She shared more of the data they collected. The one year grant started mid-June of 2001. They found that approximately 775 people (300+ cars) were at La Perouse every day. They're collecting data to understand what's happening at our open spaces. More and more pressure is being put on this place. We need to set aside more land so that there will be more places for people to go (camp).

The average time spent at Keone'o'io is less than half an hour. 65 - 75% of the people are visitors. Residents are more likely to spend the night. Should a user fee be charged? Right now, she's working with the state and local fishermen to come up with solutions. She'd like to see management. Her group doesn't support making it a national park. Tourism dollars are funneled into this position when working on a grant. Money will eventually run out, and that still needs to be taken care of. While she prefers internal funds, she's open to ideas.

MR. WILLIAM KAMAI

Mr. Kamai commented on three proposals.

- 1) He supports Proposal 17A, which would make the Water Department less autonomous.
- 2) Proposal 14 is a bad idea. We already have a forum in place that allows people on both sides to express themselves with expert testimony. If either for or against, decisions can be made by experts.
- 3) He supports Proposal 6 (verification of responsibilities of Corporation Counsel).

BREAK

Chair Venci called the meeting back to order at 8 p.m. For the record, Commissioner Takahashi had to leave to catch his flight to Honolulu. The Kula Community Association is testifying as a group, so they'll have a consecutive nine minutes.

KULA COMMUNITY ASSOCIATION
Elliott Krash, Dick Mayer, and Steve Sutrov

Ms. Krash began by thanking the Commission for working on such an enormous task, and for keeping the public informed. KCA distributed a handout showing their Board's position and three new proposals (A, B, and C).

KULA COMMUNITY ASSOCIATION

KCA has a total of ten minutes left to testify. They made one comment regarding what Nikhilaananda said about putting all proposals on the ballot. We may want to put the most important ones at the top of the ballot.

- 1) KCA supports Proposal 10 and giving CACs permanent status. They suggested considering having powers of the CACs established in an ordinance.
- 2) They don't have a position on Proposals 11 and 12.
- 3) KCA supports Proposals 13, 14, 15, and 16.
- 4) Regarding Proposal 17, they asked that we look at the handout and correct a typo at the top of the next page (it should say 17A, not 17B). If item 17A is placed on the ballot to specify autonomy, then it should be elected. They feel strongly about the public trust interest on Water. It should be broken out as a separate question. The Board should have oversight and coordination.

KCA had the following new proposals. Please see their handout for more details.

- A. Establish a "blue ribbon" nomination committee that will meet annually to nominate candidates for the major boards and commissions.
- B. Set the terms on volunteer boards and commissions for three years with the possibility of a single, one term extension.
- C. Parks/environment/open space board or commission. Establish a Charter-level board or commission to advise and assist appropriate agencies and officials on the management and protection of the parks, environment, and open space; to consult on the acquisition of open space and the use of the proposed Open Space Fund.

Chair Vencl thanked Mr. Mayer, Ms. Krash, and Mr. Sutrov for putting together such a comprehensive piece. Discussion followed in which commissioners got clarification on various issues (Recommendation A, Proposal 10, three year terms, Water, reconciling the planning process, etc.).

Chair Vencl asked for clarification on TMKs. Mr. Mayer said that if there's a proposal, he'd like to know what the tax map key is so he knows the area that proposal is about. Commissioner Hiraga said the Planning Department could be asked to change their forms. Mr. Mayer said the public notices that go out just fulfill a legal requirement; they don't give information. If you have the power to put a request for a form change on the ballot, then please do so.

CONCLUSION

Chair Vencl thanked everyone for coming. The meeting was adjourned at 9:20 p.m.


Ke'ala Pasco, Charter Commission Assistant

- Links and news shorts

(This update should only be going to people interested in receiving it. Please see the message at the end if this is not the case. At the same time, please feel encouraged to share this news with your friends -- good news should get around!)

History was made on March 5, when more than 56% of San Francisco voters gave a big thumb's up to adopting instant runoff voting for electing their most important offices, including mayor. Across the country, voters in 50 cities and towns in rural Vermont endorsed a proposal to use instant runoff voting (IRV) for electing statewide offices.

Despite well-financed by defenders of the status quo who spent perhaps as much as \$100,000 or more trying to confuse voters with slick mailings, San Francisco now becomes the first major American city to use IRV to elect its officials. It replaces two-round runoff elections that cost more than a million dollars a year, lead to low voter turnout and negative campaigning and exacerbate campaign financing demands. Depending on the capacity of the City's Department of Elections, IRV will be used either this fall or in November 2003.

Center for Voting and Democracy staff members Steven Hill and Caleb Kleppner developed a remarkable grassroots campaign, full of volunteer energy and that delivered more than 125,000 door-hangers in targeted precincts around the city. Leading civic organizations and elected officials rose to the challenge as well; endorsers included Rep. Kevin Shelley, who won the Democratic Party nomination for Secretary of State this week, and the Sierra Club, San Francisco Labor Council, Common Cause, NOW, Congress of California Seniors, Chinese for Affirmative Action, Latino Democratic Club, Libertarian Party, Democratic Party, Green Party and CalPIRG.

In Vermont, 51 of 54 town meetings supported a League of Women Voters-sponsored proposal to use IRV for electing statewide offices. Vermont IRV backers range from Democratic Governor Howard Dean and Secretary of State Deborah Markowitz to 2000 Republican gubernatorial nominee Ruth Dwyer, Common Cause and the Grange. Our New England regional director Terry Bouricius did masterful work on this effort on a shoestring budget.

Instant runoff voting (IRV) has the potential to crack open electoral politics to new voices and better choices. Used for major elections in Australia, Ireland and Great Britain, IRV ensures that candidates win with majority support in one efficient election. Voters indicate both their favorite and their runoff choices on the same ballot. If no candidate receives a winning majority of first choices, the weak candidates are eliminated. Just as in a delayed runoff, their supporters choose among the runoff finalists as indicated by the next-choices preferences marked on their ballots. Voters who ranked one of the finalists first continue to have their votes count for their favorite choice.

You can read much more about instant runoff voting, the win in San Francisco and the near-sweep of Vermont town meeting

Jon & Terry,

I understand that the Charter Commission has decided not to pursue instant-runoff voting (IRV). But just for your background information, I thought I'd forward this e-mail message I received today regarding successful IRV proposals in other jurisdictions.

David Raatz
Office of Council Services, County of Maui
raatz@abanet.org or david.raatz@co.maui.hi.us

votes on-line. Please see:

* The Center's news release and two pre-election articles at <http://fairvote.org/sf/robmessage.htm>

* A range of news and information about instant runoff voting at: <http://www.fairvote.org/irv>

* The San Francisco campaign's website at <http://www.improvetherunof.com>

* Coverage at <http://www.alternet.org>, <http://www.tompaine.com> and <http://www.thenation.com/thebeat>

You also will enjoy reading an on-the-spot reaction to the victory by Dan Johnson-Weinberger, the Center's national field director, below.

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Later this month we plan to send an update with a range of helpful links and information about our full range of work later this month and then begin a short, monthly update. As previews, we urge you to visit our

* all-state redistricting guide, with news about how this redistricting cycle has been the worst in decades for restricting voter choice and expanded representation (the report is at <http://fairvote.org/redistricting/reports/remanual/frames.htm> and a widely-published commentary is at http://fairvote.org/op_ed/monitorjan02.htm

* news about the growing movement to institute instant runoff voting and/or proportional representation for student elections: the University of Illinois and Carleton College recently adopted reforms, joining such universities as Harvard, MIT, Princeton, UC-Berkeley, Stanford and University of Wisconsin (see <http://fairvote.org/schools/index.html>)

* examples of websites being developed in order to allow people to use instant runoff voting election on-line <http://www.demochoice.org> and <http://www.purpletech.com/irv>)

Short news items from recent weeks include:

-- The Utah Republican Party State Central Committee earlier this year amended its bylaws to enable the use of instant runoff voting in neighborhood precinct caucuses where state and county delegates and precinct officers are elected.

-- More than a dozen states have debated instant runoff voting legislation in 2001-2. New legislation was introduced this year in Florida, Washington (where a well-attended hearing was held in January)

-- It's an important time for congressional action on campaign finance reform and electoral reform. Among many, good website resources to track these developments include: <http://www.electionline.org> (ElectionLine.Org), <http://www.opensecrets.org> (Center for Responsive Politics), <http://www.demos-usa.org> (Demos),

<http://www.constitutionproject.org/eri/index.htm> (Constitution Project Election Reform Initiative)

-- The Scottish Executive will forge ahead with plans to introduce proportional representation for local government elections. Scotland, Wales and London all had used proportional representation for their most recent elections. (<http://www.electoral-reform.org.uk>)

-- Pakistan will have elections for the first time in several years later this year. Elections have used only winner-take-all elections, but with separate rolls. Now proportional representation will be used to elect "reserved seats" for women and technocrats. Many in Pakistan want to go farther toward proportional representation (<http://www.dawn.com/2002/01/17/top1.htm>)

-- CVD staff and board members continue to speak regularly before organizations, students and elected officials - recent and upcoming talks include those at Duke, Princeton, Georgetown Law School, University of Indiana, George Washington Law School, the NAACP affiliates in South Carolina, Maryland and Virginia and national election administration conferences in Florida and Washington, DC. Contact CVD at eric@fairvote.org or (301) 270-4616 for more information.

-- Finally, our remarkable chairman, John B. Anderson, celebrated his 80th birthday last month. A guest on C-SPAN in January, John's year-end message to organizational members can be read at: http://fairvote.org/e_news/2001yearend.htm
This week's victories certainly are a wonderful gift for John.

Stay tuned for more news about reform and the Center's plans for 2002. And of course, as a non-profit organization in the midst of some exciting projects, we need support from the public. To learn how to support the Center, see <http://fairvote.org/donate.htm>, and enjoy Dan Johnson-Weinberger's message to activists late on the night of March 5th in San Francisco.

How Sweet is... Victory in San Francisco! From the Center's national field director Dan Johnson-Weinberger.

From the campaign in San Francisco right now -- there's champagne flowing, there's wild celebration and I can't believe it. I can't believe it!! We probably won!

This is a new movement for American democracy. This is the real deal. This is a real movement. We've all been a part of it. And we did it with heart and soul and sweat and dollars and effort. And I'm telling you, the Prop A campaign had the BEST grass-roots campaign of anyone in the entire city. ANYONE. We had 1000 phone calls made from people all over the country. We had small checks sent in from all over the country. This is amazing.

This is awesome. Unless you hear back from me in the next few hours -- WE HAVE WON!!! AND THE MOVEMENT FOR FAIR VOTING HAS BEGUN!!!!!"

Absolutely delighted and honored to be a part of the movement for democracy, Dan Johnson-Weinberger

(To unsubscribe from this list, please hit reply and say "unsubscribe." To ask to be on this list, please send a note to info@fairvote.org. Thank you!)

Rob Richie, Executive Director
The Center for Voting & Democracy
rr@fairvote.org, www.fairvote.org

6930 Carroll Avenue, Suite 610
Takoma Park, MD 20912
(301) 270-4616

"Make Your Vote Count!"

RECEIVED
Charter Commission
MAR 21 2002

Subj: **Minority rule**
Date: **3/20/02 2:44:32 PM Hawaiian Standard Time**
From: sean@akaku.org
To: TVencel@aol.com, Keala33@aol.com
CC: charter.commission@co.maui.hi.us, kgcray@maui.net, jvandyke@hawaii.edu,
Erlinda0352@aol.com, sholaday@hcsugar.com, brian.moto@co.maui.hi.us,
d.takahashi@princehawaii.com, petro@aloha.net, knossman@ccmaui.net,
gwen@mhinonline.com, chana@aloha.net, vince_hagoyo@lanai-resorts.com

Sent from the Internet (Details)

Aloha Charter Commissioners and colleagues

The Honolulu Star-Bulletin had a front page headline on February 27, 2002 that read "State's voter apathy zooms to worst in U.S.: A report ranks Hawaii last in registration and turnout for the 2000 general elections"

<http://starbulletin.com/2002/02/27/news/story1.html>

As things are going now, the minority of the people participate in elections. In my humble opinion, the Maui County Charter Commission has a responsibility to address this fundamental flaw in our democratic process.

Thanks for your consideration.

- Sean McLaughlin

MAUI COUNTY CHARTER COMMISSION PUBLIC MEETING
Old Hana School Cafeteria, Maui
Wednesday, March 6, 2002
6:00 p.m.

PRESENT

Terryl Vencl, Chair
R. Sean McLaughlin, Vice-Chair
Vince Bagoyo
Ray DeMello
Bill Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
Erlinda Rosario
Donn Takahashi

STAFF

Brian Moto, First Deputy Corporation Counsel
Ke'ala Pasco, Charter Commission Assistant

EXCUSED

Stephen Petro
Jon Van Dyke, Charter Commission Analyst

CALL TO ORDER

The meeting was called to order at 6:03 p.m. Present: Chair Vencl and Vice-Chair McLaughlin; Commissioners Bagoyo, DeMello, Fuhrmann, Hiraga, Holaday, Mossman, Rosario, and Takahashi; First Deputy Corporation Counsel Moto and Charter Commission Assistant Pasco. Excused are Commissioner Petro and Analyst Van Dyke.

Chair Vencl asked for a motion to accept the minutes from February 27, 2002. Motion was made (McLaughlin), seconded (Bagoyo), and carried unanimously.

Communications have been received from Angie Hofmann and Leina`ala Kihm. Motion was made (Mossman), seconded (Holaday), and unanimously approved.

Chair Vencl greeted those present, saying that the Commission had been in Hana last August. Since then, the Commission went through deliberations and came up with 17 proposals, which are on display; handouts are available at the sign up table. The Commission is now in the process of going back out to the different communities to get feedback. She outlined the process until the final report is submitted to the County Clerk's office to be prepared for the ballot in November.

Chair Vencl then explained the procedure for giving testimony (the three minutes plus one rule). She called up the first testifier to begin public testimony.

TESTIMONY

MR. JOHN KAHALEHOE, SR.

Mr. Kahalehoe is the Service Supervisor II of Hana. He believes the Water Department should remain semi-autonomous because they get more CIP projects completed this way. The process is faster than if they had to go through the administration.

When asked by Commissioner Fuhrmann to clarify his preference, Mr. Kahalehoe said he'd prefer that Water remain semi-autonomous for now (17A), and would like it to be more autonomous in the future. Commissioner DeMello said that the proposal means greater rate setting authority; Mr. Kahalehoe said he approved of that.

MS. LINDA HAMILTON

Ms. Hamilton worked on the CAC the last time, when the Hana community plan was opposed by (then Mayor) Linda Lingle. In a Maui News article dating back to 1994 (copy submitted), she is quoted as saying that Maui County "lacks a mechanism to ensure that proposed subdivisions of agricultural lands fit the goals established by our General Plan and community plans"; there is "no means by which to consider whether a subdivision will have a negative impact on schools, roads, solid-waste disposal, police and fire service, or the continued use of surrounding lands for agricultural activities. Hana needs protection to preserve its uniquely Hawaiian character."

Ms. Hamilton wondered if an amendment to the Charter would result in a mechanism in the Planning Department to deal with a cumulative impact. Chair Vencel replied that part of the Charter deals with community plans and their enforcement, hence the proposal to keep the CACs alive longer to allow them to watch as it goes through the process. Commissioner Mossman added that another component puts Long Range Planning in the Charter so it can't be ignored. Commissioner Fuhrmann said he didn't think this was a Charter issue. He said impacts can be manifested through computer modeling by inserting variables. Mr. Brian Miskae is now the Long Range Planning division Executive Director, and he's available to speak to the community about that.

Ms. Hamilton believes there should be a tie-in (dovetailing) between land use planning and what the state mandates; she asked where state mandates were mirrored in the County, and if the Charter really addresses this issue. She stressed that if we have something that needs to be done, we need to get it on the GIS. Chair Vencel responded that it's being handled through the Council, the administration, and Mr. Miskae's office. She offered to ask our analyst how we can assure that it'll be there. It's not something that would be in the Charter itself; however, it could possibly be put in the draft report. Ms. Hamilton said she'd be interested in hearing what the analyst has to say. Commissioner Bagoyo said that the County has a GIS (arc view system), but it takes a while to put it all in place. He said one goal is to clarify the role of the Planning Department. He hopes that HRS 658 would assist the Planning Department as they move toward this Long Range Plan.

Commissioner Bagoyo continued that for a development in a certain district, you need to be able to see if what exists (schools, traffic, fire protection) is adequate enough. While you can actually go as far as overlaying where pipelines, utilities, and so forth are, it takes a lot of time; this has to be weighed against the cost. Ms. Hamilton mentioned that she got assistance from Scott Splean of the Maui High Performance Computing Center (estimate submitted), adding that it's probably outdated and Mr. Splean may not even be available anymore.

MR. JOHN BLUMER-BUELL

Mr. Blumer-Buell said he came out because we didn't have a big turnout last time. He told the Commission that more people than we may realize are paying attention. He's watched a number of meetings on Akaku and was thankful he was able to do that.

He had some words of advice for the Commission:

- 1) Information for the public needs to be in language that is as unambiguous as possible.
- 2) Get a second opinion on legalese. Many times, things on the ballot are confusing even with characterizations, so it's important to be as clear as possible.

Mr. Blumer-Buell said that while he's leaning toward moving Water back under the administration (17B) because he's concerned about concurrency, he's still open to the issue. He added that if there's a lack of accountability with the Water Department, the Mayor is to blame because he appointed some of those people.

He asked if there was anything the Hana Community Association could do to help get the word out (newsletter, etc.). He said the Board will consider inviting Commissioner Fuhrmann to speak at one of their meetings. The criteria would be to hear both sides of these issues; they mostly want general information.

He brought up one more thing although he didn't think it was a Charter issue. He'd made a complaint that the government didn't tell the truth. He believes that everyone in office should be able to distinguish between right and wrong and tell the truth, but there's nothing in there that "holds people to honesty." He believes this is something everyone wants automatically. He referred to the issue with Mike Molina, saying that the need for honesty needs to be spelled out in the Charter, but it's so obvious it doesn't need to be on the ballot.

Mr. Blumer-Buell thanked the Commission and said people do appreciate what's being done. He was the last person to testify.

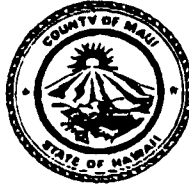
CONCLUSION

Chair Vencel thanked everyone for coming. The meeting was adjourned at 6:26 p.m.



Ke'ala Pasco, Charter Commission Assistant

JAMES "KIMO" APANA
Mayor



RICHARD T. BISSEN, JR.
Prosecuting Attorney

BENJAMIN M. ACOB
First Deputy Prosecuting Attorney

DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

RECEIVED
Charter Commission
MAR 12 2002

March 11, 2002

Ms. Terryl Venc1, Chair
Maui County Charter Commission
c/o Office of the Mayor
County of Maui
Wailuku, Hawaii 96793

Re: Amendment to Chapter 3, Section 8-3.3
of the Maui County Charter

Dear Ms. Venc1:

I respectfully request that an amendment be made to Chapter 3, Section 8-3.3 of the Maui County Charter. The amendment would revise that section to read: "Appoint such deputy prosecuting attorneys and necessary staff as shall be authorized by the council. Deputy prosecuting attorneys shall be exempt from civil service and shall serve at the pleasure of the prosecuting attorney. The prosecuting attorney may appoint investigators who shall have the powers and privileges of a police officer while acting within the scope of their duties as investigators. (New proposed material underlined).

Until 1988, Section 62-78 of the Hawaii Revised Statutes had provided the "county attorney", who was the public prosecutor for the County, to appoint an investigator and provided that "[a]ny investigator so appointed shall have all the powers and privileges of a police officer of the county." In 1987, the Attorney General issued an opinion wherein it stated that the special and local laws pertaining to the powers of the counties found in Chapters 61 through 70 of the HRS were violative of Article VIII, Section of the Hawaii Constitution.

Terryl Vencil, Chair
Maui County Charter Commission
Page Two
March 11, 2002

Thus in 1988, Chapters 61 through 70 were repealed and Chapter 46 was amended to include a new section entitled "General powers of the counties." Currently, Section 46-1.5(17) of the HRS provides that "[e]ach county shall have the power to provide by charter for the prosecution of all offenses and to prosecute for offenses against the laws of the State"

The repeal of Chapters 62-78 of the HRS did not mean that police powers for investigators should be abolished. Given the reason for the repeal of those chapters, it only meant that the county, through the county charter, is the proper body to empower investigators with police powers. Indeed, the City and County of Honolulu, County of Kauai, and Hawaii County have given their investigators police powers through their respective charters. Currently, the County of Maui is the only county whose investigators lack police powers.

Police powers and privileges include injury on duty benefits, execution of arrest warrants and material witness orders, the ability to conduct extraditions, and the ability to carry firearms. The only power or privilege which appears controversial is the ability to carry firearms. Nevertheless, the duties and responsibilities of an investigators, the nature of work of the office of the prosecuting attorney, and societal trends all support the extension of that particular power to our investigators.

Investigators perform many of the same functions as police detectives. Although not initiating cases or identifying and apprehending suspects, investigators are typically asked to handle evidence, examine crime scenes, interview witnesses and complainants, take photographs, and do many other tasks associated with follow-up investigations. Unlike detectives, investigators are often called upon to serve subpoenas, transport local witnesses, work closely with deputy prosecuting attorneys, and take an active role in preparing criminal cases for trial.

In the course of performing their duties and responsibilities, investigators frequently encounter hostile witnesses, recanting complainants, and disgruntled defendants or members of defendant's families. Investigators regularly interact with and are exposed to career criminals, drug users,

10-12-02 10:04 MAUI COUNTY CHARTER COMMISSION
Terry Vencel, Chair
Maui County Charter Commission
Page Three
March 11, 2002

people with mental health problems, gang members, and the areas that these people frequent. Investigators are called to remote locations, sometimes after hours, and are oftentimes in a position of providing security for non-streetwise attorneys. The volatility of the people and the uncertainty of the situations an investigator typically encounters supports their carriage of defensive arms.

The nature of the work in a prosecuting attorney's office also supports the wisdom of investigators with police powers. Many people, especially those with ties to crime or criminal defendants, harbor animosity towards the prosecution. Prosecutors and the investigators that assist them deprive defendants of their freedom, forfeit their property, force them to pay restitution to their victims, and hold them up to public scrutiny. These activities are easily construed as personal affronts by the criminal element. Additionally, valuable property, contraband, and other physical evidence that may serve a critical role in a successful prosecution may be present in the office at various times. Evidence transportation and security falls to the investigators as does the protection of witnesses who fear retaliation or reprisal for their cooperation with the State. Allowing investigators police powers should not only safeguard personnel, but also the dispensation of justice in that our office would have the ability to thwart opposition from even the most nefarious of criminal defendants.

Currently, police officers now have to accompany investigators on certain tasks where the investigators could accomplish such tasks without the assistance from the police department if the investigators were empowered with police authority. The investigators effectiveness is curtailed and their safety put at unnecessary risk because of their inability to make an arrest and carry firearms.


For all of the foregoing reasons, we respectfully request the amendment of Chapter 3 Section 8-3.3 of the Maui County Charter as suggested above.

Terryl Venc1, Chair
Maui County Charter Commission
Page Four
March 11, 2002

Should you have any questions concerning the above, please
do not hesitate to contact me at 270-7777.

Thank you for your attention to this matter.

Very truly yours,


RICHARD T. BISSEN, JR.
Prosecuting Attorney

RTB:gat

RECEIVED

MAR 08 2002

Jim Smith
P.O. Box 790403
Paia, Maui, Hawaii 97779

March 5, 2002

Ms. Terri Vencel, Chairperson and
Members of Maui County Charter Commission
County of Maui
Wailuku, Maui, Hawaii 96793

Re: Proposed amendments to Article 3, **County Council**

Dear Ms. Vencel and Members,

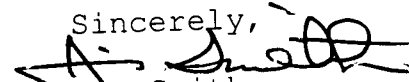
The Maui News on March 5 included an editorial that I hope you will carefully consider. (See Attachment 1)

The Office of Corporation Counsel has been ineffective in preserving the sense of impartiality we assign to the judicial branch both from inside and out. And it seems an adjustment to the structure in this regard may help.

In 1996 and 1997 a friend was involved with a complaint regarding use of agricultural property for a Bed and Breakfast establishment. His name was David S. Ferguson. I am enclosing a letter from Corporation Counsel Joseph Wolsztyniak replying to Mr. Ferguson's inquiry and a letter to the party operating the establishment. (See Attachment 2 and 3) Its important to note that HRS 205 provides that uses not expressly permitted are prohibited on agricultural land. (paragraph 4 of the Ferguson letter references page 2 of the Koebke letter) and also the attorney claims a power that may not be his, namely that he holds more than advisory status allowing him to preempt statutory authority in settling a dispute before the Board of Variance and Appeals.

It would seem public trust as it relates to the very structure of our political system is at risk and needs your attention. I submit to you an amendment to Article 3 County Council based upon information I have submitted in the past regarding an office of public justice, a response to the chaos we find ourselves approaching.

Sincerely,


Jim Smith

The Maui News

Charter sets up loyalty conflict

At least one member of the County Council is calling for an investigation of the actions performed by the Office of the Corporation Counsel and is discontented with the head of the Planning Department. Sound familiar? For the past two decades, there has been at least one occasion in which the council has gotten at cross-purposes with the administrations headed by Hannibal Tavares and Linda Lingle. Now it's the James "Kimo" Apana administration's turn.

The County Charter says the corporation counsel "shall be the chief legal advisor and legal representative of the council, the mayor, all departments, all boards and commissions, and of all officers and employees in matters relating to their official duties." The charter says the planning director "shall serve as the chief planning officer of the county and as the technical advisor to the mayor, council and planning commissions on all planning and related matters." Both of those mandates might be considered too encompassing.

The charter lists of "Powers, Duties and Functions" of both the corporation counsel and the planning director concludes with saying the corporation counsel and planning director "shall perform such other duties and functions as shall be assigned by the mayor." That proviso might result in council members believing they are something less than in charge.

Instead of wasting time and energy on investigating a specific instance of alleged administrative misfeasance, the council could come up with charter amendments that would detail the legal relationship between the county's legislative and executive branches, or it could do what many legislative bodies do and set up its own legal office. With a staff attorney or an attorney on retainer, the council would not be limited to consulting with individuals who were appointed by the mayor.

Coming up with charter amendments would be cumbersome and having its own legal representation would be expensive, but either approach might more clearly define the separation of powers and responsibilities without a lot of in-house wrangling, election year or not.

ATTACHMENT 1

Maui News

Maui's Newspaper Since 1900

50 CENTS

3/3/02

Corporation counsel's role questioned by councilors

Way Maalaea water park,
minigolf handled triggers
call for an examination

By **MARK ADAMS**
Staff Writer

WAILUKU — The recent controversy over a proposed water park and miniature golf course at Maalaea has led some Maui County Council members to question the allegiance of county attorneys.

Council members decided Friday to ask the Maui Planning Commission to defer any action on the Maalaea Golf and Water Park until the council has a chance to investigate both the project and recent actions of the Office of the Corporation Counsel.

There are two issues involved:

First, did the administration act properly in giving an initial OK to proceed with a project? Critics say the project is significantly different from the one originally covered under Maalaea Triangle Partnership's special management area permit. The original project was to have been a two-story office building.

But the second, larger question is tied to Council Member Jo Anne Johnson's request for an investigation of actions taken by the Office of the Corporation

Counsel and the county Planning Department in advising the developer, Pacific Isle Group, that it was OK to proceed with the golf and water park project.

Johnson says she has received contradictory information from different county attorneys, including Corporation Counsel James Takayesu, who heads the department.

She also thinks that a decision by county Planning Director John Min to ask the Maui Planning Commission to decide whether the previously issued SMA covers the project — including a declaratory ruling on whether the SMA permit has lapsed because of a five-year time limit — circumvents her attempt to investigate the matter.

"The conflicts that this situation brings forward are serious and call for an investigation," she said in her letter asking the council to look into the issues raised.

On Friday, the council received a lengthy written response from Takayesu that was delivered to council members minutes before Johnson's request for an investigation.

After a quick read of the memo, Johnson said she believed it contained some

See CORPORATION COUNSEL
on the next page



The Maui News / MATTHEW THAYER photo

not like good old days

DeCoite rode her horse Stowie through the heart of town Friday near the end of a ride to Rice Park and back. DeCoite hit the horse and she longs for the days when there were open country. "Before, we could go in the pineapple fields and there are signs all over, and there is no place to ride. All my friends (who had keys to pastures) have all moved away." Despite all the changes and hustle and bustle, it was still nice to have him for a cruise around town.

The Mission

■ **New Walluku road.** Waiinu Road was dedicated and opened on Thursday as a new connector from Waiale Road to Maui Lani Parkway. A story and photo

LINDA CROCKETT LINGLE
MAYOR



J. P. SCHMIDT
CORPORATION COUNSEL

DEPARTMENT OF THE CORPORATION COUNSEL

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE (808) 243-7740 • FAX (808) 243-7152

August 22, 1996

Mr. and Mrs. Achim Koebke
100 South Lanikai Place
Haiku, Hawaii 96793

Re: 96-BVA-15
Achim Koebke, et al. v. Charles Jencks, et al.

Dear Mr. and Mrs. Koebke:

This letter is being sent to memorialize and finalize our agreement to resolve the above matter pursuant to our telephone conversation of August 21, 1996. We will waive the daily fines assessed in this matter in the approximate amount of \$9,000.00, if you pay the initial fine of \$1,000.00 in full to the County and file an application for a Special Use Permit and a Conditional Use Permit, unless otherwise provided herein. The fine shall be paid in full by October 1, 1996.

You will apply for a Special Use Permit and a Conditional Use Permit within sixty (60) days of the execution of this letter of agreement memorializing this settlement. The following conditions are also included:

1. In the event that the Maui County Council adopts a bed and breakfast ordinance that "grandfathers" existing bed and breakfast operations, then you will not be required to obtain a Special Use Permit and a Conditional Use Permit, provided that your bed and breakfast operation qualifies under said "grandfather" clause and fully complies with all provisions of the bed and breakfast ordinance if any is adopted by Council.
2. In the event the Maui County Council adopts a bed and breakfast ordinance that does not contain a "grandfather" clause for existing bed and breakfast operations, then you will be able to amend the Special Use Permit and a Conditional Use Permit applications to request the type of permit set forth in the bed and breakfast ordinance that is applicable to your bed and breakfast operation, provided that your bed and breakfast operation qualifies for a permit under the bed and breakfast ordinance and fully complies with all provisions of the bed and breakfast ordinance.

ATTACHMENT 2

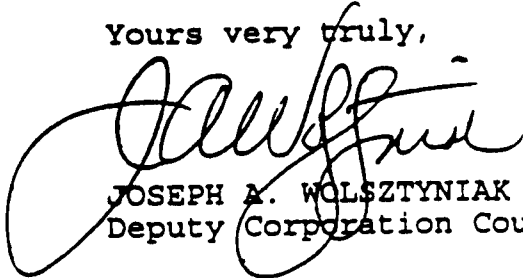
Paul L. Horikawa, Esq.
Page 2
August 22, 1996

breakfast ordinance if any is adopted by the Council.

3. During the time the Special Use Permit and the Conditional Use Permit applications are pending before the County of Maui, you will not be cited nor will any action be taken against you solely due to the fact that a bed and breakfast exists at that location. Naturally, you would be subject to any other violations or any nuisance complaints which would have to be processed through the normal course of business.

As your approval of this agreement settles all matters in controversy, it is also agreed that you will effectuate a withdrawal of the aforementioned BVA Appeal at the hearing scheduled on August 22, 1996 at 1:30 p.m.

Yours very truly,



JOSEPH A. WOLSZTYNIAK
Deputy Corporation Counsel

APPROVED:

Achim B. Koebke
ACHIM KOEBKE

Margaret Koebke
MARGARET KOEBKE

c:\wp51\ltrs\koebke

LINDA CROCKETT LINGLE
MAYOR



J. F. SCHMIDT
CORPORATION COUNSEL

DEPARTMENT OF THE CORPORATION COUNSEL

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE (808) 243-7740 • FAX (808) 243-7152

February 18, 1997

Mr. David S. Ferguson
7 S. Lanikai Place
Haiku, Hawaii 96708

Re: Red and Breakfast Appeals

Dear Mr. Ferguson:

Your letter to Mr. Nagamine of December 16, 1996, has been forwarded to me for response to a portion of that letter, namely, the third paragraph.

I would like to apologize for the delay in responding to your correspondence, but I have been off-island majority of the time since your letter was written. I hope I am able to clarify this matter and answer your questions.

You requested a copy of the memorandum from Mr. Jencks to me authorizing me to settle. Please be advised that this is confidential and privileged information covered under the attorney-client privilege. This information is not required to be disclosed under Rule 503 of the Hawaii Rules of Evidence.

The letter appears on my letterhead as opposed to that of the Department of Public Works Director for several reasons. It is quite common for letter agreements to be drafted by attorneys on their letterhead as opposed to that of the company or individual who they are representing. I would be drafting the agreement, and the Office of the Corporation Counsel by County Charter represents the Department of Public Works and Waste Management. It is also true that both the Department of Public Works and Waste Management and the Office of the Corporation Counsel are divisions of the Maui County Government also by Charter.

The fact that the letter indicates Mr. Horikawa was representing the Koebke's was an error. As I am sure you know, it is quite common to use computers and word processors in drafting agreements. As I am sure you know from reviewing the documents, the agreement reached with Mr. Horikawa's client and the Koebke's was very similar. Apparently, someone

ATTACHMENT 3

Mr. David S. Ferguson

Page 2

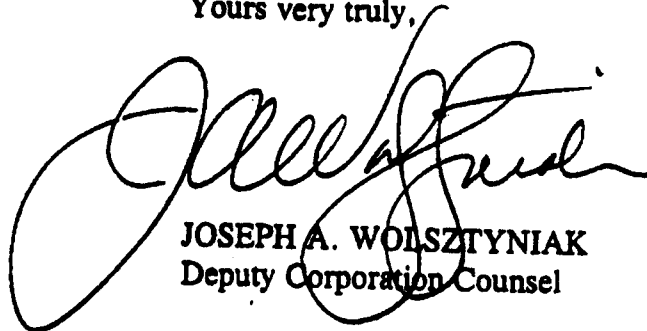
February 18, 1997

forgot to take Mr. Horikawa's name off the Koebke letter of agreement when the Koebke agreement was drafted.

Although I am not an employee of the Department of Public Works, I hold more than advisory status. Our Department under the County Charter represents the Department of Public Works under Article 8, Chapter 2, Section 8-2.3 of the Maui County Charter.

I hope this letter answers any and all questions you may have. If you still have any questions remaining after reviewing my letter or care to discuss this matter further, I remain available to you to answer any further questions and would be happy to discuss this matter with you.

Yours very truly,



JOSEPH A. WOLSZTYNIAK
Deputy Corporation Counsel

JAW:ek

xc: Charles Jencks
Ralph Nagamine

s:\clerical\ek\ltrs\ferguson

Proposed amendment to Maui County Charter
Article 3, County Council

Section 1: That Article 3 Section 3 - 9 be redesignated Section 3 - 10 Restrictions on Council and Council Members.

Section 2: That Article 3 is amended to include Section 3 - 9 Office of Public Counsel.

Article 3 County Council

Section 3 - 9 . 1 Organization. There shall be an Office of Public Counsel consisting of a Public Counsel, Public Acts Review Board, and the necessary staff.

Section 3 - 9 . 2 Public Counsel. Public Counsel shall:

1. Be an attorney licensed to practice in Hawaii with a minimum of five years experience that includes not less than three years experience in private practice. The Public Counsel must be qualified to practice before the United States Supreme Court with demonstrated success at appellate level of appeal.
2. Be independent of the authority of Corporation Counsel
3. Hire an associate counsel, legal assistant and clerical staff subject to approval by the Board.

Section 3 - 9 . 3. Powers, Duties, and Functions: The Public Counsel shall:

1. Coordinate its services with corporation counsel, boards and commissions established by Charter or State Statute.
2. Upon request provide technical assistance to any citizen regarding proceedings subject to the Hawaii Administrative Procedures Act or Rules of a Board or Commission in order to facilitate a fair and just decision or action, and shall inform recipient that it is not acting nor can it act as a personal attorney.
3. Appear as a party in any proceeding upon its own discretion by filing a notice to participate when it believes it is necessary and shall inform the Board in writing of its reasons. Within 20 days of its notice, the Board may approve by vote of a majority of members or disapprove by unanimous vote of members its participation and Counsel will withdraw.

4. Upon direction of the Board, it shall enter as a party on behalf of the public interest in any matter determined by the Board to require participation.
5. Have standing to appeal to court any decision of a board or commission, or public action by a government agency or official, determined by the board harmful to the public interest.
6. Decide all questions posed by the Executive or Legislative branch regarding proper exercise of Legislative or Executive power or its abuse.

Section 3 - 9 . 4 **Public Acts Review Board:** The Public Acts Review Board shall consist of three members appointed by the Mayor and approved by the Council.

Section 3 - 9 . 5 **Powers, Duties and Functions.** The Public Acts Review Board shall:

1. Ensure that boards and commissions and public officials empowered by this Charter of the County of Maui promote the public interest and are responsive to citizen concerns related to fair application of public policy and the legality of government action affecting public rights.
2. Seek to encourage public confidence in decision-making process of boards and commission.
3. Appoint public counsel subject to consultation with the Corporation Counsel and approval by the Council.
4. Consider any requests by any citizen or group of citizens, to direct Public Counsel to enter a specific matter to protect the public interest and ensure fair and complete presentation of relevant issues in administrative proceedings or matters of public controversy so that decisions affect public rights may be seen as sound decisions can be made and public confidence in government increased.

Section [3.9] 3.10 **Restrictions on Council and Council Members.**

1. Neither the council nor any of its members shall, in any manner, dictate the appointment or removal of any officer or employee appointed by the mayor or by his subordinates.

2. Except for the purpose of inquiries under Subsection 3-7(3), the council or its members, in dealing with county employees or with county officers other than those appointed pursuant to Section 3-8 or Article 5, shall deal solely through the mayor, and neither the council nor its members shall give orders to any such employee or officer either publicly or privately. Any willful violation of the provisions of this subsection by a member or the council shall be sufficient grounds for his removal from office by impeachment.

I also agree with WMTA's assessment

RECEIVED

Mahalo,

MAR 12 2002

Carole Joy AMeral

Forwarded Message:

Subj: Charter Amendments-WMTA Board Votes Unanimously Listing
Date: 3/12/02 4:48:25 PM Pacific Standard Time
From: pluta@maui.net
To: Keala33@aol.com, TVencl@aol.com
CC: wmta@maui.net, lahnews@maui.net, Jo_Anne.Johnson@co.maui.hi.us,
mayors.office@co.maui.hi.us, patrick.kawano@co.maui.hi.us, charmaine.tavares@co.maui.hi.us
Sent from the Internet (Details)

Attn: Terryl Vencl, Chair, Maui County Charter Commission
(for distribution to the members of the Charter Commission)

Re: West Maui Taxpayers Association (WMTA) Board of Directors Vote and officially post
their Recommendations on each individual Proposed Charter Amendment.

Aloha Terryl:

On behalf of the West Maui Taxpayers Association, (WMTA), we extend our sincere appreciation to you and the members of the Charter Commission for your outstanding contributions of time and attention to the County Charter. We recognize and appreciate the personal sacrifices involved in Community Service from firsthand knowledge.

The West Maui Taxpayers Association has been closely monitoring the Proposed Charter Amendments both pro and con and have endeavored to weigh the opinions of others on these proposals which we have received as well. After months of careful consideration, the WMTA board today voted unanimously to report our conclusions to the Charter Commission and our membership at large. We voted YES in support of 11 of the proposed amendments and NO on 6. These results are listed in the numerical order as they were published and identifiably referenced as follows:

1. NO to Re-Districting
2. YES to increasing Council Terms to 4 years.
3. NO to Eliminating Term Limits
4. NO to Elimination of a Need for a Second Election
5. YES to Allowing Councilmembers to talk to County Officials and Employees
6. YES to Clarifying the role of the Corp. Council.
7. YES to Broadening the Powers of Public Works to include Transportation & Environment.
8. YES to Giving Public Safety Commission the power to hire & fire the Fire Chief.
9. YES to Clarifying the responsibility of the Dept. of Planning.
10. YES to Creation of Community Board Districts & Elect members from respective districts.
11. YES to Provide Due Process in event of Termination of Director of Personnel Services.
12. NO to Staggering the Terms of the Salary Commission.
13. YES to committment to an acquisition plan for Open Space.
14. Qualified NO- Change is Needed however current changes proposed are too drastic.
15. Qualified YES-provided that the Notice specifies number of days with clarity.
16. Qualified YES-provided the meeting is held in the affected issue is and at a time when the working public can attend.
17. A. NO to more Autonomy to the Board..
17. B. YES to making the Board of Water Supply a part of Government under the Mayor.

Thank you for considering our recommendations as you continue your deliberations. Please note that we will be testifying as to these recommendations when the commission comes to Lahaina on March 27th, 2002.

Warm Regards,

Joseph D. Pluta
President
on Behalf of the Board of Directors
West Maui Taxpayers Association
www.westmaui.org

Subj: Fwd: Open Space Amendment
Date: 3/13/02 9:47:45 AM Hawaiian Standard Time
From: Myles.Inokuma@co.maui.hi.us
To: TVencl@aol.com
CC: Keala33@aol.com

RECEIVED
Charter Commission
MAR 13 2002

Sent from the Internet (Details)

Please support the amendment to set aside a minimum of 1% of the county's unrestricted budget to purchase and conserve open space on Maui.

My wife and I own a condo on Maui and are concerned with the continuing development in the county. We live in Marin County and are lucky to have a great deal of undeveloped areas (i.e. Golden Gate Recreation Area, Mt. Tamalpais State park, and Marin county Open Space). It has made our county a wonderful place to live and raise children and it has made our area unique. The preservation of open space on Maui should be the responsibility of all citizens for the future of the island.

Mahalo,

Mike Stock