COMMITTEE C
CHARTER COMMISSION
MEETING MINUTES
MARCH 25, 1992
COUNCIL COMMITTEE ROOM

PRESENT
James Cockett
Dolores Fabrao
Robert Nakasone (Commission Chair)
Victor Reyes
Allan Sparks
Anne Takabuki (Committee Chair)
Lloyd Yonenaka
Susan Nakano-Ruidas (Staff)

EXCUSED
Sherrilee Dodson
Annette Mondoy
Jamie Woodburn
Deborah Wright

GUESTS
Alice Lee, Council Representative
Gwen Ohashi, Director of Council Services

I. CALL TO ORDER
Committee Chair Takabuki called the meeting to order at 3:16 p.m.

II. PUBLIC TESTIMONY
A. Jim Smith, Haiku, testifying as an individual, spoke to Article 9, Financial Procedures, as it appears in the Charter.

Smith: I became involved with budget hearings in 1985 because I was very concerned about developments in my area. It seemed the budget signaled certain things, when they happen and where I could look to see what was happening. So, I've been involved in this process for six years, in any event. Last May, I became involved in the budget for the Department of Water Supply and I was very disturbed by that budget. It included $40 million in bonds, enormous amounts of money; it came forward before a fee system was set in place, before an assessment system was developed. It seemed to me that it was of such an enormous undertaking that the council of the whole county should have been involved and aware of the funding needed for that. So, I looked I looked at the Charter to see, if in fact, it required that we should consider what the water department does simultaneously with what council does. And, I looked to Section 9-3, which speaks to the issue of all departments. The mayor should present to the council a budget, including the financial analysis of all departments. And, my assumption was that the Department of Water Supply was a department of this county, and should have been included in the deliberative process.

And, I address this issue because I think that where there's a question as to the need for that, it should be resolved. And, it should be resolved in favor of placing before the council the complete package of what public costs are going to be. I believe that Public...that the capital improvements portion of the Department of Water Supply are public improvements, and it's important, I think, that when public institution's borrow money, that they know in total the amounts of money that are being borrowed; and if this department goes off on its own without the council and the mayor invovled, then, I think, we've lost perspective of the total package. So, I would ask that this committee considering...consider amending the Charter to clarify that; to say that the mayor's budget should include the Department of Water Supply. It should include their expenditures and their costs, and that should be specified because right now it's an arbitrary decision and it's been chosen that they won't participate at the same time. And, I think that creates a great problem.

That would also be in Section 9-7-3, paragraph three which relates to "unless otherwise specified...specifically provided for in this Charter, all fees, rates, assessments and taxes imposed by the county shall be set in the annual budget." And, I think these things need to be put before the public at one time. And, that I think would help that.

Smith: (Continued) There's another problem that I've become aware of in my efforts, and that has to do with the appropriation of monies for specific capital improvement projects. In 1991, the mayor in her budget proposed the appropriation of $400,000 for the Ulumalu Improvement District. The Ulumalu Improvement District does not exist. There's been a proposal that an improvement district be created, but it has not been created. And, the mayor appropriated $400,000 for expenditures for the improvement and construction of a waterline and a roadway. So, the process was circumvented at that point, totally. The council was told that the money would not be expended until the improvement district was created in budget committee. Last December the mayor started to expend that money; and now it is back into the process. The budget committee went back and they've decided... The budget committee was told that it was up to them to provide the conditions for appropriations, therefore the appropriation would be legal, the expenditures would be legal since they did not spell out in this appropriation that it should not be expended. Although, they were told it would not be expended. So, I think that this Charter has to concern itself with type of a political happening. If, for example, a capital improvement projects could be reviewed as to the legality at some point, that might solve this problem. It could have been an error. The mayor could have said 'well, I don't know -- I've heard this word improvement district -- it must exist,' and corp counsel's office might have said 'well, wait a minute, this hasn't happened, so it doesn't exist, so you can't put this proposal in.' It could have been stopped at that point. So, I would just like to bring this to your attention, of what can happen in this process when a special project gets promoted.

In a particular section, this would be Section 9-5. Budget. Council Actions. I would...and, this relates to the relationship of the authority of the executive branch and the authority of the legislative branch. And not specifically to this Ulumalu thing, but I would ask that you consider including in that section, the idea that the mayor shall expend appropriations in a timely fashion. Simply because the budget is required to be approved by the council, created in essence by the council, and I think the reason for that is the judgment of nine members is thought to be better for us than the judgment of one person. And, by allowing the mayor to pick and choose as to which expenditures she will make, and which she won't for whatever reason, I think subverts legislative authority. And so, I would ask that that be included in your consideration. And that's basically the concerns I have, and ask you to think about, if you would.

Chair Takabuki: Mr. Smith, you understand right now the way the Department of Water Supply Charter provisions read, that the board has the authority, for instance, to set rates, subject to disapproval by the council. And, they also have the authority to adopt the budget. So, it's specifically...

Smith: I see that. I'm aware of that. But, that's not the question...

Chair Takabuki: But, you say you want that incorporated in the mayor's budget.

Smith: The mayor is charged with presenting the financial state or the financial future of the county, and the departments within the county. As long as the Department of Water Supply is in the county, and a part of county government, I think the Charter wants it to be included.

Chair Takabuki: But, you are suggesting that the authority that the board has right now be shifted under the administration.

Smith: The board doesn't have the... I'm not suggesting that the board lose its authority to create a budget.

Chair Takabuki: Well, they adopt the budget, right?

Smith: Or, adopt the budget, okay. I'm suggesting that the mayor has a responsibility to provide to the council, who appropriates money, who borrows money, okay... the full picture of what the financial obligations of the county are. The Board of Water Supply borrowed $40 million, okay? The county borrowed we'll say, I'm not sure of the specific, but we'll say $75 million--bonds, and that's a debt for the county. We're the county, okay? If the council had seen that the Board of Water Supply was borrowing $40 million, and that maybe it would be prudent not to piggy-back these, but sequence the borrowing or do some other financing, okay, then they would have had the option. But, as the option never materialized, we...

Chair Takabuki: So, you're talking more about coordination and making sure that the Department of Water Supply informs the mayor and the council what it's doing...

Smith: I'm talking... That's an informal description of what I'm talking about.

Chair Takabuki: I'm just trying to distinguish whether you want the mayor and the council to have final over the Department of Water Supply budget, or if you say leave it with the department, but they have to coordinate it.

Smith: It's interesting, because I spoke to the committee that was here reviewing the Department of Water Supply, and I asked them to make it under the council's purview. I asked them to withdraw that semi-autonomous status. But, that's not the issue that I'm speaking to now. I think that's going to be decided some other way, shape or form. But, right now it's a serious problem as to our legislative branch understanding the options...understanding where the costs are, how they're going to be expended. Last year, for example, the sewage treatment plant was a big issue. The mayor appropriated a lot of money, or at least proposed, and the council said 'oh, that's way too much. The state should pay more of this.' And, they dickered and they discussed, and it ended up they paid less.

Fabrao: May I ask a question? How then, would you suggest we get the information...how the mayor would get the information, if not coordinated with the Department of Water Supply? What kind of language would you put in the Charter to address that?

Smith: I think the language exists as it relates to department heads.

Fabrao: Okay, you know that Water Supply is pretty much on its...the Department of Water Supply is pretty much on its own; it does its own budget and it hires its own director, and all that. So, how would you want them to coordinate for the mayor... You said the mayor is responsible for the whole county, in so far as the departments regarding the monies expended and coming in, and all of that... So, how would you want the mayor to get that information? Would it be like a resolution that the legislative body would formulate so that the Department of Water Supply would have to give that information? How would you want it spelled out, even though you said the language is in there? Because, even if the language is in there, the Department of Water Supply is not included in that language because it's a separate, semi-autonomous...

Smith: Prior to 1988, it was included. So, it's been done before.

Fabrao: You still believe then, that the budget preparation and approval should

Fabrao: (Continued) be with the Board of Water Supply?

Smith: That's another issue. I really...

Fabrao: I'm trying to understand how you want to correlate that and interface with the... So that the mayor would get that information.

Smith: Well, I think that the mayor... The director of the Department of Water Supply, though hired by the Board of Water Supply, still, I think, has a relationship with the mayor, and the county as a whole. She, in essence works for the county, and therefore, nothing need change in terms of the existing relationship, though I really would like to see the Board of Water Supply come back under the council. I really, really would like that. But, I've spoken to that at another meeting. I think that's the best thing for this county, is for that to happen. But, as this Charter reads, when the council is sitting down to determine what's the best financial package for this county, it's got to have the borrowing power that the Board of Water Supply is considering, to determine whether or not the burden will be too great, I think.

Fabrao: So, how would you suggest they get the figures to this legislative body, to the council?

Smith: The mayor should provide the figures in her message...

Fabrao: How would you suggest she get it from the Department of Water Supply?

Smith: The Director of the Department of Water Supply should provide that information.

Fabrao: That's kind of like an administrative mandate or...

Chair Takabuki: I think, right now, that the council does get the budget for Water Supply, at least for information, but I don't think...

Smith: It's after their action...

Chair Takabuki: That's true, that's probably after their action...

Smith: And, that's the point.

Chair Takabuki: Then again, are you saying that the mayor and the council should have some say in the actual action of adoption? Or, are you saying that they should just have the information, so they can coordinate the entire fiscal plan for the county?

Smith: Well, I think that the mayor... You see, this is a good system here, okay, that the mayor submit to the council the full package of costs, so that they can make the best decision as a group. That cost should include the costs of the Department of Water Supply now, and should be a part of this process. Now, the Board of Water Supply needs to enact a budget, and the council needs to enact a budget, but they need to consider their expenses together. As I said, the Department of Water Supply has approved a budget and they didn't finance their budget. And, they don't have the money yet, they don't have an assessment fee to pay these bonds back. They don't have a rate structure to pay any more than the interest on some of their loans. They are not doing their job. But still, the council has got to know when the Department of Water Supply is going to spend $40 million for capital improvements, and when they're considering a bond of an enormous amount of money, too. Maybe they don't want

Smith: (Continued) us to go into debt $110 million in one year. And, they can say 'well, look; we're going to have to chose... or a choice is going to have to be made.' And, I think that's the concern that I feel has been avoided by not requiring...

Chair Takabuki: Would it address your concern if there was some requirement that the Board submit to the mayor and to the council their proposed budget prior to adoption; still leaving the adoption authority with the Board?

Smith: See, I'm hoping that you will take the power away from the Board. That's what I'm hoping...

Chair Takabuki: But, that isn't a matter to be addressed at this time.

Smith: Okay, but in lieu of that, realistically, the decisions on how much money are spent, are made prior to the budget hearing...you know, Board of Water Supply, at least that's been my experience. They had the hearing the same day they approved the budget. So, the information is in the ballpark of what they're going to expend. That information should be ready for the mayor before she submits her message to the council. And, that information should come to the council. And, it was done for many years prior to the time the Board of Water Supply became semi-autonomous. And, there's no reason why it can't be done now. And, I think, given the enormous amounts of money that are involved, they should be required to do so. It might be to the advantage of the Board itself because the council was able to negotiate $12 million off of the Lahaina sewage treatment, as opposed to the mayor's original proposal. And, the Board of Water Supply might gain substantially from the council being privy to these projects; and the state contributions and the county contributions, and all of those circumstances.

Chair Takabuki: Any questions of Mr. Smith? Thank you very much.

III. OVERVIEW/DISCUSSION OF ARTICLE 9, FINANCIAL PROCEDURES AS IT RELATES TO THE COUNCIL

A. Alice Lee, Council Budget Chair, Maui County Council
B. Gwen Ohashi, Director of Council Service

Chair Takabuki: Thanks, Alice, for coming back. We have before us a Communication, and that's 92-21 which covers a possible amendment to the Article 9 of the Charter. Do you want to go through these, maybe one by one?

Councilwoman Lee: I seem to have come in so abruptly the first time around, I just want to say thank you for inviting me to talk on housing as well as Article 9 of the Charter. I appreciate the opportunity.

As I mentioned earlier, whatever I said on housing is strictly my own opinion, and here again, is my opinion on Article 9, because I have not conferred with the other councilmembers. Although these are pretty generic, most of them are, I think, and number one says:

The mayor should make budget summaries available to the public. We just feel that since she is required by law to submit to the council her proposed budget, on or before March 15th, that she would have sufficient time to prepare a summary which we could make available to the public. Because, she generally starts working on the budget around October or November of the previous year, and we don't have that kind of luxury of time. Once we receive the budget, we begin scheduling hearings and sight inspections, and our own budget meetings, so we're in a time crunch.

Reyes: Is this procedure unique to the present mayor, or is it a general

Reyes: (Continued) procedure by the mayors of Maui County?

Councilwoman Lee: It's a general procedure of the mayors.

Reyes: Okay. I just wanted to find out if this is something that she's doing now, and that wasn't being done by previous mayors.

Councilwoman Lee: No, I can't blame her; I can't blame Linda Lingle. According to the Charter, the mayor has up until March 15th to submit the budget, the proposed budget. And so, what we're asking is, along with the budget, to please provide summaries so that we can make these summaries available to the public right away. Because, as I was beginning to say, we need to begin scheduling our public hearings and so forth, and the sooner we can disseminate this information to the public, the better it will be so they'll be able to read it and then comment and testify at our hearings. So, that's one point.

Sparks: Shall we ask questions point by point?

Chair Takabuki: If you don't mind, Alice, while we're on each point...

Councilwoman Lee: Sure.

Sparks: Is the problem that when you get the budget from the mayor there are no budget summaries at that time, and that they just haven't been done?

Councilwoman Lee: Sometimes in the past, I think with Hannibal, it did accompany the budget sometimes and sometimes not. So, it's up to the mayor whether he or she wants to provide a summary right away. So, if you can require that, it will be a lot easier on the council to distribute that information.

Sparks: So the council doesn't have to make the summaries, if they haven't been made, and make the arrangements to get them to the public...

Councilwoman Lee: We don't make the summaries... We would wait for the mayor to make his or her summary, then we make copies, and then we send them out. But, it's up to the mayor to provide the summary.

Fabrao: So, I guess you want to clarify that the summary should be available to the public so that they would be more informed about the budget when they come to your hearings. Is that what I'm hearing?

Councilwoman Lee: That's right. So, it should be required that it accompany the proposed budget.

Chair Takabuki: I don't know if everyone is aware of what the budget looks like, but it's really a document about that high.

Councilwoman Lee: Well, over 600 pages. The summary is about twenty-five pages.

Chair Takabuki: But, you mentioned also, Alice, that you feel there should be a publication... Now that publication would be something in a form much less than what you are talking about in a regular budget summary, right?

Councilwoman Lee: Right, and I didn't get to that part yet. We were only talking about the summary. Are there any questions on the summary?

Reyes: Is this something similar to what we just saw in the newspaper a week ago or so, when there was a budget summary... That's even less of what you are probably thinking of...

Councilwoman Lee: What you saw in the paper was probably the diagram, and a couple of paragraphs, right? No, this is a little booklet that she provides, and it summarizes the budget in fifteen to twenty-five pages. And, it's easier to understand and to comprehend than having to go through the detailed budget.

Cockett: Question. What's the difference between the summaries and the message, accompanying message?

Councilwoman Lee: The message is about a page; maybe two or three pages... It's a narrative...

Yonenaka: It's more like a State of the Union address as opposed to a little more summary detailed breakdown of what...

Councilwoman Lee: Gwen, could you get a copy of the summary, please?

Reyes: So, what you meant by this summary, should be published in the newspaper... When you say should make budget summaries available to the public, is it something where you'd say 'here's a stack of them, the public may come and pick it up,' or , you have an additional clause here... "and should publish the budget summary in the newspaper by March 15th." Is that the summary you are referring to, or do you want this twenty-five page...

Councilwoman Lee: No. I guess the first point is that the summary should accompany the budget by March 15th. And then the other thing is...it says here:
"The council should not be restricted to holding a public hearing on the proposed budget and capital program..." [Copy of the budget and summary were brought in by Gwen.] THIS is the budget and this is the summary.

Ohashi: And, this is the message.

Councilwoman Lee: This summarizes that. Okay, now where was I?

Sparks: Could you wait while I read this, please?

Nakasone: Let's recess the meeting...

Chair Takabuki: Are we ordering out tonight?

Councilwoman Lee: Okay, "The council should not be restricted to holding a public hearing on the proposed budget and capital program no sooner than the first day of April and no later than the thirtieth day of April." I believe that is the verbage in the Charter right now. What we are asking is that you would change that to just "no later than the thirtieth day of April." So that, you would allow or afford the council the ability to hold a hearing maybe the third week of March, and not have to wait until the first week of April.

Sparks: And that's connected to this fifteen day thing that is no longer required. Or, is it not required?

Councilwoman Lee: Well, it's really... I'm not sure what the intent was by not holding a hearing no sooner that the first day of April was by the people who put the wording into the Charter. I don't think fifteen days is all that necessary, when for everything else the requirement is six days.

Nakasone: Do you remember, Al?

Sparks: Did you... I don't think we did that! It's been massaged a lot since then.

Councilwoman Lee: And then further, the two week publication requirement is not necessary since the state statutes provide for notice requirements of all public hearings. So, that's generally what we are suggesting to you. Any questions on that part?

Okay, number two: "The method of initiating changes in the capital programs can be clarified to authorize the council to initiate changes at any time, provided, of course, that the appropriation is unencumbered, unexpended and not otherwise needed." And, these will clarify that statement. It says here, "It is unclear whether Section 9-6, Subsection 5 intends to authorize the council to initiate changes in the capital program during the time the appropriation is in effect. The mayor might need protection against undue council interference in the operating budget, but the same does not necessarily apply in the capital program. The mayor retains sufficient influence in such matters through her veto power."

So, we're asking for clarification there. It's unclear whether Section 9-6, Subsection 5 intends to preclude capital program amendments from being made during the period after the fiscal year, and before the lapsing date. The provision should be clarified. There doesn't seem to be a need for such a restriction.

As the former managing director, do you agree? [Question was directed to Anne Takabuki.]

Chair Takabuki: I have a question. Have you given, well, maybe not yourself... Right now, the way the Charter reads, it provides for an operating budget and a capital program. Traditionally, those have been combined in one ordinance, and therefore, it lapses, or it actually expires after one fiscal period. Because you're talking about the capital program having a longer life, which it does -- eighteen months -- should it not be clear that they should be separated? Would that kind of address that problem so it would be clear that they can go in and amend the separate capital program ordinance, which has a different life? We used to do that, you know, it was two different ordinances. Bob will recall that... An operating budget and a capital program, two separate ordinances. I'm not sure why it was changed. Because, as I recall, that's part of the problem because the ordinance expires at the end of the fiscal year, and yet you've got these capital appropriations that are holding around.

Councilwoman Lee: Right. But, that's not quite the issue I'm addressing, though. I see what you are saying, that on the one hand we're dealing with a budget that expires on June 30th, but the life of the programs continue for another x number of months, for the CIP program. I see that as one issue, right? But, the issue right now I'm looking at is council's power to initiate changes to the CIP portion of the budget.

Chair Takabuki: I was addressing B. But, I know what you're saying as far as initiation and secondly, whether amendments can be made outside of the fiscal year, where now it says anytime during the fiscal year, right?

Sparks: Anne, what you were bringing up, if I'm following this, has to do with the...what it says under 2? That says capital program is included in the budget, and if you were going to split it, you would change those words somehow, I suppose.

Chair Takabuki: Capital expenditures, now is that different than capital improvement appropriations? Capital expenditures can be equipment expenditures, and those sort of things. And, I wonder...

Councilwoman Lee: I think we're dealing with the CIP right now. But, I'd be interested to know on why they combine the two. Is it something you could research, or find out?

Ohashi: I probably could. At that time when we had separate CIPs, the life of the CIPs was three years. It wasn't a year and...or eighteen months. It was thirty-six months. This is something that...

Councilwoman Lee: So, when they shortened that period, they combined it into one ordinance?

Ohashi: I don't know if that's the reason.

Chair Takabuki: I'm sorry, Al. I don't know if we finished Al's question.

Sparks: There is, apparently, a CIP program that's different than the budget now, or is it merged in the budget somehow?

Councilwoman Lee: It's merged in one ordinance but the timing is different.

Sparks: Yeah, I understand the timing's different.

Nakasone: What are you talking about? Are you talking about the five year program? The actual CIP projects for the fiscal year, no eighteen months...

Sparks: So, those capital expenditures would be in the CIP program, huh? Before you expended them, and this says they also have to be in the budget. And, that's the way it works?

Councilwoman Lee: I think Anne was pointing out that capital expenditure would be something else, it would be referring to equipment purchases...

Chair Takabuki: And yet this whole section deals with the capital program, CIPs. I don't know what that... I think we'll have to look at this section and try to clarify it.

Reyes: What was the intent of the resolution? So, I guess we should deal, if I may suggest, with the intent of the council in bringing this to our attention. We can also address that issue of what is a capital program and capital improvement program, but I think the intent of the council in bringing this resolution to our attention is the CIP, if I get it correctly.

Nakasone: Isn't that Article 9 clear that it's supposed to be two separate ordinances?

Sparks: They are saying it's one ordinance now.

Nakasone: Well, the existing Charter says on 9-2.1. It distinguishes an

Nakasone: (Continued) operating budget from a capital program, and in 9-6 it identifies as far as what a description, or what the capital program is.

Sparks: Yes, that says two ordinances right there in the Section 9-6.1.

Councilwoman Lee: Where are you?

Sparks: Right under Article 9, the first sentence. The second sentence, excuse me.

Chair Takabuki: I think it's supposed to be that way, but it's been...

Nakasone: Oh...the budget is no good.

Councilwoman Lee: Well, just throw it out...

Nakasone: Send 'em back, it's not legal...

Councilwoman Lee: I don't know how it evolved into what it is today...

Nakasone: Alice, it's clear, you know, under the 9-1. It has a separate ordinance.

Sparks: So, that's one we don't have to fix, right?

Councilwoman Lee: Well...

Sparks: The practice you may have to fix, but the Charter maybe not.

Councilwoman Lee: That's still not the question though. The issue is...

Sparks: I know; I understand.

Reyes: I'd like to ask for clarification. I think the...one of the areas our public testimony addressed is that the mayor should spend what the council appropriates on the CIP. That's one of his messages. So, somebody is also questioning that practice. Now, is it also your intent, the council's intent, that if the mayor doesn't appropriate, would you like to have a say in that process, because you are talking about these amendments, because you want to change the use of that particular sum of money. Which ones, or would you like to be able to do all of those, to force the mayor to spend if she doesn't change, you can change, or if she doesn't, you have a say in whether or not it should pass through the council. Or, do you want to do all of those?

Councilwoman Lee: Oh, well for one thing, the mayor doesn't appropriate, but she does approve. In other words, she's the one who decides what's expended. Yes, we would like to have that ability to, or flexibility to require her to spend what we appropriate. I don't have that down, but certainly if you make note of that, if you were able to structure that, we would appreciate it. Because, there are times when we appropriate funds for projects or funds for positions, she doesn't follow, and she's not required to.

Reyes: Any mayor's not required to.

Councilwoman Lee: Yeah, I'm not picking on Miss Lingle.

Reyes: What I'm saying is, for clarification, if the mayor doesn't, would you like to have the council, since the council approved the budget, if the mayor doesn't expend it, would you like the council to have a say, or she has to get the okay from you...

Councilwoman Lee: On other things she wants to spend on?

Reyes: Or, it might be she just plain doesn't want to spend it.

Councilwoman Lee: Sure, if you could figure out a way that could be done.

Sparks: That's the big qualifier.

Reyes: Okay, because the reason is, you're asking for when you want to make an amendment, in this thing here...

Councilwoman Lee: Yes, you're very astute.

Nakasone: Do you want to make it clear on that Subsection 5, amendment to the capital improvement program...

Councilwoman Lee: Can be initiated by the council.

Nakasone: It says here -- can be amended by ordinance.

Councilwoman Lee: Well, according to opinions, and Gwen can help me with this, the interpretation of the administration is different. Gwen, you want to expound on that.

Ohashi: What it is, there's two things that Bob is asking. Do we want to make it more clear that if, anytime during the fiscal year, that's one question. Or, can it be during that eighteen month period, okay?

Secondly, although it says it may be amended by ordinance, there's always a question that arises as to who can initiate these budget amendments. And, in the past, we've been advised that only the administration can initiate amendments to the capital program and to the executive branch. Council can make amendments only to the legislative branch. So you're going to see only three or four amendments relating to this interrelated issue of transfer of funds and budget amendments.

Nakasone: Because, if it's an administrative budget, any budget proposal would have to be initiated by the mayor.

Yonenaka: Was that the legal opinion?

Ohashi: It probably was. I don't think it's ever been put in writing.

Nakasone: It changes every year...

Ohashi: And, it changes every year, no, with every change in corp counsel.

Yonenaka: Because, I read differently, but then, you know...

Ohashi: It changes with whoever is corp counsel. With Rodger Betts, it was very restrictive against the council, but it changes... It's subject to interpretation.

Yonenaka: So, we should just clarify it.

Ohashi: Yeah, that's what the committee chair is requesting -- clarification, because it isn't clear.

Nakasone: Yeah, I would interpret it the same way. It would have to be initiated by the mayor.

Ohashi: And, that's why the council has never even initiated any amendments to the capital budget.

Nakasone: You know the fiscal responsibility lies with the administration, dealing with changes in priorities in capital improvements, or operating budget would be with the administration's prerogative, right?

Councilwoman Lee: Well, that's why we haven't... We take issue with that; we can see her prerogative is with the operating budget, but not necessarily with the CIPs.

Nakasone: Well, I think through experience that you can appropriate, but she can lapse it anytime after the eighteen months, and you can have two-thirds of your proposal and her one-third...

Sparks: Suppose their proposal was to restrict something that was previously passed...

Nakasone: What do you mean by restrict?

Sparks: Let's say they wanted to amend the capital program by eliminating something?

Nakasone: No, still again, it becomes a...the initial step will have to be from the administration.

Sparks: That's what they are challenging, though, right?

Nakasone: Well, like I said, it changes every year, the opinion, so...

Sparks: What is standard practice. I mean, what do other places do? What's the tradition?

Nakasone: Well, one opinion, because of the fiscal responsibility that lies within the administrative branch, in terms of revenues and estimated revenues, so expenditures is generally controlled by the administration. The budget gives you an overall control of county monies.

Councilwoman Lee: Then, on the other hand, we're dealing with a balanced budget, so it's pretty much guaranteed; alot of the priorities are here...

Nakasone: Yeah, but they are estimated revenues. Maybe you could change that to guaranteed revenues.

Councilwoman Lee: I don't know but, I don't think we're going to fall that short of our estimates; if anything, it's underestimated. Often times, it's underestimated.

Sparks: Do I understand what we are talking about here now, that you would like some provision to allow the council to initiate changes in the capital improvement program during the eighteen months that it's authorized for. And, right now there's been interpretations that say they can't initiate these changes, they have to come from administration.

Councilwoman Lee: Right.

Sparks: Well, let's talk about what really goes on then; why would, or typical examples of when you might want to do that?

Councilwoman Lee: Well, I would say when we have proposed, when we have given her our direction on a priorities we feel are important, and she has neglected to acknowledge that, or she has put us down on her priority list when we feel that these projects should go, and there are instances that come up like that.

Reyes: But, that wouldn't be an amendment, that would be forcing the mayor to spend the appropriation funded.

Councilwoman Lee: Yeah, that's true; that's true.

Reyes: I think what we are referring to here, on page 27, line number 3 beginning: "An appropriation for a capital improvement shall continue in force until the purpose for which it was made has been accomplished..." They added "or abandoned" and that has become the loophole, because abandonment means "The purpose of any such appropriation for capital improvement shall be deemed abandoned six months after the close of the fiscal year to the extent that it has not been expended..." So, if the mayor sits on it, it doesn't become appropriated, it becomes abandoned. So, that's why you really are trying to address, because the council feels that the priority should really take best effort to spend that money, not sit on it, and let it lapse.

Councilwoman Lee: That's one example, right.

Reyes: Yeah, but that would not require an amendment. What I'm saying, if you really want that, what we are addressing is delete the word "abandoned" and keep it the way which is "accomplished"-- period.

Councilwoman Lee: But there would be time, there probably would be other times when we really wanted it...

Reyes: An amendment, okay.

Councilwoman Lee: I can't think of one offhand, but I'm sure if, let's say we appropriated x number of dollars into one particular project and more was required; or, we just differed on how we should treat that particular CIP, in our opinions, you know. According to the interpretation of the Charter, we can't initiate, we can't even initiate an amendment.

Chair Takabuki: Alice, there may be a case where a project comes in under, although before in the past it wasn't usually the case, but if it comes in under the appropriation there are going to be monies that could be appropriated somewhere else.

Councilwoman Lee: That's another example.

Chair Takabuki: So, the council may decide we want this money to go somewhere else, instead of going through its regular lapse period.

Fabrao: Can I ask a question? What happens to the money if it goes into the lapse period? Where does it go? Back into the general fund?

Chair Takabuki: It goes back into the general fund, I think.

Fabrao: So then, if it goes back into the general funds...

Councilwoman Lee: Then the mayor would come back to us and say she wants to re-allocate it to something else, and then she comes to the council for our approval.

Sparks: That's fine, but the mayor initiates. What you're talking about is situations where you want to initiate. Is it possible that you want to... Well, Bob has talked to us about the situation where the council may even override the mayor's veto on a CIP priority, something like that, is that how it works? How does it work that the mayor may not want to have the same priorities on their capital improvement program, or refuse to spend some monies that the council wants? How does the council register any kind of objection? How do they get to a two-thirds override kind of a situation?

Nakasone: There's actually no recourse. I'm talking from an unbiased position.

Sparks: You're getting into the spirit of this thing now.

Nakasone: I was suggesting, as a possible recourse, to the legislative body and administrative body determining the priority of CIP, would be that if the administration...let's say the budget is amended and the council has amended the CIP budget and added their projects and deleted some of the mayor's projects...

Sparks: They would do that by initiating an amendment?

Nakasone: No, well during the budget review they would change the priorities of the CIP program. I think another way of dealing with a so called check and balance system would be that the mayor can veto, okay, the amended budget by the council. The recourse for the council would be that two-third majority to override the veto. And, that's it. But, let's say they still retain those CIPs in the budget, and the mayor refuses to let loose of the monies so that thing is going to lapse. But, to me there seems to be a recourse if the administration doesn't like what the council has changed in the CIP, there should be line item veto, okay? And, if the council overrides the veto, that would be a mandate for the administration to encumber those funds for that CIP as a recourse.

Sparks: On that line. One line at a time.

Nakasone: Line item vetoes, yeah. 'Cause, even if they override the veto, that doesn't mean nothing, the CIPs still...

Sparks: That's a whole bunch of items, right?

Nakasone: Yeah. The privilege gives a line item veto of anything in the budget.

Fabrao: Excuse me, point of clarification. If you say that the council has vetoes, or has overridden the mayor's veto, and that she is obligated then to find another CIP project to encumber the funds...

Nakasone: No.

Fabrao: You said those monies has to be encumbered. How is she going to do that?

Nakasone: She encumbers when there's...either by contract, or if she don't do nothing and the eighteen months lapse, the money is dead, the project is dead. But, at the time of the veto, if she line items any CIP, I think the council should a recourse, if they can override them by two-thirds, that she's mandated to go with the projects.

Yonenaka: To not let it lapse.

Nakasone: Yeah, to not let it lapse.

Sparks: They don't have a line item veto now?

Nakasone: They have.

Sparks: And, they use it?

Reyes: Bob, as long as they have the word abandoned here, you can override the veto on that line item, if the mayor doesn't act on it, it still doesn't accomplish the job.

Nakasone: No, but I'm saying if we put it in the Charter as a mandate that she has to go along with that project...

Reyes: Okay, then, it would be necessary to address this...

Councilwoman Lee: Yeah, but, Bob, she doesn't have to veto it, she can just ignore the project....

Nakasone: No, but if she doesn't, there's a recourse to, you know, if the council's amendments to the CIP, if she signs them, it's a mandate...

Councilwoman Lee: Oh, we've gotten to the point where we can initiate an amendment, okay.

Nakasone: No.

Sparks: No. There is the two different angles on this thing...

Chair Takabuki: By signing it, we're saying she approves...it's more of an affirmative statement by signing the budget.

Nakasone: She approved it and she's going to spend it. Yeah. If she don't intend to, she's going to have to veto, because if she doesn't veto, it means she has to go along with the project. She cannot lapse them.

Reyes: Or, what you're saying is she cannot exercise this abandonment if she, if her veto on that line item is overridden by the council.

Sparks: But, to get to there, Bob, we need some more language, is that what you are saying? We don't have that in here now.

Nakasone: This question, I don't know. If, with the existing Charter we can add that the council can amend the CIP budget, but we'll run into the same problem, you know, there's no recourse.

Councilwoman Lee: Yeah, well, what is the consequence of her approving the project... Let's say she doesn't veto, okay? And, she signs the budget, that means she's going to follow through on all projects. But, she doesn't on the council's project. What is the consequence to her?

Nakasone: Impeach 'em.

Councilwoman Lee: Okay, that solves it. Let's go on to the next one.

Chair Takabuki: Then there's a violation of the Charter.

Nakasone: There's a violation of the Charter provision.

Chair Takabuki: A violation that she didn't carry through, and by signing she was saying she was going to carry through.

Nakasone: Yup, right.

Chair Takabuki: But, there's going to be situations where there are good reasons why she shouldn't carry through, and then how do you distinguish -- that's the problem...

Sparks: Well, then maybe we're back to where Alice started. The right of the administration to amend by ordinance and the right of the council, also, to amend by ordinance, as situations change. That would cover it, wouldn't it?

Reyes: Just let the council initiate something, allow them to initiate...

Sparks: Right. If they see eighteen months coming to an end, and no action, and they haven't had a chance to override a veto yet because she didn't veto, right, then their other avenue has to be that they can initiate an amendment. And, then she either says yes, or vetoes it, and then you override the veto, and then you go into the provision we might put in there somewhere that would mandate that it be followed through with.

Reyes: Al, the council's problem is because of this abandonment provision. Without modifying it, the mayor, whoever the mayor is, can sit on it and still let it lapse.

Sparks: But, what I'm suggesting is if they see this abandonment coming up, and they have the amendment authority to initiate an amendment, then they can put it on record and make the mayor say yes or veto, and so forth. Right now, the apparently don't have the ability to initiate such an amendment.

Reyes: Right.

Nakasone: Would you want that provision for the council to have the authority to amend the CIP...

Councilwoman Lee: The CIP, not her operating budget.

Nakasone: What would be your reasons for wanting to?

Councilwoman Lee: Well, as we pointed out, there may be cases where there's a project which the council considers a high priority, and, as Anne pointed out, we find out that project was underfunded, the mayor decides to stop where it is, maybe it's three-fourths completed and that's the end of that project. We would want to amend the CIP so that funds would be added to that project to complete that project. And, maybe at that point, the mayor has decided that's not a priority of hers and she doesn't want to continue. At least we will have that opportunity to attempt to finish the project. And, that's one particular case.
Can I ask your objections against amending the CIP?

Nakasone: Well, I don't have no objections. I'm just thinking from experience that if there are any portions of the budget, whether it's operating or capital, that the administration has the last say to when any funds would be encumbered, or spent. So, you know, we can change that item 5, but stil yet, it becomes the administrative prerogative whether to release the funds or not, All you're doing is just shifting appropriations, but it doesn't guarantee the thing will be spent.

Councilwoman Lee: Well at least we would have the opportunity.

Nakasone: Oh, she'll sign it, yeah go ahead, but I won't spend it.

Councilwoman Lee: What about when she comes to us to... Let's say she has a high priority project that requires additional funding from the council... I don't know, it just gives the council more flexibility.

Sparks: Flexibility or power.

Councilwoman Lee: Flexibility.

Fabrao: What is to prevent the council from going to the mayor to ask her to initiate a change for additional funds, or that kind of thing?

Councilwoman Lee: Nothing prevents us from asking her, but sometimes we have different priorities, different philosophies in certain areas, like solid waste, waste water treatment, and so forth. She may have a different priority from the council. I think what's here is a check and balance issue, and I think that's where it should remain. Not personalities, not who's the mayor now, not who's the council now, but are there sufficient checks and balances on both sides.

Chair Takabuki: Any more questions on this one? No? You want to go to number three, Alice?

Nakasone: Didn't we answer the rest of the questions?

Councilwoman Lee: Yeah, pretty much, and a lot of them are all related. The next one: The term, condition, limitation or restrictions to be controlled by the council should be clarified. Again, once the ordinance is passed, and the council seems to... If we were remiss in not putting a certain limitation or condition in any part of

Councilwoman Lee: (Continued) the budget, well, it's basically too late. This language states that the council can control the budget, even after the budget is passed, as long as the control is established in the budget. The provision has been interpreted by the administration to mean that all council restrictions must be in the budget. Okay?

Sparks: If you've got that kind of language, what's to prevent you from putting in, when you pass the overall budget, putting in some words to require your priorities to be honored on the capital improvements part, as a condition?

Councilwoman Lee: What was that, Gwen?

Ohashi: I think we've tried that, especially with the CIP, but we were advised we couldn't do it.

Chair Takabuki: Executive prerogative, is that...

Ohashi: Yeah.

Sparks: So, it's back to the same square one; it doesn't work that way, either.

Nakasone: Right.

Ohashi: It's not that kind of condition.

Councilwoman Lee: What were you going to say, Anne?

Chair Takabuki: I was thinking of this situation in the past, where there was an attempt to say that these projects shall be funded in this order, and it shall be spent in this order, excuse me, so you couldn't spend for B until you spent for A, and so forth, and so forth, and so forth. But, I'm wondering now if, legally, because there was no provision that allowed that kind of condition clearly, if it could now be provided, if you want to allow the council some flexibility to set priorities. Or, is it just a part of executive prerogative that you can't amend by any kind of language in the Charter? I don't know.

Councilwoman Lee: Well, that seems to be the practice, and that's why we are coming for clarification. In other words, once we pass the budget, we're at pretty much the mercy of the executive branch. And, we're asking that you look at that...is that a fair situation.

So, anyway, on number 4... Are we finished with number 3? Number 4 is a little different. The provision requiring all fees, rates, assessments and taxes to be set in the annual budget, should be revised to recognize state laws mandating procedures for certain taxes, etc. And then A gives you an example.

State law requires specific procedures for setting the fuel tax and vehicle weight tax. We just felt that the public should be aware that the county needs to follow the state law in this particular case.

Is there any reason why this wasn't included in the past year's budget?

Ohashi: Well, as far as we know, all rates, fees and assessments are included, but if the administration or the council had missed including something that was already provided for, or mandated for by either the feds or state law, does

Ohashi: (Continued) it mean that that particular rate or fee is not effective? That's the question. What if it wasn't included? Does it mean that we cannot tax or assess because it wasn't listed?

Yonenaka: Isn't that just a matter of technicality, in terms of state and federal offices?

Councilwoman Lee: It is.

Ohashi: It is, but...

Yonenaka: But we just don't have it written.

Councilwoman Lee: I think the public should be aware, though.

Yonenaka: So, you guys don't get blamed for it.

Councilwoman Lee: So, that's a pretty obvious one. Number 5: The mayor should be allowed to certify additional estimated revenues received, and should be required to certify immediately to additional revenues actually received. After the annual budget has been decided, additional revenues may be realized. They may arise from anticipated sources, or unanticipated sources. The Charter requires these revenues to be actually received before they are recognized as revenues, and appropriated. These provisions are overly restrictive. A special provision was added in 1988 to handle reimbursable federal grants, but certain situations still present problems.

I think the rest of it is self-explanatory, although I would like to point out C: "The mayor should be required to certify immediately to additional revenues which are actually received. Additional revenues should be submitted to the policy making process as soon as possible." This includes carryover savings from prior years. Currently, the present administration conservatively estimates carryover savings in the mayor's proposed budget. About three months into the new fiscal year the carry-over savings are finally determined. Typically there is a surplus, which the mayor parcels out as the administration needs it. And that's kind of the heart of the problem right there.

So, often times the mayor is aware of additional funds and the council is not. And, we sort of get this information piecemeal as she proposes projects to us in a supplemental budget.

On number 6, the rules for appropriations... Are there any questions on number 5? Okay, number 6. The rules for appropriation transfers should also apply to other budget changes. This is pretty innocuous here; I think this is a house-cleaning measure. Although, what's important about this particular recommendation is, it is not clear what procedure applies to changes such as revisions of appropriation descriptions. There should be no question that the mayor should initiate revisions for the executive branch, and the council chair should initiate revisions for the legislative branch. And, I wasn't referring to that; that's pretty self-explanatory.

The next one I was looking at. "If an appropriation transfer is undertaken on the written recommendation of the mayor, only a resolution should be required. This is, to us the councilmembers, a rather routine process. However, what happens is by doing it by ordinance, of course there is no two readings, and then the public doesn't have the opportunity to protest or comment or provide the input, with a resolution as opposed to an ordinance.

I think this, number 7, would make things easier for the mayor, but at the same time it would preclude public input. So, I am not sure how you want to handle that one.

Sparks: Is it a problem frequently?

Councilwoman Lee: Well, it comes up from time to time. I remember last year, an agency needed monies, a nonprofit agency needed monies right away, and the mayor recognized that one of her departments had some savings available. But, what she wanted to do was transfer it to another department to give it to that agency, but was not able to do that by resolution. And, we had to go through the ordinance procedure to do that.

Sparks: Would most of these cases be of that nature, sort of suddenly appear, not involving huge amounts of money?

Councilwoman Lee: I think this one involved about $90,000 total.

Sparks: In other words, does it occur where there would be real basis for controversy? A significant amount of money going from one department to another, that a lot of members of the public might have an interest in?

Councilwoman Lee: That might be the case, but I can't think of an example where that would apply. So, that's just a thought; that's more a benefit for the administration.

Number 8, appropriation transfers between the legislative and executive branch should be authorized. We think there's a need to clarify whether transfers between the legislative branch and executive branch are allowed. There have been suggestions that there is a separation of powers problem with such transfers.

So, I don't think that's a major, major issue. Number 10, the mayor and the council should be allowed to reduce an appropriation which was made to pay an indebtedness, if the indebtedness is not in existence.

I think the rest of these are, again, pretty much self-explanatory. Number 12, though, is important to me, because I'm inclined to long-range planning and this is, to me, something that I find the county is lacking in the area of long-range planning. And, I feel that there is a need for a long-term planning for county operations as well as CIPs. And, language could be added to Section 9-3 to require that the financial plan for the operations of the county, and its departments, for the ensuing fiscal year and proposed for the five years next succeeding that ensuing fiscal year. This would be consistent with the provisions pertaining to the capital program in Section 9-6.

So, the departments right now in the budget will provide a long-range plan for their CIP but not for their operations. I think this is important.

Sparks: Do they only give you information coming fiscal year, not another year, just that year?

Councilwoman Lee: One year, for their operations.

Sparks: It's an annual budget.

Chair Takabuki: Which brings up the question...

Reyes: What do you mean by long-range? Is it two years...? You want a five year budget.

Councilwoman Lee: Five. Five in addition to the year that they're proposing, to the year that we're dealing with. So, let's say six years.

Sparks: Is that practical? It strikes me that's a kind of difficult thing to do.

Chair Takabuki: It's possible to project some programs out, but a lot of things will come about within a year you're actually going to fund it.

Cockett: But, that may change. I think it's a... I think it's a good idea for long-range plans, certainly.

Chair Takabuki: It's not binding in any way, it's just for information so that the whole...

Cockett: No, it's some direction, you know.

Sparks: Is it worth all the additional staff you have to have to do it?

Councilwoman Lee: Well, I don't think it involves that much. It should involve the director doing his homework.

Ohashi: You know, Bob is really familiar with this when he was the chairman of the Public Safety Committee, we had asked them to do a five year plan and they produced it--police, fire, civil defense... So several departments did provide...

Nakasone: Anticipated manpower requirements for salaries...

Councilwoman Lee: One of the things that really concerns me is that we're bursting at the seams in this building. We have part of our department all over the creation, and this hodge-podge kind of existence, to me, is not cost effective. And, if we should be building another county building somewhere now, the council should be preparing for that down the road. But right now, everything is so helter-skelter, you know, there is no long-range kind of thinking. It's just day-by-day, week-by-week, month-by-month; and then, pretty soon they hit you with these huge costs -- "oh, we need another building, by the way. We need so many more offices, we need so many more vehicles..." It's hard for us to plan.

Nakasone: There was an offer in about 1979 to buy the county building.

Councilwoman Lee: There was an offer?

Nakasone: And, that was an ideal time.

Cockett: Will you sell it and then...

Nakasone: Build a better one. No, but Wailuku is so locked in, you can't get nowhere. So, there was a proposal to sell the county building and get a new one, right on MCC grounds.

Fabrao: I can relate to that. The state, at least for our division, we have been kind of mandated to provide a five year strategic plan, a health plan for the department of health. And, that five year plan, our committee which was based out of the hospital, did put forward or forth, a document stating what we wanted to accomplish within those five years. And, we are now into our second year of that plan. Of course, some things like the CIPs with the monies being down, we couldn't do that portion, but I think down the line because it's already been foreseen that we're going to do it, that

Fabrao: (Continued) it's probably going to come around. So, by year 6 or 7, or atleast by 10, that we would have what we had planned for that five years in place.

Sparks: Do you think if we had a five year plan done in 1985, that by 1990 we wouldn't have had such an infrastructure mess?

Fabrao: Could possibly be; I think so. That's what you call planning. Even for the housing and stuff, if that was looked at a long time ago, we wouldn't have the problem we have now, even with the development.

Councilwoman Lee: I wouldn't say we wouldn't have a problem, but we wouldn't have the extent...

Fabrao: That it is now; that's right.

Sparks: That assumes that somebody really pays close attention to these plans besides the people who make them initially.

Fabrao: That's one of the things that we did look at with the state, that these strategic plans would not only sit on the shelf, like they had been before, that they're to be worked on on a continuous basis. So, we have a committee that meets every once in a while, and with our division, we have what we call a joint conference. And, the head of our division, Mr. Walker, comes and meets with us at least on a quarterly basis, and we get all of the members, or at least the heads of the different agencies, different...like the hotels, Dole and the other agencies to come in and meet with us, and talk about our common concerns as it relates to the health field. And, that way we get the strategic plan going in the right direction.

Sparks: The university does this strategic planning stuff, too. All of the campuses do...

Cockett: Over here everybody does it now. Businesses...

Sparks: But, I'm a little leery about using the health department and the university as the models for what the county ought to do. I'm not too sure that they've proven that it's that great a process.

Councilwoman Lee: But, I think the Commission and others should look at the county as a huge business; the biggest business in the County of Maui. $176 million budget -- we are a business, we should be operating as a business. And, every major corporation has long-range planning, not only on their CIP projects, but on their operations. They have long-range financing plans. And now, finally we have a long-range planning division in the planning department. And, I would expect long-range planning in the finance department. So, I think it should be looked at in those terms...

Sparks: So, maybe something in the Charter requiring a time?

Fabrao: I don't think it would be a mistake to put it in somehow.

Chair Takabuki: Yeah, I don't think it would really hurt...

Fabrao: It won't hurt. I will show that there's some duty to plan. It's just like you plan for your kid's college years.

Councilwoman Lee: And, however you can make it clear, it's always helpful...

Chair Takabuki: Alice, can we ask your thoughts on the possibility of a two year budget?

Councilwoman Lee: A biennial budget? Wellllllll... Theoretically I think it's a great idea. I think it would force people into not just developing wish lists, and to really plan their departments and their programs to fit a two year schedule. However, because you have the political component to government, our terms are so short that we have to have results very quickly for the public. The public has these high expectations that you get in and you do something real quickly. That makes it difficult for a two year budget, to me.

Chair Takabuki: With a two year council term.

Councilwoman Lee: With a two year council term, right.

Nakasone: How about if you have your budget review on the off year election?

Councilwoman Lee: You know, if we patterned it like the legislature, they have a supplemental budget. Is that what you are saying? The review would be a supplemental budget?

Nakasone: Actually, your every other year would be a supplemental budget but the major portion of your programs, long term programs... Basically the entirety of your operating budget is going to be pretty standard for two years, unless they have a expended program or new program within a department, and that could very well be a part of the supplemental.

Councilwoman Lee: I think there are very good arguments for a two year budget, but on the downside, to me it strengthens the mayor's powers and posture. There's less accountability on the mayor's side because every two years she would be accountable to the public. Right now, we go out there and every year we're accountable to the public because the budget changes. I think, because she is in a four year term and we are in a two year term it's a little different. Every year we're out there, we're accountable. With a two year budget, and a four year term, I think it reduces her accountability to the public. And, it doesn't necessarily change anything with the council, but I think it makes a difference on the administration's side in terms of accountability.

So, on the plus side I see encouragement of long-range planning. On the downside, I see less accountability on the administration's side.

Nakasone: Wouldn't that give you a little more time to, from the standpoint of the council, to review the proposals that's submitted by the departments, in terms of their programs to update you with what's happening, what's happening with their expenditures, whether the programs are completed, or what's happening to the CIPs. Right now, within one year there's no actual time to say "what have you folks done?" You're just finishing the budget and by October, I guess, they're working on the budget for next year. So, where is the follow up from the standpoint of the legislative body saying "Hey, we appropriated these funds, what's happened to it?" Because, you're going to start reviewing the next budget pretty soon again, within a year you're reviewing the budget again. So, there's ongoing projects that's never been followed up on until something happens, because you go right into the next budget again. And, if you're talking long term, to me there's a lot more time to actually evaluate the programs that's submitted by the administration. You go through that, I know because I've gone through that so many times already, but the operating budget doesn't change that much because of

Nakasone: (Continued) the collective bargaining agreements, and so forth, that you're going to have an increase in cost. But, in terms of the overall operating budget, it doesn't change that much. There might be a reduction by people retired or whatever, they might have a big increase in manpower, but it's very unlikely. But, to me, you have to look at what the administration is presenting in terms of programs. What's it costing the county in terms of new programs...let's say the consideration of the housing department...that's something new, so naturally you're going to look at it and say "what are all these costs in here, what is our intent to accomplish..." So, any new programs, I can see where a supplemental budget would be the easiest thing to do. But, to go year after year with the same operating budget, and it varies little in terms of total costs... To me, I can see the council spending less time dealing with a two year budget rather than going through so many months of reviewing the same operating budget.

Councilwoman Lee: Well, an annual budget allows the council to participate more in the actual government process; it does because we're tracking the CIPs all the time on a regular basis. It's true that we don't focus a whole lot on the operating side, although lately we have because there are changes that have been made, and it's not just routinely people retiring and people being rehired or not being rehired. There's a lot of shifting of positions going around, going on right now. The office of economic development has changed considerably. People shifted out of there; the office of CDBG, the finance department -- there's a lot of movement going on. And, I think it's the council's responsibility to keep an eye on these things, to monitor all of these things. Ordinarily we don't, but it just so happens lately there's a lot of shifting going on. And, I think when we deal with an annual budget, that really gives the council more control of things. It gives an opportunity to stay on top of what's happening easier than on a two year budget, where we sort of, after we passed it, it's on its way for two years. And, if we can't amend anything, then we have less power for two years.

Nakasone: Well, amendment to the budget right now is being initiated by the mayor anyway, yeah?

Councilwoman Lee: Right.

Ohashi: The administration is required to submit so called budget implementation reports every quarter, so we're ending the fiscal year, getting to the close of the fiscal year, we should be receiving the third quarter report maybe some time next month. They have to submit a report in terms of budget implementation which maybe is not prepared in the best format, and maybe we need to strengthen that, but that's how the council keeps track of how the budget is actually being implemented by the administration. But, it doesn't cover a lot of things, like about what Alice pointed out, about these shifts here and these shifts there. It's not mentioned, but there is a requirement for budget implementation reports, which is not part of the Charter, but ordinance.

Councilwoman Lee: Simple example, last year in the office of economic development we had a Laborer II. Today, there's no such position in existence. It's been reallocated to something else -- clerk-typist or something. These things have been happening -- we don't know about these things, and unless we are able to evaluate the budget on a regular basis, which we do because we have to work on one every year, we won't know alot of these things.

Fabrao: Can I ask a question? My understanding when you have an organiza-

Fabrao: (Continued) tional chart, it has so many employees per department and in so many categories. How can the mayor make these changes or these transfers without going through some kind of process?

Councilwoman Lee: It's her prerogative.

Ohashi: All of the positions are under her special assignment, she can do as she believes is... She's not doing anything wrong...

Yonenaka: Because the changes were made under her.

Fabrao: Because it's not that way under the state.

Councilwoman Lee: Well, let's say our emphasis was aquaculture, and this person was assigned to aquaculture. Now, there's no such position. I think the council should be aware of these kinds of things.

Fabrao: Yeah, that affected Lanai, too. So, the county does not have that kind of stipulation then regarding the control of...

Councilwoman Lee: No.

Fabrao: In the state you can't move anybody around unless you go to the...

Councilwoman Lee: You can reallocate, and redescribe...

Sparks: There's planning for one year ahead in general terms, I guess. It starts out with a plan for this year and next year, or I mean this coming '92 and then '93.

Councilwoman Lee: No, that's the fiscal year.

Nakasone: This budget's for '93.

Councilwoman Lee: In other words, 1992 July to June 30, 1993.

Sparks: You go by the second half... the second part... Fiscal '92 is what, '91-'92?

Fabrao: This is for the new fiscal year, right?

Sparks: I take that back then; I was in error.

Fabrao: It seems such a big job just to get them together, to read that and approve it, that it would take almost a whole year to do it.

Councilwoman Lee: No, we only have from March 15th through May 31st; actually before that because we have a first and second reading.

Sparks: Did you ever look at every single page? How many times did you to that? [Questions were directed to Bob Nakasone.] Every year?

Nakasone: You have to.

Sparks: Remember when the guy was here from Hawaii, talking about how their budget had so many line items compared to ours, and they thought ours was a model because ours was less than theirs. There's always this issue of do we want our council, our legislators and policy makers worrying about how many pencils in each department. How do you police yourselves that way?

Councilwoman Lee: Well, what we do -- not all the members -- but, because I chair the committee, we have a meeting, like myself and staff, and we go through the budget page by page, and we mark down... Because they haven't finished their fiscal year, we look at what they asked for, what they expended, and then we decide how much we're going to leave them for the rest of the year. And then the rest is monies to...extras. Extra money for us to deal with; and we go page by page, department by department, line by line. And, then we develop summaries for the members to look at, so they don't have to go page by page, line by line. And, then when we deal with the departments and committees, we have the department people come in, we look at their department at one time, and then if the members have any questions, they can ask the department people themselves. That's how we work it.

Sparks: When you say you decide how much of the unexpended funds you are going to leave them for the rest of the fiscal year you're in, how do you do that if you don't have the amending power?

Councilwoman Lee: Average. We take an average. Of how much to leave them? Let's say...

Sparks: You're talking now; you're talking about the fiscal year that we are in and how much they have not spent. That's the operating budget that was passed last year...

Councilwoman Lee: Right.

Sparks: Are you talking about amending it somehow then?

Councilwoman Lee: No, no. Then we'll determine how much they'll really need for that particular category, depending on how much they have spent up until...

Sparks: Oh, you're talking about for the next fiscal year; the next budget you're talking about; not this budget that you are in... Okay...

Councilwoman Lee: Excuse me, for the next budget. I'm sorry.

Sparks: All right. How much you were going to leave them this year left me thinking that you were cutting them off in the current fiscal year, which we're back to the amendment process then. But, that's not what you're talking about, right?

Councilwoman Lee: Yup, sorry.

Nakasone: Well, there's something not too good about that, too. If the administration knows that, if they think the council is reviewing this time to see what was actually spent, they're going to spend heavy on the first two quarters. Then, they're going to say "we'll be short."

Councilwoman Lee: Well, they can do that; they can do whatever they want.

Nakasone: I'm talking too much.

Councilwoman Lee: Well, we don't hide anything. Whatever we do, you're free to ask us about.

Chair Takabuki: Anybody else with questions on any of the material? Or, anything else?

Councilwoman Lee: Did I leave you confused on anything?

Sparks: There's so much in this financial procedure....

Chair Takabuki: There is and we still have to have another meeting on this.

Reyes: Would the council care to propose some language to the changes...

Councilwoman Lee: Certainly.

Reyes: If so, I think we need it kind of very, very quickly.

Councilwoman Lee: Okay.

Reyes: And that would help us in our deliberations, when we see that.

Chair Takabuki: We're going to have another meeting at which time we'll have actual language, by that time.

Reyes: It would help us a great deal because it's kind of very general and, I would personally feel that there's some merits under the recommendations...

Councilwoman Lee: Okay, sure.

Sparks: Actually, we probably have a fair amount of time to get the language precise. If we decide what we want, then we get the lawyers to help us, and then we can check what they come up with against what we decided we wanted.

Reyes: One thing is if we have those language, then we know exactly what the council's intent and exactly what they want done.

Sparks: I did want to ask that now... You're the chair of the budget committee, is this a communication from you as an individual or from the budget committee, or from the council? How do we consider this?

Councilwoman Lee: As from the chairman of the budget committee.

Sparks: Okay...

Chair Takabuki: It's not the budget committee's recommendation; the chair, right?

Sparks: But, you're telling us that more or less there's agreement to these amongst the other council people.

Councilwoman Lee: I don't think I've, like I've said, pointed out anything dramatic, or you know, earthshaking, or anything... These are the routine issues that come up during the budget session and throughout the year that we deal with, and if you want to, if you agree then we, you know, you can propose that.

Councilwoman Lee: (Continued) My question is, how many proposals are you going to make, or how many recommendations?

Sparks: Yeah, that's another issue.

Chair Takabuki: We don't know yet.

Sparks: If we revise dozens and dozens of paragraphs in here, then we have a problem of how we put all this on the ballot. But, we can deal with it when the time comes, I guess.

Councilwoman Lee: Have you discussed what's an optimum number?

Fabrao: I don't think... I think, from where I sit, that we kind of generally felt that what needs to be fixed we should fix already, so that we don't have to go through the hassle the next time. You know we didn't think of any specific numbers; I don't think we should limit ourselves to any specific numbers.

Chair Takabuki: Is this something you remember, Al? I think there were forty-nine, if I recall...

Councilwoman Lee: Forty-nine?

Chair Takabuki: Different changes...

Fabrao: In the last one.

Chair Takabuki: That at least were published.

Sparks: But, it was one ballot question.

Chair Takabuki: Right, but one ballot.

Sparks: Yes.

Chair Takabuki: So, that's something we're going to have to grapple with. Whether we say shall we adopt this new County Charter, or shall we go through all these different amendments...

Reyes: The whole budget or line item, right?

Sparks: Or, we might lump certain areas, I mean we might have a bunch of little fixes in this financial procedures and lump that as one ballot question, or something, and then try to educate people as to what is in that question.

Councilwoman Lee: So, did you want me to work up new language, or just leave it the way it is?

Chair Takabuki: Sure, if you want to come up with lanaguage, that's great, and we can always take a look at it and at the next meeting we can sort it out, if you don't mind.

Councilwoman Lee: No.

Sparks: Is this something you're going to take on, or get corp counsel to do?

Councilwoman Lee: Probably one of our attorneys. So, does that take care of Article 9?

Sparks: You got another one?

Councilwoman Lee: Not today. Thank you very much. Good luck to you all; I know you're working very hard and I don't envy you.

Ohashi: Al, you want to borrow my budget? You can go through it...

Sparks: Would you get that out of my way? I don't even want to see that thing.

Chair Takabuki: You can take it home and study it...

Yonenaka: Yeah, and give us a review tomorrow, Al.

Councilwoman Lee: He just want's to check the section on Kula, road improvements...

Sparks: That's a good idea.

Chair Takabuki: Okay, I still have a couple other Articles that we need to look at, but I'm going to have one more meeting in April at least, to discuss ethics and to probably go through all these things.

Maybe what I'd like to do though, if anyone can identify the issues on the last couple Articles...

Sparks: Did you notice that your agenda says approval of minutes back to December?

Chair Takabuki: I did.

Sparks: You're not going to approve them anyway, right?

Chair Takabuki: February 27 is going to be pending. December 5... I don't have December 5th. Because we don't have it in front of us, we'll just approve them at the next meeting.

Okay, anything on recall? Actually the next meeting, or the one after that, whatever the case, we need to go through every Article, and start identifying which issues that we're actually going to deal with. But, for today I don't think we can do that, so what I wanted to do was just to look through the last few Articles real quickly and see if there's anything that stands out in there that we need to get additional input from anyone.

Sparks: I think there's a number of things we need to fix on initiative, huh?

Chair Takabuki: Recall, I'm thinking of asking Daryl to just comment on some of the provisions on the certification and the filing and the election and all that. So, hopefully I'll get his comments in time.

Boards and commissions -- I think in the past the only couple

Chair Takabuki: (Continued) issues that have been coming up have been geographical representation. Whether or not that needs to be mandatory, or to be left as is with just due consideration.

Fabrao: Oh, yeah, there's been a suggestion that I've been hearing, too, that on boards and commissions there should be a representative from each major area of the county.

Chair Takabuki: We'll have to define what a major area is.

Sparks: One of the ideas was the community plan areas, I think, was the idea.

Nakasone: So, we're talking about eleven? Thirteen?

Sparks: And one of them is Kahoolawe.

Nakasone: Well, I'm looking at the future. See, when you look at the Charter, you have to look long term...

Sparks: Back on recall and initiative, I think there are a number of things that need to be fixed, that have been brought to our attention earlier, right? Things like what make it impossible to do anything... And, also the percentages, so that's going to take some thinking.
We're on general right now.

Chair Takabuki: Basically with recall, the same kinds of issues that we were talking about with initiative. So, I'll work up a list of that...

Fabrao: Talking about commissions, somebody said that five years was too long. Maybe it should be lessened.

Sparks: I was thinking there's a number of implications there, when you really want consider... One of them is if the voters choose a new administration, are they entitled to have that administration be able to implement some of their new policies by a more rapid turnover on the boards and commissions, than these extended five year things. They are staggered, of course, but I haven't worked out the math, but I would guess that after the first four year term, a mayor's still probably doesn't have a majority of appointees on those boards and commissions. Is that right?

Chair Takabuki: After the first four years? I think they would.

Sparks: They would, after the first four years, but it takes three years or so to get their majority.

Nakasone: My question is, what's the purpose? Do we have commissions and boards that more or less have the same philosophy as the mayor? I thought they were totally independent.

Sparks: Well, why do we have the council then approve them all?

Nakasone: Oh, check and balance.

Sparks: I thought they were totally independent, Bob. What's this check and balance stuff, right?

Sparks: (Continued) No, what the mayor's able to do... One of her important powers as the mayor is appointing important boards and commissions. And, if they are stuck for several years with old appointees that may not at all agree with their philosophies...

Cockett: I think the reduction down to three years would bring that into play, because they would change more frequently.

Fabrao: And you'd have new people and new ideas coming in.

Sparks: Yeah, that would be an argument for shorter terms, 'course there's the argument that some of these are complicated positions and it takes a couple years to get your handle on it.

Chair Takabuki: Just to get the feel of it, right. Like planning...

Fabrao: Ethics and planning.

Sparks: And, then there's the argument that some people aren't going to want to commit for five years. I know, personally, I may want to go off on a sabbatical and be gone for half a year or a year, and that's not fair if I was sitting on a board. This one works out because I'm not planning to in the time...

Cockett: Let's say it's three years and you have nine of them, so that's every year there's a new increment that comes in. If it's staggered, I'm just saying.

Nakasone: Right now, every year there is a new member -- at least two, yeah?

Chair Takabuki: I think it's two; it's staggered three, two, two...

Sparks: 'Cause there's eleven on most of them, huh?

Chair Takabuki: No, we're an unusual board...

Sparks: Nine on most of them...

Chair Takabuki: Right, but there's usually nine and it's usually three, two, two and two...

Fabrao: Three five, two four, two three and two two.

Chair Takabuki: So, every year at least two should be coming in.

Sparks: So, every year you would have at least six. I don't know... I'm not sure it's in a category of something that needs to be fixed yet, but it's something to think about.

Fabrao: We could put it out to the public.

Chair Takabuki: I'm not sure why the number five came up...

Sparks: Because we've always done it that way? That old standby?

Chair Takabuki: I mean, why not four? Four seems to be right in the middle...

Nakasone: You'd think four, yeah?

Chair Takabuki: It seems to be right in the middle somewhere, enough time for someone to become educated, and become effective, and not so long that...

Fabrao: Maybe they wanted to get away from the connotation that the four would be allied with the mayor and the...

Sparks: But, if it's staggered, it isn't. Remember the two guys that were on the salary commission, when we suggested... They were worried about continuity and how long it took them to learn too, so we suggested that their term be expanded, that they might want to serve longer. And, they immediately and unanimously said "No, no way." I take that to mean that there's a lot of qualified people out there that aren't going to want to commit to a real long term.

Fabrao: And, it depends on how often they have to meet, too.

Chair Takabuki: Well, in that case if you offer a four year term for some and a two year for others, there will be those who will take one or the other depending on their schedules.

Sparks: How does this work? Of the nine members initially appointed, three will serve... Initially, when? Meaning...

Chair Takabuki: That's when a new commission is established, and thereafter, they keep coming up for five year terms.

Sparks: You're right. That's what I thought too; so each person thereafter is committing to five years.

Chair Takabuki: We can think about that. Other than that, under this general boards and commission section, anything else? And, we'll go into this at our final meeting...

Sparks: But we do have to figure out how to be more specific, I think, so that pukas like Hana not being on the planning commission for a long time don't happen.

Nakasone: Something like that, especially dealing with the question of land use, specifically the planning commission can be identified as such, with the county cut up into the community plans...

Sparks: But, again, if it's nine and there's more than that...

Nakasone: Yeah, but you can create numbers more than what... because it's specific, you can have eleven...

Sparks: Make it the planning commission more members, right?

Cockett: Yeah, it can be different and it covers all bases.

Sparks: It's going to be neat seeing who comes from Kahoolawe, huh?

Cockett: Give it to Lanai...canoe.

Fabrao: A canoe district to Lanai. That's great -- we'll build a special home for Mr. You-Know-Who over there.

Nakasone: He might put a golf course over there.

Yonenaka: It's cheap land...

Fabrao: Yeah, but how are you going to get the water... Again, it's that issue of water...

Cockett: Well, you can have that waste water from West Maui piped over...

Nakasone: Tap Wailea's water...

Chair Takabuki: What about Wailea?

Sparks: On amendments, do we want the council to still have the authority to propose Charter amendments? Anybody have any problems with that?

Fabrao: You want the council to propose Charter amendments?

Chair Takabuki: Right now they can; they can put things on the ballot.

Fabrao: Oh, yeah, yeah...that function. I was thinking in terms of what Mrs. Lee was talking about.

Sparks: And, do you want the ten year review with another commission like this? Or, is it getting a bit much? Do we need it?

Chair Takabuki: Well, you know what we might think about doing is targeting certain areas, just like they did...

Sparks: They did before.

Chair Takabuki: Just like it's provided for in here. Water was targeted and then I think the legislative body was targeted for one review, so we could think about doing it that way.

Sparks: That might make some sense; certain areas where we anticipate changes might require a careful look at. And, then leave it up to the council in their wisdom to fix anything else that comes up that really needs fixing.

Nakasone: A lot of times the council's proposed amendments are really just housecleaning, you know, where there's gray areas where even corp counsel cannot give a specific...

Sparks: That's a valid... That's an important thing for them to be able to do. I wish there weren't so many that were so obviously self-serving. It hurts their credibility a little bit.

Chair Takabuki: How does it work now with the state? Do you have to submit the questions -- should there be a constitutional convention -- to the voters before you can have one? So, would that be one way to approach it, say that it had to be on the ballot in ten years, and if the voters wanted a Charter Commission, they could vote yes for one? If they didn't want one, then there wouldn't be one?

Nakasone: The way it's in there it's a mandatory review.

Chair Takabuki: Yeah, well that's the issue right now...

Sparks: But, it was in there that way at one time... I'd have to go back and look at the different Charters, but...

Fabrao: I think what's there regarding the ten year review of the Charter should be kept in, with maybe a proviso that it could be looked at in case anything... Well, you said the council can go ahead and make amendments and stuff, but for real big matters to put it out to the voters... They have to put it on the vote, anyway, the amendments...

Sparks: Yeah, but here we're talking about asking the voters do they want to have another Charter Commission to make recommendations back to the voters.

Nakasone: Rather than have it within the Charter now.

Sparks: Rather than have it mandatory.

Chair Takabuki: Rather than automatic after ten years.

Sparks: Probably most of the time those things would pass, right?

Cockett: Well, it's quite difficult because... I don't know how many people vote... About 60% of all the voters?

Fabrao: No, not even that many. Not according to what Daryl said...40%...

Cockett: And, half of them won't be around ten years from now.

Sparks: In this presidential election, we might. Actually, Hawaii's been better than a lot of states. I think it's been up as high as 80% of registered voters in the presidential elections.

Cockett: By the ten year review, a lot of those voters won't be around to vote.

Fabrao: I would like to leave this in. It becomes a guarantee that it will be looked at. Who's going to decide when you are going to put it out to the vote?

Reyes: By the same token, those not eligible to vote yet will be around ten years from now.

Cockett: But, then they'll probably want to look at it. They'll probably come in with some new innovative ideas on a lot of things.

Sparks: One of the positives of the mandatory ten year review is all the education that happens to those eleven people who end up doing this.

Chair Takabuki: We could put in it that it's required that Al Sparks serve on it -- serve a third term.

Okay, let's give that all some thought and then we'll have one more meeting in April, if not two. There's so much material in this budget stuff.

Sparks: There's really a lot of detailed stuff in here.

Fabrao: Well, it's the whole government you guys are looking at.

Reyes: Are we going to discuss the recommendations by the council as far as budget? I mean, are we going to have an opportunity to go over...

Chair Takabuki: Yes. And then ethics, we're going to invite them back again -- they couldn't come today; they're not ready yet. So, sometime in April we'll invite Maile and Paul back again, and hopefully, start making some recommendations on that.

V. ADJOURNMENT

There being no further business, the meeting was adjourned at 5:12 p.m.

ACCEPTED:

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Anne Takabuki, Committee Chairman Date