

CHARTER COMMISSION
MEETING MINUTES
APRIL 30, 1992
COUNCIL COMMITTEE ROOM

PRESENT

James Cockett
Sherrilee Dodson (Vice Chair)
Dolores Fabrao
Annette Mondoy
Robert Nakasone (Chairman)
Victor Reyes
Allan Sparks
Anne Takabuki
Jamie Woodburn
Deborah Wright
Lloyd Yonenaka

EXCUSED

Susan Nakano-Ruidas (Staff)

I. CALL TO ORDER

Chair Nakasone noted that all commissioners were present and called the meeting to order at 4:01 p.m.

II. PUBLIC TESTIMONY

None.

III. APPROVAL OF MINUTES

Approval of the April 23, 1992 meeting minutes were deferred to the next meeting of commission on May 7, 1992. It was noted that minutes of April 23 were not received, and Sparks pointed out "that we made a couple of more or less final decisions, in substance at least, so they are beginning to be important."

Chair Nakasone: If there are not objections, we can go to the Committee's minutes for approval:

Committee A - March 19 and March 20, 1992

Committee B - February 20, March 5 and March 25, 1992

Committee C - March 25 and April 2, 1992

The Chair recommends approval of the minutes.

Sparks: I spent a lot of hours going through these minutes and there's a few typos and minor errors, but...

Chair Nakasone: No objections? So ordered.

IV. COMMUNICATIONS - COMMITTEE REPORTS

Chair Nakasone: We'll be probably discussing the committee recommendations for this meeting and the next meeting on the 7th, so on the 7th we'll cover the same agenda more or less, except for approval of the minutes. And we do have Larry Jeffs speaking to this commission on the 7th also. He's from the board of water supply, he's the chairman.

Cockett: Is that the one he's coming at 3:00 p.m.? Craddick was supposed to be here also.

Chair Nakasone: Oh, Jim, that's your committee, right?

Cockett: Yeah.

CHARTER COMMISSION MEETING MINUTES
APRIL 30, 1992 - COUNCIL MEETING ROOM
Page 2

Chair Nakasone: 3:00, okay, I'm sorry.

Sparks: That's the 7th?

Cockett: Yeah, next Thursday.

Fabrao: We start at 3:00 then, not at 2:00?

Cockett: Well I thought 3:00 would be easier because he's the only one on the agenda.

Chair Nakasone: Okay then, actually then, Jim, Larry would be your committee on the 7th, right?

Cockett: Yeah.

Dodson: Are we having the regular meeting on the 7th?

Chair Nakasone: Yeah. More or less, we'll continue our discussion on the committee reports.

Sparks: Let me see if I understand where we are proceeding... We get the committee reports and we start today to discuss those recommendations. As we go through, vote on them?

Wright: No.

Chair Nakasone: I think we'd like to have some discussion prior to the decision making.

Wright: Can I put in my two cents worth here? I would abstain from voting this week if anything came up where it's a committee report and I haven't had a chance to even think about it. So, you guys may want to vote, and you may call a vote, but I'm not going to vote when it's the first time that I've read something. Discuss...I would really like to hear what the committee members think, and all that kind of stuff, but you know, it's not to say, I mean you can call for a vote -- it's just that I don't feel comfortable when I haven't even had a chance to think about it. I don't know what your recommendations are right now on some of these committees, so personally I would be opposed to having a vote at this moment, but if you guys vote, you vote. I mean that's up to everybody else or up to the chairman. It's just that I don't feel comfortable voting when I haven't had a chance to think about it.

Cockett: May I say something here? We met at 2:00, well about a quarter to three; we had a quorum whereby we could discuss your agenda [referring to Anne Takabuki's committee] which was Article 9 -- we didn't get to 10 and 11. However, that's what I'm proposing too, that we go through line by line like we did on her's, and it will be in the minutes when they do the minutes from today. I did the same thing, but I'm sorry I don't have that many copies for everyone because I just thought it was our meeting...

Dodson: We can get more copies made.

Cockett: Can we?

Dodson: Can we get more copies made?

Chair Nakasone: The Chair is going to establish some format to this review of committee reports. Really, I don't think today the commission is ready for decision making. I don't think today is the day for decision making. I think we are more concerned about the committee's reports submitted on what their recommendations are, and have some open discussion on it, and...

Fabrao: Because there were some items that we wanted to discuss when we had a full meeting.

Chair Nakasone: ...and that's why I did refer to the next meeting to continue what we have on our agenda for today.

Sparks: Bob, I have one concern about timing, and that is -- this subject, as you all know is one of my pet subjects -- districting or not districting for council elections. If we wait too much longer to decide which way we are going to go on that, we're really kind of going to start running out of time to do the subsequent work, right? Whether we stay with at large with defined residency areas, or whether we go to true districting, there's some detail work that we have to do together to decide how we want those areas or those districts. And we're running, probably, out of time. So I was hoping that at this stage, with all the different hearings and all the different discussions, and the five or six hours of transcripts -- a good share of which is on this topic here -- that have been handed out to people about a month already, that we'd be ready to decide which way we were going to go on these things and then do the follow up work.

That one issue I'd like to see us make a decision on pretty soon; if not today, then very soon. The others...

Woodburn: Is that Article 1 you are talking about?

Sparks: Article 3...

Dodson: Well I think that... Is a week too long to wait?

Wright: I mean really, I don't feel comfortable in saying until we have some discussion.

Sparks: I would really like everybody to read those two committee minutes verbatim and then discuss it for a little while, and take a vote on it, and so we can get going with it.

Chair Nakasone: Al, would there be any objection to having a report for this meeting, going through your committee's reasons for making recommendations, as far as your committee report, and after really seeing this report, I think we can have some in depth discussion with regards to the merits of a district or an at large system. Okay?

Sparks: I think the substance of our report is not in this paragraph that I summarized here, but is in the transcripts of our meetings; although it takes a while to read through all that, I would hope a lot of people would do that before they vote on it.

Chair Nakasone: Well yeah, that's why if there's no objections, the chair would recommend that we make sure everybody has a chance to review those minutes, and hopefully the next meeting we'll have some direction in terms of whether we are going to go with a question on a district, or maybe at retaining the at large system or modify the at large system. Okay? Any other questions?

Sparks: Has anybody else found time in the past month since you've had those in your hand to read all that stuff?

Wright: Yeah, I've read it; but it's hard to absorb everything on a one reading, for one thing. I did read them.

Sparks: Okay.

Wright: Allan, I had one question -- maybe this isn't the right time. Can I ask him a question about part of his report, or should I wait, or...

Chair Nakasone: It's on the agenda; in fact, that's our next item on the agenda...

Sparks: So, we're discussing this and we're not going to make final decisions on any of it, is that the idea?

Chair Nakasone: Yeah.

Dodson: This meeting.

Sparks: This meeting.

Wright: Allan, this is my question -- part of what you were saying brought it up, what you said. It says here that whatever decision is made, there would still be the task of defining the districts or the residency areas. Were you going to define the districts? I don't think that's appropriate at all for us to define the districts; residency areas I can see, but why... I'm just asking because I don't know anything about this area, but why would we define districts because I would think that is up to... They are talking about the state of Hawaii has some districting information, and on the Big Island I thought they set up a districting commission to handle the zoning and all that. So, are you really thinking that we're going to define the districts and put that into the measure itself?

Sparks: That is indeed what I was thinking, and it has been discussed with the other people that were at our meetings. It is still an option to do a reapportionment thing of course, but as we discussed it, it seemed that, if my memory serves me, that a lot of us felt that it would be clearer, cleaner to present the actual redistricting at the time we recommend that, so that the voters would know exactly what they were buying.

Wright: You know one of the things then we might want to do is talk to Paul Mancini about that -- about us doing the districting, and if that's something that he thinks we can legally... I don't mean legally in the sense that is districting legal, I mean legally as far as can we define these districts and feel comfortable that what we are presenting to them is

Wright: (Continued) the true district. You know that would be just a concern I would have about what we would put on the ballot.

Sparks: Is there any legal snags we might run into?

Wright: Yeah, if we don't define the districts right, and they pass it with these districts defined and those aren't the correct districts, or something.

Sparks: Well, the legal issue is making sure they are equal.

Wright: But how you make them equal even is... I mean that's why the state has special... The way they do this or split it up, we don't just count and divide by the number of voters and say this is the district we want right here. I don't think it works that way.

Sparks: Maybe you know something I don't, but I think that's the main legal issue...

Wright: I don't think we can just take the population divided by six and then say okay this over here, this over here, this over here. I'm not sure, that's why I'm asking. That's why I'm saying maybe we should even ask that of Paul, to tell us that. If we could do it that way then that's maybe something, but the reasons they sometimes set up these commissions is because it isn't that simple. I don't know.

Sparks: I think what's complicated is the politics of it...

Wright: Well it gets very complicated, and I think once we start defining the districts, we're going to be right in the middle and that's what I'm concerned about.

Sparks: Not the mathematics of it. The mathematics and geography don't seem that complicated.

Chair Nakasone: I'm sorry, the chair would like to interrupt this discussion. Being that we are working with a machine today...hopefully that the chair would have to identify anybody that has the floor, so [the staff] can dictate what's happening.

Sparks: Good point.

Wright: Yeah, that is good.

Dodson: And try not to have two people speak at the same time.

Chair Nakasone: Right, so let's be recognized before you have the floor. So it's easier for [the staff] to get the minutes out. Okay, Al, would you present your committee report in regards to the Articles 1 to 3, through 7?

Sparks: Okay. On Article 3, that's the one we were just talking about. I was prepared to make my arguments and listen to the commissioners make their arguments, but apparently we've decided to do that serious discussion and final decision making later.

Sparks: (Continued) Along the lines that we were just talking about, let me point out that even that question that Debbie just raised, is one that we have to decide. I see a logical series of decisions, right, if enough of the members -- and incidentally, that is now eight -- of the members want to go for true districting, then we have...do we do it, or do we do it as a reapportionment, right? And if we decide we do it, then we have some sort of nitty-gritty mathematical/geographical/legal work to do. I still see enough time to do that, but we're rapidly running out of it.

If we go with keeping our at large system and redefining the residency areas, then it's not quite as complicated because you don't have the Constitutional requirements for equal districts, and so forth, and we can make more or less logical districts that aren't equal in population. But, that's a little bit of work too.

Chair Nakasone: Al, would you go through your whole committee report? I know we can verbally identify Article 1 and 2 as no changes, okay? So, Article 3 -- as chair of the committee, what I read is there's really no strong recommendation in terms of district or at large.

Sparks: Basically our recommendation is that the full commission discuss this further and make a decision.

Chair Nakasone: Okay.

Woodburn: It wasn't... Your committee didn't come to a consensus?

Sparks: No. As it says in here, we talked a lot about it, and then we did agree to go to the public, basically, with the article I wrote, and just right after that there was the Council of Community Associations meetings... By now, we should have begun to pick up...each of us in our own ways...different kinds of feedback. So, I'm thinking that plus the fact that the minutes of our meetings have been out for a month or so, that we should be about ready to make a decision.

Nakasone: Debbie.

Wright: Did you get feedback at that public, when you went to that meeting you're talking about on April 22; what feedback did you get from that, or was there not... I don't know, you know, was it attended?

Sparks: How would you describe it, Sherri?

Dodson: Well yeah, it was attended; there were about twenty people there, I think -- twenty-one -- and Gene Thompson is going to do us a summary of the arguments made. But the whole design of it was to find one person for and one person against, so it's kind of hard to say whether everybody there was for or against because they had specific people designated to speak for and against. There were people who spoke in the crowd, but it was really difficult to get a feel for -- you know, I'd say it was there was two or three for; two or three against. It was...

Sparks: And, a lot of listeners...

Dodson: And a lot of listeners, a lot of people interested, but not ready to commit either way.

Sparks: Sort of like us? Well, I wasn't recognized, so forget it.

Chair Nakasone: Jamie.

Woodburn: As the chair of the committee, what's your position?

Wright: You don't know that?

Sparks: It's not exactly mysterious...

Chair Nakasone: Al, do you want to respond to that?

Sparks: You want me to tell you that at this point? Okay. I assume most of you saw what I wrote in the newspaper, and I pretty much believe that. So, just let me reiterate that I think a true district system will increase the amount of participation by both people who want to be candidates and people who are citizens willing to talk to candidates; and I think that accountability will be increased quite a bit because there ought to be less confusion and people will know exactly who their representative is, and be less reluctant to communicate with that representative. As I thought about it more and more over the last several months, it seemed to me one of the most important arguments for it is that under the existing at large system, the major electoral clout that tends to dominate all nine races is in the heavily populated areas, particularly the central area where big huge blocks of voters are. That means outlying areas don't have an awful lot of electoral clout, and under a districting system they would have more electoral clout because there would be three or four, at least, members on the council who had substantial proportion of their constituents living in those outlying areas that they had to pay attention to.

Right now all nine councilmen, if they want to be just very narrow about it and only focus on who votes for them, aren't going to pay...they have no electoral pressure to pay a lot of attention to those outlying areas, because they are such a small percentage of their electorate. So, that means even Molokai and Lanai, I think, would get more influence on the council's deliberations under a districting system.

What about the danger of narrow pork barrel politicking by the council? I think it is not as bad as it is feared to be for several reasons. Number one, political science studies have shown that, and also just thinking about it clearly brings up some facts. It's hard to imagine too many decisions that don't affect several or all of the districts in the county, number one. There's a lot of experience out there already in the nation as far as municipalities with districts, they don't seem to have fallen apart into internal squabbling over CIPs all the time. And finally, I think we should have a little more faith in our politicians than that. Every politician I asked about this, almost every politician at least, said that even though they didn't get elected by a particular district, they would be very concerned about what happened in the other districts in the county. And, that's consistent with the national studies. So, I don't think they are as bad as we suspect they might be in that regard.

And finally I would say, this is not a very radical change, in case you are worried about it being too much of a change. It's only really a very small step in the right direction. It's not going to be a monstrous improvement, it's not going to be a radical change, and it seems to me from the feedback I've been getting, and just thinking it through

Sparks: (Continued) kind of logically, that if we should put it on the ballot, there's a very good chance the voters would approve it. That's basically my position.

Chair Nakasone: Any questions? Let's go to the next, Section 3.2.

Sparks: 3.2 we recommended that we keep two year terms, as it says by a vote of five to one. And, kind of connected to that is the idea of limiting the consecutive terms to five full consecutive terms. There the vote was four to two.

Chair Nakasone: Do you have any discussion of retaining the two year terms?

Sparks: My memory of it is that most of us felt that it was really kind of politically impossible to get four year terms out of the electorate even if we did put it on there, even though we feel that it would be a little better to try to do four year terms, but... So, for that reason we recommended keeping the two year terms.

Chair Nakasone: Al, what about the limited terms to five? You have discussion on that limited terms?

Sparks: Well, let me see if I can summarize it. Some of us felt that the incumbency factor, with all the money and name recognition that goes behind incumbency, makes it very possible for people to stay in office for a very long time, and that this may be the only way to give new people a chance. Others felt that well, if the voters want to keep them in, it should be their right to keep them in and why change it.

Chair Nakasone: Questions? Sherri.

Dodson: How did you come up with five? Was that because of the pension thing, or...

Sparks: Not exactly, although we noticed that as we were discussing it. If somebody is only in public service for those years that they are on the council and it happens to be ten, then they wouldn't be qualified for state retirement.

Dodson: It just seems that ten years is an awful long time. What I've been hearing from the public is they'd like to see it even less than that.

Sparks: Yeah, that's another point. It's a popular issue, this one if you are concerned about whether it has a chance with the voters, I think has a real chance. I don't know, we could debate eight years, ten years, twelve years...I don't have real strong feelings either way.

Dodson: So there wasn't any particular reason why it was five terms?

Sparks: No, this was a way to get it out in front of the whole commission, and get them thinking about it. But I think, personally, ten is...I feel comfortable with ten.

Takabuki: You know at the meeting we attended, I think, at the Chamber of Commerce wasn't it brought up about the two four year terms? That that might be acceptable?

Sparks: Yeah, that's an idea that isn't in our report because it was bounced around in other arenas. What about limiting the term but changing it to four years -- two four year terms, in other words. In my mind there, what we are doing is we're giving them kind of a sweet and sour package, and if the public's not going to like four year terms, but if it's packaged with a limitation of two of them consecutively, maybe they'll buy it. That's an old game that commissions like this play all the time, right? They try to put something that they don't think the public will support and package it in a certain way. That's an option. Personally, I've been thinking about that one too, and I'm uncomfortable with one dimension of it, and that is you've got then a substantial number probably at any one time of council people who are lame ducks for four years. The lame duck problem isn't one of the big problems of limiting terms. It's less of a problem is it's a two year term.

Chair Nakasone: You still have the lame duck situation.

Sparks: For two years, not four.

Fabrao: At least two years is not as bad as four.

Sparks: If we want to adopt a suspicious attitude towards our politicians, four years of lame duck is worse than two years. But I just got done arguing that maybe we do too much of that; maybe we should be more optimistic and generous and respectful towards our politicians, and then maybe the four year lame duck thing wouldn't be so bad. But, it's on the table for your thoughts.

Chair Nakasone: Any other questions? Just a comment the chair would like to make, and that was my concern about limited terms -- this question of lame duck. Also, people's right to choose who they want to represent them. But, I'm still open...

Sparks: Sure you are...

Chair Nakasone: Dolores.

Fabrao: Even though we limit the consecutive terms to five, that doesn't mean that they'll stay in for those five terms. If anybody can take them out...I mean, they can be voted out, or after they reach that five consecutive terms, they go out for a while, and then they can come back again. That doesn't mean that it's forever limited, so that means people will still have a vote, and two years is easier to deal with than four.

Sparks: One other comment on this. There is a sense in which each one of these issues impacts the other issue, and remember when we were talking about one of the arguments for four year terms is that county business won't stop so often for election activities.

But, on the other hand, if we make elections a bit easier by making them districts, that argument isn't as strong. So, things kind of overlap in the logics here.

Chair Nakasone: Questions? Another comment the chair would like to make. Let's say we have seven members of the council with ten years, so can you imagine seven members lame duck for two years?

Sparks: Better than four.

Chair Nakasone: Your recommendation on the effective date of the office?

Sparks: The next one there we're recommending that instead of starting the second of January, I think it is now, we start on the first working day of December. And when you read the transcripts of our minutes, you'll see we went around and around this one quite a bit trying to figure out what made the most sense. And, I think we came to a reasonable decision with some reasonable rationale. It's done this way in the Big Island and Kauai. The Big Island says the first Monday I think, but sometimes Monday's a holiday, whatever, so we just said first working day seemed a better formula. The logic of that... Does anybody need to hear any more logic for that?

Chair Nakasone: I have a question, Al. Would this be similar to the effective date of the mayor?

Sparks: Yeah, they're both the same. When you get to that part, the same recommendation. The council and the mayor both start the first working day in December.

Chair Nakasone: We probably might have to ask for some comments of the current mayor about the effective date, whether in terms of...

Sparks: Well, in our discussion we had her representative who was involved in the transition, and we talked about how long it takes to put a team together and make the transitions and...

Chair Nakasone: No problem then.

Sparks: Well there's problems but we finally concluded they might as well be officially in office after three or four weeks after the election; and then they can make better use of a down time during Christmas and New Years, right? It would give them time to get everything done, rather than be out of office and waiting for things to happen when they get in.

Chair Nakasone: Good questions. Comments? Okay, let's go on to item 3-3.

Sparks: 3-3, I reported there a discussion we had that was much like the discussion we had at the full commission meeting last week. And, we concluded we needed more legal assistance; well last week when we had the full commission here this came up again because Paul Mancini was here with some research he had done, and some options and suggestions. And, at that meeting, we already voted on how to do this. And my understanding was that we voted to make it clear in the language that while you have to be in the county ninety days, you don't have to be in the district ninety days before filing, you only have to be a resident at the time of filing.

Chair Nakasone: Okay.

Sparks: Well, unless we've got to back up, and I don't know what the rules are for that; since we've already gone past that.

Chair Nakasone: In substance only.

Sparks: Not precise words. And incidentally, we've got two lawyers working on that, and I think that's great. Anne's already come up with some suggested wording for that too. No, no, I've got it confused. That's not the one you were working on.

Chair Nakasone: Okay, Section 3-4. Changes?

Sparks: No changes.
3-5 Salary Commission. The first thing we decided was that it is located in the wrong place, so we'd like to put it back there by the Cost of Government Commission, in Article 8, near Chapter 14. It just seemed like a more logical place.

Second recommendation is that the Salary Commission have the authority to determine the salaries of all the department directors, with the requirement that they consult with those commissions and boards that hire their department directors and get their ideas before they set that salary. And that means that there is a conflicting provision under Section 8-11.4. that currently allows the Water Board to fix the directors salary, and that would have to be deleted.

So, that's our recommendation. It could have gone the other way; we could have said salary commission authority doesn't extend to those commissions that hire their own directors, and let those commissions set their directors salaries like the water board one does now. We chose to go this way; consistency across the board.

Chair Nakasone: Jamie.

Woodburn: Did Roger or Don have an opportunity to respond to that issue, to making that change?

Sparks: We talked to them at some length; I'd have to go back to the minutes myself. Do they specifically say that, or is that just my general impression.

Woodburn: I don't remember seeing it in there.

Takabuki: I thought they just wanted to consult; I'm not too sure.

Chair Nakasone: Excuse me here, but I think the salary commission wanted a more exact definition in the Charter.

Sparks: Another conflict here cleared up, right? I think that's what I remember primarily, yeah.

Chair Nakasone: Debbie.

Wright: Is the water board right now the only one that sets the salary that would be separate from... So that's the only one that would be affected; and now the water board would...

Sparks: That's the only place in the Charter that there's a conflict, yeah.

Wright: Okay.

Cockett: Question. I think the conflict came up somewhere in some minutes regarding the chairman of the salary commission; there was a conflict there because he was in the booze business...Oh, we're talking about the liquor commission.

Chair Nakasone: Right, right.

Dodson: Shouldn't he abstain from that vote though?

Chair Nakasone: I'm not sure. Al, is there any alternative to this question as far as... You know, the Charter gives...created this salary commission, but added a provision in there for the council by ordinance to expand the authority of the salary commission.

I think the salary commission was created because of the elected people being self-serving if it raised their pay, and that's the reason I think it was created. But, I don't think the intent was really to expand that into the areas of department heads. It seems this responsibility lies with the administration submitting for salary ordinances identifying salaries for department heads.

Sparks: My understanding is that there was a statement in there that they have authority as provided by law, and the council by ordinance expanded their authority to all elected and appointed officials.

Chair Nakasone: You know, Al, so they wanted it out of their hands to determine what the salaries are, but they determine the budget monies in terms of how much money they are going to pay. And, I think it was quite obvious in this last budget review, that they decided not to fund again positions that the administration did appropriate their salary, but...

The chair is really unsure about the fact that the salary commission, I believe, was established because they wanted to get the politics away from compensations for elected officials; but I don't think the intent was really to extend to council that expanded responsibility to create an ordinance to let the salary commission determine the salaries for the other like department heads.

Sparks: But the facts of the situation is that in this last go around the salary commission did do that, right? They put a lot of work in to it, from the testimony they gave us; and for the first time they tried to establish some logical basis for the salaries for all department heads, and they did that on the authority of the ordinance; am I correct?

Chair Nakasone: Right.

Sparks: I have one question. Why did the council do that?

Chair Nakasone: I don't know.

Reyes: It was my recollection if correct, the reason we are putting this into the Charter is because it's already in ordinance law,

Reyes: (Continued) we might as well make it uniform -- "Charterize" it, and put it in the Charter as one. Number two, if my recollection is correct, they wanted to have a uniform basis for judging...you see they had a problem with determining the salaries of the different directors and, you know, officials, and there's this one thing sticking out -- the director of the department of water supply, and they could not handle it because it's outside of their range. And so the recommendation is why don't we have it so that they will be able to judge the salaries based on responsibilities, size of department and all those areas of criteria that they need to determine the salaries; so that's one of the feelings I got during that testimony, they'll have a much easier time to balance out the salaries against responsibilities and the rest of the criteria.

Chair Nakasone: Debbie, you have a question?

Wright: Yeah...no, I think it's been answered, thank you.

Chair Nakasone: Jamie.

Woodburn: Your point is that you feel that the council's authorities to the commission should only extend to elected officials...

Chair Nakasone: As far as the salary commission in terms of the Charter, it has the provision that it can create by law giving the salary commission the authority to determine salaries, aside from elected officials.

Woodburn: So is it being suggested that we revise the Charter to limit it to elected officials and not appointed? Is that what...

Sparks: That's certainly is one option that Bob's bringing out that isn't in our recommendation.

Wright: That's what it says. It says elected officials right now, and the council then can expand it beyond that. You're saying take out that portion that says the council can expand it.

Woodburn: Well, I guess I'm unclear...the Charter says elected. Has the council expanded it by ordinance to appointed also? And so, in an effort to make the Charter consistent with council ordinance, this is what you are trying to do? What happens if you leave it just as elected with the Charter, does it negate the council's ordinance?

Sparks: No, but it also doesn't negate the possibility that they'd rescind the ordinance.

Wright: That's right.

Woodburn: So your point is the administrative issue.

Chair Nakasone: I'm just looking at the actual intent of the creation of the salary commission initially, and I think that was the reason for the creation. It was not intended to expand the authority of the salary commission into departments or appointed positions.

Sparks: Excuse me. Am I correct...if we wanted to we could change the wording so that they were limited to elected officials in the Charter, right? And, override the existing council ordinance; we could do that, because the Charter takes precedence over the ordinance itself.

Chair Nakasone: The chair would like to suggest another option for discussion purposes. I think the City and County Charter has...they separate the departments that more or less have the authority of the boards or commissions that determines the appointment of the department head and the salaries with the operation of the budget...they separate, for example, like the liquor...I guess the department head is appointed by the commission; you have the board of water supply who's director is appointed by the board; you have the police, which is appointed by the police commission... These are departments heads that are not determined by the administrator, they are determined by the boards. And somehow, we should look at the possibility of separating those departments, being that they don't have that direct appointment from the administrator.

Sparks: We did.

Fabrao: Excuse me, Mr. Chairman, we discussed that at length, I think, and what we were trying...correct me if I'm wrong...the intent of our discussions were to bring into line all of the departments so that we would have some common kind of way of, you know... For instance, the liquor commission and the water board...that the positions that would be selected for those departments, that they would be kind of in the same line according to the criteria they would meet regarding their jobs, and so that... There was, I think, a discussion where there was some kind of conflict because somebody else was paid more than somebody else doing the same job, and I think the intention of what we wanted to discuss was to get everything in line so that that would be taken care of...that there would be no conflict of that kind of issue.

Dave DeLeon: The reference was the water director and...

Chair Nakasone: Dave, you've got to be recognized...

Fabrao: So, we felt the salary commission should, even though the Charter says just elected officials, but the salary commission should indeed be overseeing the total county picture. Because it's kind of like everybody is divided, and there's no meeting together because each department does get some kind of funds from the administration, from the budget. So therefore, there is that connection already, they have to make reports...but why not then have everybody in line, because it just doesn't seem fair that somebody is paid more than another person if they are doing the same kind of job.

Chair Nakasone: There's actually two departments, I think, that by statutes has to be self-supporting, you know. They have a separate account... they are not from general funds; this is like the liquor department and the department of water supply, they have to have separate funds for them and they cannot charge more revenues than their operating costs, I mean they are kind of restricted. So, you would think that the department or the board that controls, or has the authority to determine the operating budget would be the best to determine, in terms of compensation...

Fabrao: Yeah but, shouldn't they meet certain guidelines and be within those guidelines? I think that's what we talked about, that there could be a higher rule of a guideline, that the commission would finally decide with consultation with the council and the mayor that this is indeed the...that the range of salary that these people should be in, neither too high nor too low, but at least if it's in that range and then they agree upon that, that should be what it should be. But then there wouldn't be any discrepancy among the different departments. I think the salary commission can set those guidelines -- they should, I think, from my perspective.

Reyes: Mr. Chairman, you notice in their recommendation there was an emphasis that the boards and commissions should be consulted by the salary commission before they set those salaries, that they won't be just strictly determined by the salary commission. They have to be consulted, those who appoint the appoint like the board of water supply...there has to be a working relationship, not just straight salary commission's job. There was a strong emphasis that they should be consulted.

Chair Nakasone: Jim, you had a question?

Cockett: My question was I recall a few years ago, there was a big squabble on some kind of a liquor tax and the county of Maui wanted that funds to spend, and that was put in escrow, and the county of Maui wanted those -- millions of dollars, from what I understand -- but they had to, I don't know how it was finally resolved but the fact was the liquor commission can set rates and rules on the revenues that they derive from different licensees, and the fact that they can cover whatever expenses they have, in fact by law they have to cover their own expenses, like the board of water supply. The question is they can increase rates, I believe, to take care of more expenditures -- I may be wrong in that thinking but there's that possibility. I think it's just fair that we have an outside body like the salary commission to judge fairly what a certain position should be at a certain range for positions in all the departments.

Chair Nakasone: I guess the chair's question is do we give them the final authority of establishing salary, or are they a body that makes recommendations to what the salary should be?

Sparks: That issue came up too, because this particular salary commission chose to recommend a range...and the council didn't particularly like that, because that gave flexibility to the chief executive, the mayor, to pick from within that range; it's a very narrow range in most cases. But they felt, the salary commission [tape ran out]... So, that was discussed at great length by the council...we had their minutes of their discussion. We concluded, I think, that we'd like to give the salary commission the option of doing it that way, we didn't want to make any changes about that one way or the other.

Just to summarize, I think we did discuss the fact that there's about three commissions that are different...that appoint their own directors; the personnel, and water and liquor, and that there might be a rationale for those commissions to set their own salaries...director's salaries. One of the arguments that I think Jim makes is a very good one -- a couple of those commissions also have authority over how much revenues they bring in by the rates they set, so they could...I don't think they

Sparks: (Continued) necessarily would, I have no reason to be suspicious, but in theory they could like some of the private corporations do, just set their rates real high and feed a lot of those revenues into their director. This way they can't quite do that, and if it gets out of hand -- they can't get way out of scale, so to speak -- because there is a separate body, the salary commission that's saying this is the appropriate level of a salary. So we thought that was a reasonable recommendation after considering all these things.

Chair Nakasone: I guess the chair is probably asking for some comments on whether aside from giving authority to determine elected officials salary, whether their authority to determine appointed salaries should be advisory, rather than administrative authority. Like your cost of government...they make recommendations to the administration in terms of cost savings and so forth, but... Well, my question is...is this what this commission wants? Still to give that salary commission the administrative authority to determine salaries of department heads or appointed personnel...

Sparks: Just let me make a point that I don't think we really did discuss that particular issue very much, and it seems that doing it should be discussed.

Chair Nakasone: Because in regards to what the council says, if they take action in terms of their range of salaries, you know, that thing is law, isn't it? There's no discussion from the corp counsel or administration... whatever they decide and pass, it's law, that's what they have... It's not in the recommendation...

Sparks: But let me remind you that the council did that to themselves. They expanded that authority of the salary commission, so they must have had some logic...

Chair Nakasone: I'm not sure it was... Anne.

Takabuki: To me, I would tend to feel that it should be left as it is...pretty open as far as the department heads salaries. And the council did decide, yes, to delegate that authority, and on the other hand they could go back and decide otherwise. I think it's something that really is within their province, and that they gave it up was fine. But, I don't think we should foreclose them from ever taking it back again. I do think the salary commission should probably make recommendations to the council though, it that's going to be the case that they do set it, and that they should give that due consideration.

Chair Nakasone: Further discussion? Comments?

Sparks: Just to make sure I understand where Anne came out on this thing. You're suggesting, possibly, that we put some wording in there that would limit their authority on appointed officials, department heads basically, to an advisory authority for recommendations...

Takabuki: That they could recommend, you know, for the consistency issue. I think Dolores has a good point, you want to have some basic amount of consistency in that, and that should be given due consideration. But, that

Takabuki: (Continued) doesn't answer the question about the commissions, you know, whether or not they should have some authority over their own appointees.

Chair Nakasone: So, your recommendation is all departments, regardless whether it's appointed by a board or by an administrator. Okay, any further discussion?

[Both Sparks and Takabuki indicated their agreement with the chair's statement verbally but not in verbage.]

Sparks: This other recommendation, Bob, including the basic content of the ordinance in the Charter, is really...after this discussion, you know I think, it should be kind of up for more discussion and concern. Maybe that doesn't make a lot of sense...

Chair Nakasone: Okay, 3-6.

Sparks: Procedures, Meetings, Rules, Journal, Voting. On this one, the councilman, Goro Hokama, came to us and suggested that the wording in there now that says 'voting except on procedural motions shall be by roll call, and yeas and nays shall be recorded in the journals'...instead of that, he wanted 'voting except on procedural motions shall be set by council rule.' And, we have a copy of those rules, which I just checked there recently, and in our conversations about that we had...somebody brought up that the rule says something about needing two-thirds. You would need two-thirds vote for a roll call. I didn't see that in the rule, I don't think it's in there actually, so we got off on a tangent for a while. But, we eventually came back to some, I think, common sense solution which is to okay, let them do their voting by council rule except that it shall be by roll call if one member so requests. Our logic was that there's often times some controversy where there is a minority of one or a few that want to put the others on record. And, they should have that ability to do that for the public record; but that there may be also a number of cases where there's really not much at stake and not much controversy, and they want to proceed a little more rapidly and nobody objects, maybe they could just do it by a quick say aye, say nay -- not actually have a roll call for the same reasons. That's our thinking.

Chair Nakasone: Questions?

Sparks: None of us has sat on hundreds of council meetings like Bob has...he may have some input...

Chair Nakasone: Yeah, the chair believes this is a good proposal. I mean for every action taken by the council, you're going roll call, roll call... and in fact, there's some incidents where because of the Charter provision, we used to ask for roll call on the second and final reading of any bill that would become law, so that it would comply with this Charter provision. But, you know, first reading everybody votes aye, aye...but the second and final reading...roll call, roll call... If you had twenty or thirty items on the agenda, it takes a long time.

Any way, the chair believes that there's a provision even in Robert's Rules that provides for a roll call, which the council has to

Chair Nakasone: (Continued) comply with anyway as part of their rules. One person can, you know, request a roll call.

Sparks: Is that in Robert's Rules anyway?

Chair Nakasone: I believe it is.

Takabuki: It is.

Sparks: I'm glad we've got all these parliamentarians here; that's good to know.

Chair Nakasone: Okay, questions on this? Article 4, 3-7, 3-8, 3-9 -- no recommendations??

Sparks: In Article 4, it's about ordinances and resolutions, and I put a note here...we had some discussions; we didn't come up with any particular recommendation. Article 4-3.2. and 4-3.3. talk about bills going to the mayor and the mayor having the right to veto line items, including appropriations and so forth. And, knowing that this has been a discussion without all the people that weren't at that particular committee meeting, I just put a note here that we may want to continue to discuss those sections because that seems to be the logical place to perhaps make some changes in regard to requiring the executive to expend appropriations, if we can figure out a way to do that.

Wright: I read the minutes and what Alice said when she was here, and their concern, and I really can understand their concern...because if you've got something that's considered a crucial project, and you are worried about it and it's just left to die, I understand that. But, I can tell you that I have a real time with making that change, I mean, significant. Maybe it's because it's recessionary times for one thing, but telling someone that they have to spend money -- money that may not even exist -- because the appropriation doesn't mean that there's cash to match it, okay? Appropriation means yes, we appropriate money, it doesn't mean the money is sitting over there, it's not equivalent. And, to say to someone, you must go spend money, if we tell you you must go spend money, to me, I just really have a significant problem with that -- the whole concept of it -- saying that they have to go and spend money, money that may not even exist...that may necessitate other action, such as raising the...well how are we going to get this money, well let's go raise taxes, or something. I mean, to say you must find this money, and you must go spend it right now, when the administrator that's elected feels that is not a good idea at that time... The whole concept is extremely scary to me, and maybe it is because we are in a recession right now, but I find it very hard to tell somebody they have to spend money that they think it is a bad time, as the administrator for the county, to spend. I think if it's a significant project of major importance and crucial, they would get so much flack for not taking care of the county at that point, that you have a channel, to me, if it's of major importance or a crucial thing. You know I've always been either a registered Democrat or middle of the road, but I've found whatever Republican leanings, and I mean this in the sense of money spending, okay? Whatever leanings I have coming out when somebody proposes something that says someone must go spend money, that they think's a bad idea and must come up with this money, that they think is a very bad idea for other economic reasons to be spent. So, I see the balance, I see the 'hey, two-thirds of the council thinks this is

Wright: (Continued) important for this money to be spent,' I can understand it but at the same time I find it very difficult to tell somebody you must go spend a bunch of money that you may not even have. And boy, it really bothers me... And when I read...and maybe I'm missing something and I need to go back and read it again, Al, but when I read what like Alice had to say, I didn't see any significant justification for it except that we want to be able to force her to spend it if we want to be able to. I didn't see an example of...I wish there would have been something of where she thought she could provide an example of something really significant that happened, or where this could happen where it would have significant impact on the county and they would not be able to function, you know, because of this. But to me, I had...it just went against the grain completely.

Cockett: Are we referring to Committee C's minutes? Alice..

Wright: I don't know which minutes, I just remember where she came...

Chair Nakasone: Yeah.

Fabrao: I was just going to tie that in to that meeting.

Sparks: That's okay, it's relevant to the topic.

Wright: Because it was; that's what she was talking about is this forcing of spending appropriations, and...

Takabuki: Right; yeah.

Cockett: The reason I brought it up, because we weren't at logger-heads but we're still trying to get to the bottom of that, in her [referring to Anne's Committee C] committee.

Wright: Oh, okay, well that might help, because see that's when I saw this in here I thought, you know, what I've read so far...I couldn't see any significant reason or need given as to why did they think that they had to have that. And, there may be a significant reason, but from what I read I couldn't tell what the whole point was of that, and, you know, we've got bad times right now and worse coming, I think, before the end of the year...so I really feel worried about telling people that they can force somebody else to spend money that they don't think is a good idea, you know, so I get worried about that kind of stuff.

Chair Nakasone: Yeah, that should be discussed some more in Anne's committee.

Cockett: Be sure you get a draft of this...Anne, can you get a draft of what we just went over this afternoon? It's important and I think it's right down that alley.

Sparks: I recall in our meeting that Anne agreed that this is the place, if we want to do some kind of provision, and it probably should be done, right?

Takabuki: I gave that a little more thought because I was going through the budget provisions in preparation for today, and another thought I had was not so much to require the mayor to spend because there will be times, like you say, Deborah, when it's not appropriate to spend. But, I think the other half of the problem is that sometimes there are projects in which money's tied up, and the council can't get back to that money and put it somewhere else. I mean, that was also a concern...that the money's tied up and the mayor doesn't intend to spend it, but then fine, let the council put it in another project or priority status. So, my thought in looking at this issue again from a different perspective, is maybe looking at the abandonment procedures or some kind of procedure where the mayor, if she's not going to follow through or go do the project, that the funds somehow become released...more of a release mechanism, as opposed to a forced spending.

Wright: Okay, so you're talking about funds that not only have been appropriated but actually allocated.

Takabuki: Appropriated...allocated, it's...

Wright: Well it's not the same thing, you know, whether or not the cash is actually there...sometimes things are appropriated, but that does not mean that they have been...

Takabuki: Well we don't have a real allocation procedure like the state...

Wright: Well it's a budget at some point...

Takabuki: It's in the budget...

Chair Nakasone: It's appropriated, yeah.

Takabuki: Right. It's appropriated...

Wright: I understand, but...well the two aren't always the same word...

Takabuki: True, and if you don't have enough money, yeah, then it becomes a question whether the funds that are there are allocated...

Wright: I agree; that's what I was saying. If you have the money already sitting there, and like you are saying...it's being abandoned, because the money's there, it's already been budgeted, and if for some reason the project is abandoned, what do you do with that money...okay. I just wanted to make sure I understood what you were talking about.

Chair Nakasone: Jamie.

Woodburn: I the abandonability of the funds is an issue, there could always be a proviso put in there that...relative to...that the funds be appropriated and expended to the extent available, or that resources are available. I don't think the issue is here spend it, because we said you have to spend it and go raise it if you don't have enough. But, the other point that you raised is if for whatever reason the project is abandoned,

Woodburn: (Continued) there needs to be a recourse mechanism for those funds to be channeled some place else.

Chair Nakasone: Sherri.

Dodson: Is there some kind of...

Wright: Back to tax payer...

Cockett: One dollar?

Wright: I don't care; one dollar to everybody is better than money just spent to be spent, I mean...

Chair Nakasone: Okay, Sherri...you have the floor.

Dodson: Is there some reason for lapsing funds? I don't know that much about it myself...

Wright: Yeah.

Fabrao: Yeah.

Takabuki: There is a provision.

Dodson: And what happens to that stuff that isn't spent right now?

Takabuki: It goes back into the general fund...

Chair Nakasone: General fund.

Takabuki: ...if it lapses as a matter of course of time, right?

Dodson: And then it can be reapp....

Takabuki: But in this other, there's an action by the mayor where she can abandon, and then...

Dodson: But then wouldn't it eventually lapse?

Takabuki: It would eventually lapse but I guess the problem is, you know, sometimes the money will just sit there, and eighteen months perhaps, for CIP, right?

Dodson: That's the period? Eighteen months? That's what I was trying to get at. So, if the money is not spent and she abandons it, and she doesn't... Was that the purpose of the eighteen month lapse thing? So that she has to get on it if she is going to get on it, or he, within that eighteen month period?

Takabuki: Or else come back to the council and rejustify it; yeah, that's the purpose for that.

Chair Nakasone: A1.

Sparks: I can see Debbie's point about the money not being there. I think traditionally that's why executives, like at the state level, have the allocation power, right? It's delegated to them because nobody knows for sure whether the revenues are going to be there when it comes time to spend something, and that's the only way to handle that. For me, the major issue though, and Bob was the one that convinced me of this, is that the legislative side...the council...is the policy making body, right? Now the mayor is also involved in policy, but they certainly have a dominant policy-making role. If their policy is that x amount of millions should be spent on this project, and the mayor's policy preferences aren't that, and the mayor has the authority to just sit there and not do anything with their appropriations, that doesn't seem like you've given them much teeth to the policy making body. You've given it all to the mayor, who's supposed to be administrative as well as involved in the policy making. So, I don't know if there's a fix for it, but that concerns me, if the policy intentions of the council are just that easily frustrated by the executives.

Dodson: Debbie, didn't you address that though? That if there's a project that is that important, that would get the two-third vote by council anyway, the mayor would be cutting her own throat if she didn't appropriate it.

Wright: You know there is a difference between saying we should spend money because the council likes x,y and z, and we're going to let the sewage treatment go...too bad, everybody's got a major problem, we're not going to do anything about it...you know, that sort of thing that would tend to catch the public's attention.

Sparks: Well, you could argue all day that the mayor may be correct and the council may be wrong, but the theory is that the council should have some say on policy matters, even if they make stupid errors...

Yonenaka: Why? I think they have all the say in the policy because, hey, they formulate the budget; they can override the mayor on the budget. If they say we're going to spend \$5 million on this project, they can...they can appropriate...

Sparks: But right now, they can't always...

Chair Nakasone: They can't do it.

Yonenaka: Well no, what I'm saying is the money is there, you know...

Chair Nakasone: Yeah; that's it.

Yonenaka: They also have policy in the reverse; if the mayor says this is a project we'd like to do, it might not even get funded, so... It's a funny balance and you can't win. We can go and authorize the council to have the right to override the mayor -- in that case, we can eliminate the mayor. I mean, we've got to have some kind of balance somewhere down the line. It is the responsibility of the administration to run the county, the everyday operations; and I think, especially with expansion, there will

Yonenaka: (Continued) be times when you just don't have the manpower to do something. And, I'd hate to be...for that to be a political ball, because that's the problem of both sides, and somebody's going to shuck it.

Wright: That's interesting.

Yonenaka: And I don't...there has to be balances; it's never going to be perfect, and I think that's great. I'd rather have them arguing in public about it so we can understand more what's going on, instead of them saying well that's the bad person because we can't do this, this...you know. I don't know; it's a funny balance and I think it's okay. I don't see a problem with it.

Chair Nakasone: Debbie.

Wright: Are you going to...you said you're still looking into this though; are you going to have a further report to give us, or something? [Question was directed to Anne Takabuki]

Takabuki: No...They are related, but different issues...

Wright: Oh, okay.

Takabuki: Yeah, because on the one hand, you know, we were talking about requiring the mayor to spend for certain priorities of the council; on the other hand, on the abandonment idea we talked about releasing funds that are otherwise going to be spent, so the council can put it back into certain priorities.

Dodson: So which one are you guys handling?

Takabuki: Well, in my chapter it's that abandonment and...

Dodson: Okay, okay.

Takabuki: And the release of funds; and, I guess, under A1's section, we still would deal with that other issue.

Chair Nakasone: Well, the chair brought this up, I think, on the basis of, I guess, my experience dealing with two administrations. But the real question is, I think, really is what kind of Charter we have to begin with. If it's a strong mayor Charter, then you really don't have a policy making body in terms of the council. Talk about checks and balances, where are, really, the checks and balances in terms of administration and the policy making body really? They look at the budget as just one item only, which is a major item, but they give the council the power of override by two-thirds vote of the council... Initially they start with a balanced budget; there's nothing that they overspend, you know; you have estimated revenues, you have operating expense, you have capital improvements. A lot of the capital improvements are done through a bond issue, okay? So, the question is to begin with you start with a balanced budget; now the mayor submits her budget to the council, they're the policy making body; they establish a policy and what should be done -- they can agree with the mayor, or disagree with the mayor. So, they can amend/delete items on the proposed budget; when they submit that final budget to the mayor, she can either

Chair Nakasone: (Continued) sign it, veto or don't sign it and let it pass without her signature. But the thing is, if they pull her CIP out, and council wants certain CIPs which they consider priority, which is a policy making decision; by this Charter, she can lapse all those funds, she don't have to release those funds. So, the chair recommended that, you know it seemed to me that some kind of recourse that the council should have in regards to if the mayor decides against council's CIP. She can line item veto on the budgets that she feels she disagrees with the council. But, if the council has the votes of two-thirds, they are reversing that veto saying those projects stays. Now somehow that...even if they override the veto, the mayor can lapse the funds, you know; there's no recourse for the council to take. If she disagrees, she'll lapse it...or whoever the mayor is...it will happen to any administration. So, the checks and balances...I don't know what it is, really, if you consider the council as the policy making body. I can identify [with] what Debbie says...when you don't have the funds, you can't spend, okay? But the budget requires a balanced budget.

But, that's why I'm concerned that somehow the council needs some kind of recourse -- it's not a forcing the administration to do it, but at least you can get some of the politics out of it. Another thing is you have a four year term to a two year term -- mayor to council, and that's politics involved too.

Dolores.

Fabrao: I think that it would be in Committee C's...this is just what I read in our last meeting...that when the funds are abandoned, for whatever reason, that we could write it into the Charter in certain language that then the council could use the monies for their projects. We could write it in like that and then those funds could be used, if they're already in...

Dodson: You guys are going to bring that up in your committee report, yeah?

Fabrao: Yeah, yeah well say this...I mean if you...if what you're saying is that the council does not have any kind of recourse to use the monies that have been abandoned, or you know...

Chair Nakasone: Well, in the question of abandonment, the administrator has to certify to the effect that funds are available. If she refuses to certify, no money can be appropriated...

Fabrao: We're addressing that also to the Committee C.

Takabuki: We're looking at that package, too.

Chair Nakasone: Al, question?

Sparks: I wanted to part answer your question. I think the way it is now, the council does have substantial policy making power, but it's more on the positive...or negative form, let's say. They can not pass something that the mayor wants; so that's a real check on the mayor's policy priorities, that's a lot of policy making power. But, what we are talking about here is that case where the council wants something and the mayor doesn't, in terms of the spending; and the council doesn't seem to have a way of requiring that it get done. So, it does seem to me like it's

Sparks: (Continued) a little skewed against the council in that case; a little too much skewed -- two-thirds of the council... The wording, incidentally, is very interesting right now. It says in case of a veto, the mayor shall append to the bill at the time of signing it a statement of the items, or portions thereof for which the mayor objects, the reasons therefore and the items the portions therefore so vetoed shall not take effect UNLESS passed notwithstanding the mayor's veto. Each item so vetoed may be reconsidered by the council in the same manner as bills that have been disapproved by the mayor. In other words, a two-thirds... That seems to make it clear that then if the two-thirds vote overrides the veto, that those items in the budget are still law, they are still part of the budget.

Chair Nakasone: Correct; that's it.

Sparks: And yet when I checked a little longer through the lawyers and the experienced people, that doesn't...there's nothing to keep the mayor from lapsing in anything. Except there must be, if somebody wanted to challenge it in court, the possibility of going after the mayor -- in court -- for not following the Charter. What do you think?

Fabrao: So, that's difficult...

Wright: No...well, what I was going to say is that this isn't unique to this particular governmental body. I mean, they had a problem with the President refusing to spend funds; they had the same sorts of things that happen, and it requires a... They've had those problems before where the President says fine, you passed it, it doesn't mean I'm spending it, okay? And so, at the highest level, they had the same type of provision which means you can pass the funds, it doesn't necessarily mean... Now in some instances he has been forced to spend the funds; in other instances, not...but I don't think that legally...

Sparks: How did they force him?

Wright: I'd have to go research, I don't remember how they did it, to tell you the truth, but I don't think...

Sparks: That's our problem...how do we force them to do it?

Wright: Well, it's probably judicial interpretation, or something like that, but I don't think that it necessarily implies that the mayor, whoever that is, would have to spend those funds...because even at the federal government level it has not meant that the President has to spend appropriated funds, you know. Because they've had that before where they've said great, you pass it...you override my veto, and I'm still not spending the money. So I'm saying it's not unique to this situation, that type of language or that type of wording. But, what I don't know, and what I don't remember is how in instances he has, or the President has or has not been required to spend funds; but I know a lot of times he doesn't... he doesn't spend them, and that's tough, you know. But, I don't know; I think there have been instances where he has been required to spend them and, to tell you the truth, Al, I don't remember now how that came about, or what was the interpretation that caused that.

Chair Nakasone: That would be good information though.

Wright: Yeah, but I just realized that that is at the highest level, too.

Sparks: I'm a little leery about taking our model from the federal level...they spend what they're not supposed to...

Chair Nakasone: The chair just wanted to make a comment about...

Sparks: We can solve this issue down here...

Woodburn: Maybe we can go down to the state level...

Wright: All I was going to say, Al, was I thought maybe you were saying that this is unique language, or a unique problem, and it really isn't; I mean, that happens at other levels.

Sparks: No, no...I understand.

Chair Nakasone: Dolores has the floor.

Fabrao: I think part of the solution could be expressed in the lapsing of the abandonment...

Takabuki: But see, abandonment is discretionary right now, okay? He or she, whoever the mayor is, wouldn't have to, at any particular time, decide whether he or she is going to abandon. So, you'd have to put something in there that triggers that decision...

Fabrao: Yeah...so that's like a time limit; like a time limit -- eighteen months...

Takabuki: We know the outside is eighteen months, but somewhere in between, I think, is where the council wants to know...

Fabrao: Yeah, that's why we can address it.

Sparks: You know, I'm right back at square one. I still see that there might be something that we'd like to do here, but I have no clue as to what it could be...in terms of what the kind of wording...

Dodson: It would be a good thing to think about it again...

Chair Nakasone: Yeah, let's toss around about this a little more. Just one comment the chair wants to make. When you talk about the federal level and the President...we're not in the same deficit spending situation...

Takabuki: Thank heavens!

Fabrao: Those folks are spending the appropriations that are not even there.

Chair Nakasone: Okay, Article 5...no comments? Article 6 -- no change...

Sparks: 6-2 is the one that we dealt with the last time with Paul Mancini here.

Chair Nakasone: We took action on this also, right?

Sparks: I think I summarized the substance of what we're recommending there accurately, but maybe somebody can correct me...

Chair Nakasone: Okay, questions on 6-2? 6-3 -- no change. Article 7 -- you have one recommendation, okay.

Sparks: That makes the mayor's terms as same as the council's -- to change it to the first working day in December.

Chair Nakasone: Okay.

Sparks: Thank you for signing this...damn, I didn't expect a gift...eight signatures on this report, but then I guess it wasn't...

Dodson: It doesn't mean that they agree with you, Al...

Chair Nakasone: So, we'll defer the next two items that deals with Committees B and C.

Takabuki: Excuse me, Mr. Chair, if you do want to talk about certain items we can... There were a couple of items that we did defer for further discussion...it's up to you whether you want to go into it today. And, we will probably have recommendations for about 15 on the budget.

Chair Nakasone: How about next week? Will you be ready next week?

Takabuki: Yeah, well as far as Article 9, we can be ready...but there are two or three items that still need to be discussed.

Chair Nakasone: You have a meeting before the commission?

Takabuki: Right now we want the full commission... There were only three of us, that's why it was a little bit hard to get into some of these areas like the biennial budget and the abandonment issue; we brought it up, we talked about it, but we know it's very complex so... Either our sub-committee can meet again before we refer anything to this commission...

Chair Nakasone: Yeah, could you meet before?

Takabuki: Before next week?

Chair Nakasone: Yeah.

Cockett: You want to move up to 2:00?

Fabrao: We can move 2:00.

Takabuki: I can go at 2:00 and then you'll go at 3:00?

CHARTER COMMISSION MEETING MINUTES
APRIL 30, 1992 - COUNCIL MEETING ROOM
Page 28

Cockett: 3:00, yeah.

Takabuki: Okay, 2:00.

Chair Nakasone: Okay, Jim?

Cockett: I've circulated this one...Committee B, and I just thought if everybody would take a copy of this...it's just reference material here about what we discussed, and it's all in the minutes...

Dodson: Are you going to do it on a formal committee report? Those amendments?

Cockett: I need help on that; who can help me in doing it like hers?

Dodson: Al?

Takabuki: I'll help; do you need it by next week?

Dodson: Yeah. Al's finished with his...he'll help you...

Cockett: Who will?

Dodson: Al will.

Sparks: Help?

Takabuki: I'll help you...

Sparks: I've got reports at the college level that are my next hurdle...

Chair Nakasone: Dolores, you have a comment?

Fabrao: I just wanted to...I was looking over...

Cockett: Wait, let me finish this... But anyway, everything that we discussed is in here...

Fabrao: Except one...

Cockett: Well, is it under 8? Which one is that?

Fabrao: Under 8, Lanai Planning Commission...you don't have that mentioned, sir...

Chair Nakasone: Was it discussed?

Fabrao: It was discussed...quite a bit...

Cockett: But you were coming in with a formal proposal, you said.

Fabrao: That was just last week, but we had talked about it a long time ago.

Chair Nakasone: We had a Communication from Councilman Hokama in reference to a Planning Commission for the island of Lanai.

Cockett: Okay. Well I'm glad...if you see anything in there that I've missed, or you want to add, just make a note and we'll discuss it, okay?

Chair Nakasone: So let's defer the two committees until next week. We do have a report from Committee B, so we can go over that next week. And, look at the recommendations of Committee A also for further discussion.

Sparks: Are we voting finally?

Chair Nakasone: Pardon?

Fabrao: We're going to vote next week, yeah?

Chair Nakasone: Next week...possibly. So, no further discussion; nothing on the agenda. Meeting adjourned.

[NOTE: No time was dictated on the tape for adjournment.]

ACCEPTED:

Robert Nakasone, Chairman Date