

CHARTER COMMISSION
MEETING MINUTES
MAY 28, 1992
COUNCIL COMMITTEE ROOM

PRESENT

James Cockett
Dolores Fabrao
Annette Mondoy
Robert Nakasone (Chairman)
Victor Reyes
Allan Sparks
Anne Takabuki
Jamie Woodburn
Lloyd Yonenaka
Susan Nakano-Ruidas (Staff)

EXCUSED

Sherrilee Dodson (Vice Chairman)
Deborah Wright

GUESTS

Georgina Kawamura
Dave DeLeon
Ken Fukuoka
Alice Lee

I. CALL TO ORDER

Chair Nakasone noted a quorum present and called the meeting to order at 4:06 p.m.

II. PUBLIC TESTIMONY

None.

III. APPROVAL OF MINUTES

The minutes of the May 21, 1992 Charter Commission meeting were approved as circulated.

IV. COMMUNICATIONS

A. COMMITTEE C REPORT - DISCUSSION OF ARTICLES 9 THROUGH 15

1. Georgina Kawamura, Budget Director, spoke to Committee C's report as it pertains to financial procedures for Article 9 of the Charter.

Kawamura: I will speak only on those recommendations which raise concern for us, as we do support all others that were referred for approval. As I mention the item number, the item number comes directly from the [Committee C] report.

The first item is number 5 [REFERENCE: Page 2, Capital Program; Scope; Council Action] regarding Section 9-6. The annual budget process for the administration is lengthy and grueling; many hours go into preparing a spending plan that reacts to the community's needs and plans for the future. Once the budget is passed, wheels start to turn and our departments move into full gear to implement these plans; this includes hiring personnel, preparing projects scopes, hiring consultants, etc. For all of this to suddenly change because priorities have shifted would be detrimental to our process and to the efficient delivery of public services. We suggest, perhaps, that the council could be given a longer review period to allow more in-depth study of the capital program as we have suggested/proposed for the next year, and hopefully eliminate the need for changes in priorities. However, we do recognize that there are instances where projects can not be done because of unforeseen problems such as land acquisition; it takes a while to do that. In such instances, accommodations can be made to shift the money to other projects. These new projects, of course, should have high priority justifications.

The next item is number 8 [REFERENCE: Page 3, Appropriations and Changes] regarding Section 9-9. Historically, our revenue estimates have been very conservative, and there are instances where actual revenues exceed the estimates. We use these revenues for a supplemental budget request, which requires the council's review and approval. We certify only the amount that is necessary, and not what is available. What is not used is held then for the next year's budget. We view the supplemental process as a means of

Kawamura: (Continued) providing items that are of an emergency nature, or items that would cost substantially more if we waited for the annual budget cycle. If we are required to certify revenues on a periodic basis, we feel it would lend itself to constant tinkering with what is supposed to be a well thought out annual spending plan.

Item number 9 regarding appropriations [REFERENCE: page 3, Section 9-10 Appropriations Reduction and Transfer] we assume pertains to each branch's operating budget, and we agree that the council should initiate changes to the legislative branch's operating budget. Once again, we maintain that initiations for changes to the capital program should remain the same.

Our next item is number 11 [REFERENCE: page 4, Appropriations Reduction and Transfer] and this has to do with the proposal to allow transfers between the legislative and executive branch. And my note there, I guess we would prefer to see how the actual language is stated, as far as what the change is, and then be better able to comment on it because we are just not clear now as to how or what would actually be the change there. And, one note is also if transfers between the legislative and executive branch should remain done by ordinance; because you have a proposal of transfers between departments allowed by resolution -- and we appreciate that, thank you very much.

Item number 13 [REFERENCE: page 4, Appropriations Reduction and Transfer] is to allow for the reduction of an appropriation to pay an indebtedness, if the indebtedness is not in existence. And again, we have a note; we're just asking for clarification on that issue and what the new language would look like, and we'd like an opportunity to look at that at that time.

Item number 15 [REFERENCE: page 4, Lapse of Appropriations] pertaining to abandonment procedures -- allow me to share a new procedure that actually the council doesn't even know about -- that we've just recently implemented, regarding capital improvements projects. About a month ago, our CIP coordinator went through the entire CIP list for the current fiscal year and identified those that have not had much activity. And I think this has been a concern, for many years now on the council's end, as far as projects not moving. We've already identified these, and we've already sent out the list to the departments telling them that "if you are not going to spend these funds, we're going to lapse them. So, prove to us that you are going to spend it before December 31." There was an appeal process on behalf of the departments; again, they had to rejustify to us that they will get it done, because the message to them was if they were not going to do it, "we're going to lapse it, and you're not going to have that project." What we are then doing is...with those funds, we are planning to submit to council, very shortly, our recommendations for reappropriating the funds. Once again, I think that will, hopefully, be a step in the direction of resolving our problems in the past years as far as the council feeling that we're not moving on a lot of the projects. Some of it is because there is just no way that they'll get to it, be it manpower, be it some quirks come into a particular project; but, we're not going to let the money sit there until December any more. We figure twelve months is an ample amount of time for them to at least have initiated a lot of work on the project; and if it hasn't been initiated, then we're going to lapse it early. So, I hope that perhaps that step by us will resolve that situation of concern with the council.

And going on further regarding this section on abandonment, we're just asking again for clarification on what is to be accomplished by the proposal; and, at what intervals would we be required to notify the council regarding abandonment.

And, the last item is item number 18 [REFERENCE: page 5, new section proposal] regarding an operating plan that has to be submitted with the budget. And, I guess our concerns are specifics basically, and what will be the format, how specific will the plan need to be, and a little bit more discussion on this item will be appreciated.

That's all the items we'd like to comment on; I don't know if you were going to discuss your report later on in your agenda.

Chair Nakasone: Any questions? Just a comment, Georgina, or question maybe; what is your carry-over savings as far as this fiscal year's budget? What is the percentage out of the gross revenues?

Kawamura: For fiscal year 1993? That is to go into effect July 1; our carry-over savings is about \$20 million. The total budget ended up to be \$180 million.

Chair Nakasone: That is a savings from not spending or is that...

Kawamura: I think it's a combination; carry-over savings is always our revenue estimates come...again, our revenue estimates are always conservative, so the actual revenues coming in from real property taxes or other sources come in more than we have actually estimated it. It also comes from lapsing CIP projects, operational expenses that were less than we had budgeted for...that counts into carry-over savings also.

Chair Nakasone: Does council have a breakdown of total carry-over savings?

Kawamura: Yes; when we go through a budget review with them, they actually ask what is it...where did all this carry-over savings come from, what are the different factors -- and we do provide it for them.

Chair Nakasone: I guess the reason for informing the council, as far as certification of revenues in excess of your estimate, would probably be to identify that percentage of ...that \$20 million which is from a prior year, and somehow possibly some projects that could have been or taken place within that fiscal year... For example, abandonment is another concern, right? Let's say if...now you change your procedures of informing the council of this question of abandoning projects, and if you can determine that in twelve months...within twelve months, then you really don't have to do it right now. Or, would it be fair for you when you inform the council within the twelve month period what projects you have abandoned?

Kawamura: Yes; I think we've recognized that twelve months is a fair amount of time for the departments to be working on a particular CIP project. And, as I said, if there's not much activity then there's no way, for whatever reason it is on a particular project -- and there are many, that they are not going to do it...so if that's the case, own up to it, basically. It's not that we want to penalize them for not getting it done, because sometimes if they are so crushed into a time period to finish it, it sometimes doesn't get done well and some things are overlooked. So, we would rather that they own up, recognize that we're not going to finish this one particular project now, so lapse the funds. We may be lapsing it and reappropriating it into the next year's budget, which allows them...gives them a whole new cycle to work with, you know. Or, if there are other projects which have been recognized that come up, and there are, that need some starting funds...we'll do that too. It's a combination of both things, I think, that we will propose to the council when we send down our recommendations.

Chair Nakasone: Wasn't it recently that the council questioned the policy of administration with regards to when you set up your CIP program...that a lot of these departments do it in-house, and they recognize in-house costs; and from my understanding of what I read, is that they were criticizing administration of why not contracting these projects outside rather than, knowing they won't be done, why not contract outside...rather than trying to do in-house, because of the question of your manpower problems?

Mondoy: And end up doing it on a timely basis, if you contract it out.

Chair Nakasone: Yes; if you contract you know exactly the terms of how long it's going to take, because the thing runs out in eighteen months.

Kawamura: Yes; if I can respond to that, I would say 95% of our projects are done by outside consultants and engineers. However, although we do hire them to do construction drawings and develop scope for, and criteria and specifications for our bids, there's always an in-house person that has to run the project with them; you know, hand-in-hand kind of deal. And, it's not that we just give it out and they run with it on their own, but there's someone following it in-house to make sure that our needs are really met. So, you always have to have someone in-house to be on top of a project, also.

Takabuki: Looking at my notes on what you said, Georgina, and starting with number 5 [REFERENCE: page 2, Section 9-6 Capital Program; Scope; Council Action] -- you mentioned that you thought consideration might be given to a longer review time for the CIP program?

Kawamura: Yes, because you know, basically the council has two and a half months, and that's a pretty condensed period of time for them to review such a big spending plan. We have...I would say our work starts in October, Anne, and we have five months to go through it and develop that plan; whereas, they have a short time to review it. Perhaps, that's just a suggestion, maybe if they had a longer period of time then we all really buy into that spending plan that's being created for the next year. And then, perhaps, you'd limit the opportunities for priorities to be changed.

Takabuki: Okay; another matter you brought up on number 11 [REFERENCE: page 4, Section 9-10 Appropriations Reduction and Transfer] regarding the transfers between branches. To your knowledge, do you know where that probably existed?

Kawamura: Yes; in fact, someone asked me that before. I personally don't know of any instance that was a problem.

Takabuki: It's just my understanding that it arose from once incident where some monies from county wide costs...I think it was for salaries...had to be transferred to the legislative branch, right? I mean there was a time when it was lump sum, and because of your opinion that said you couldn't transfer between legislative and administration, that was an issue. But, do you know of any recent situations where that might be a problem?

Kawamura: Other than that salary issue, I don't know of any other.

Takabuki: So it's not an ongoing thing that comes up from time to time?

[KAWAMURA NONVERBALLY INDICATED NO.]

Takabuki: Okay; other than that, if I understand you correctly, the other changes are really to see language or to see clarification...

Kawamura: Yes; I guess before we can really comment, we would have to see what the change would actually...how it would actually read.

Takabuki: I have one more question. In the next year's budget, do you know roughly how big the CIP program is estimated to be? I don't know...they didn't pass it yet I guess, but...

Kawamura: The CIP totalled \$46 million. Our proposal was for it to be \$39 million.

Takabuki: And so, in the budget that's going to be proposed, does that include all of the mayor's as far as you know...appropriations for CIPs?

Kawamura: Yes; for that it's worked out real well, and we're thankful for that.

Reyes: The second largest item in the operating budget is that county wide item; what is a county wide item? What is it composed of aside from the individual departments... we were having a hard time last time...what is included in that county wide, and why can't you transfer it to the legislative... What is it?

Kawamura: Included in county wide expenses are all of your fringe benefits, of course; our FICA, social security, retirement system...those requirements for all of our employees; our interest and principal payments on our bond issues; those, of course, are the larger ones. Our insurance programs are included there; our self-insurance programs also, as far as any claims made against the county would be paid from that section; rental and facilities -- those are the big ticket items within county wide costs.

Chair Nakasone: Any other questions? If not, thank you very much, Georgina.

IV. COMMUNICATIONS

B. COMMITTEE A REPORT - CONTINUATION OF DISCUSSION

Sparks: I think there's only one item that we haven't dealt with, and it's also on Anne's report, if I'm not mistaken; and so, I don't know if we need to deal with it right now. That's the section dealing with council ordinances and resolutions...we may further want to discuss the provisions under 4-3 and 4-3.3. with regard to the issue of the mayor not spending appropriations passed by two-thirds of the council. We actually did discuss it last week when we were discussing Anne's report, so I'm not sure how we're going to handle it, but perhaps when we get to it in her report, we can just take it up at that time. That's my recommendation on how to proceed.

Chair Nakasone: You mean defer it to Committee C's report? [LAUGHTER] Okay, any questions on that recommendation? If none, then we'll discuss that in Committee C's report.

So, we're on Committee B's report; Jim...

C. COMMITTEE B REPORT - James Cockett, Chairman.

Cockett: We've had many discussions and many meetings regarding Committee B...and if I may, I'll just run down the list and you may interject or question any of these as we go along.

Chapter 1 - Department of Management; the committee recommendations were for no change.

Chair Nakasone: Any questions on Chapter 1? I have a question on that. I don't think the intent of this so called managing director (was) to be established as a department. I think the person works direct under the mayor; and what we are doing here is mandating that we create more personnel to create a department. And, I don't believe the creation of this managing director was intended to create a department.

Cockett: The reason we looked at it as a department was the fact that he has a staff.

Chair Nakasone: Yes, but he's directly under the mayor in terms of running the daily operations; and, you create executive assistants for the mayor and you're creating a department which is actually under the mayor. And to me, this is the creation of a depart-

Chair Nakasone: (Continued) ment; basically, I think this belongs under the supervision of the mayor.

Cockett: As we reviewed it, we just took it as what has been proposed in the past -- without any changes.

Sparks: This came up fifteen years ago, and the intent, as far as I can recall, was that there should be a managing director whose expertise is in managing, as a sort of compromise to the idea of the council manager form; you can have an elected mayor, but that expertise you could expect to get if you had a hired professional manager...you could get some of that with a managing director. So, we wanted something like that. As I recall, we didn't write that in there like that, but there wasn't any other category to fit it under, so I think it got cleaned up along the way and put in as a department, because... how else would you do it? Is there any other kind of position that you could create in the Charter? I'm thinking that's how it probably ended up this way.

Chair Nakasone: I would say it would be under the Article 7.

Woodburn: It allows for necessary staff; couldn't you just define that as one of the necessary staff? Article 7 allows for necessary staff; couldn't the managing director be identified as necessary staff?

Chair Nakasone: You can add over there organization, as far as a managing director and necessary staff.

Yonenaka: What would be the purpose of moving it from where it is now to there?

Chair Nakasone: Well, maybe Al can explain that; fifteen years ago...

Yonenaka: No, I mean from making a change now from a department to just under the mayor.

Takabuki: One difference is going to be...right now, the employees of the department of management are civil service; so, by moving that over to the mayor's office, they would become fully appointed and not protected by civil service. But other than that, I think the functions can be the same.

Sparks: How many employees are we talking about here?

Takabuki: When I was there, I think it was about seven; and, it might be less now -- I'm not sure what the structure is.

Dave DeLeon: I think it's zero, right now.

Takabuki: Zero? You mean all the staff has been transferred?

Dave DeLeon: I think Linda is under the mayor's office.

Takabuki: Even CIP coordinator?

Ken Fukuoka: Let me just throw my two cents in; Linda, the secretary, I think is still in the department of management, as is the CIP coordinator; but everybody else has been...

Dave DeLeon: That's true; Linda's still civil service...

Takabuki: Well, Linda is not, right?

Fukuoka: Linda is not, by virtue of the fact that she's a private secretary.

Takabuki: So, there's maybe three employees in that department, is that right?

Dave DeLeon: If the managing director's considered an employee of the department.

Sparks: If there wasn't a department, and she appointed a managing director and that managing director needed a secretary...then they wouldn't be civil service, if they were just under the mayor's office? But they are if they're under what's called a department?

Takabuki: No; in this particular situation it's different because the category -- private secretary -- is a purely appointed position. So, it's a little different; and, that holds true for every department -- every department that has a private secretary, that person is appointed...not protected by civil service.

Chair Nakasone: Aside from that private secretary, under the department of management they'd be under the civil service provisions.

Takabuki: But a clerk-steno, the CIP coordinator...those people would be civil service, if they're still under the department of management.

Sparks: But, if there's no department of management then they're just kind of under the mayor...

Takabuki: Well, right now they're saying there's only three employees, and I guess, there's only one civil service employee -- that would be the CIP coordinator.

Sparks: And under this Charter, that person doesn't necessarily have to be designated under this department.

Takabuki: No; that's true.

Sparks: I don't ever recall us imagining it as a department with a lot of staff. I think most people had in their minds a person with maybe a secretary.

Yonenaka: Which is pretty much what it is...

Sparks: Which is pretty much what they are saying it is now; but by saying you have this department that needs to be staffed as a Charter item, then you're sort of assuring the population...that you have some professional management -- besides just an elected mayor -- supervising departments. I think that was the idea of having designated it in the Charter.

Chair Nakasone: As a department?

Sparks: But, you know, I don't think we did designate it as a department; but there were some legal wrangles around it -- whether it was a department or not -- after our Charter got passed. And, I think it was legally defined that way, clean up and just put into the Charter this way. I may be a little off base; there was some lack of definition, actually, for a while.

Cockett: Excuse me, Mr. Chairman; the previous administration had this as the Charter...

Takabuki: We were a department of about seven employees; but even in my mind, at that time, I always felt that one of two things should happen -- they should either increase the department and make it really a functioning and operating department, with say the budget staff which I had primary responsibility over; or, decide whether it comes under the mayor. I think it was sort of a real inbetween thing, with a small staff -- really we were functioning under the mayor; at least, that's how it was then. I don't know how it is now...it may be a little different... But, we were considered a department, and we had a small budget; but other than that, we did share a lot with the mayor as far as staff and resources, and all that.

Woodburn: Is your recommendation to make the change?

Chair Nakasone: Personally, my position is I don't really support this question of mandating departments and creating departments; I think the administration...the mayor should have an organization that determines what the needs are, and then establish departments accordingly. By Charter, I don't believe we should mandate departments...we create executive positions to do that...

Cockett: Say this was changed and she saw a need for a staff, because of certain situations that we don't know of at present; and if she wanted to have a staff for the managing director...how would she go about doing it? Must she go to the council for approval?

Chair Nakasone: She would designate by an appropriation request for manpower.

Cockett: But then approved by the council.

Chair Nakasone: Yes; as part of the budget, too.

Cockett: But still, the council would have last say.

Chair Nakasone: Through the budgeting process, whether they are going to fund or not fund the needs of that 'so called' department, right now.

Cockett: So basically, the council would have the last say.

Chair Nakasone: Yes.

Takabuki: They do right now; that's the way it is right now with any funding of positions.

Cockett: Yes, but I'm just saying you're taking this and putting it there to have control of it, is one way of doing it; or to leave as is because "it ain't broke."

[LAUGHTER]

Sparks: Bob's going to rue the day he ever spoke those words!

[LAUGHTER]

Fabrao: It's already in the Charter, and is there any real big problem with it though? Other than your perception that they probably could have gone the other way?

Takabuki: It's not...again, I think it's a philosophical type of thing; I think Bob is

Takabuki: (Continued) saying that the mayor should have certain discretion over how she decides to set up her structure, and it's not necessary that it be phrased or put in as a department. I don't know if the function of things would really change...

Sparks: I seem to remember that Linda, when she first got into office, deliberately chose not to find a managing director for a while; and that wasn't bothering anybody, was it, even though the Charter says there shall be a department there...

Chair Nakasone: But, the Charter requires her to...

Sparks: So eventually, she did...

Chair Nakasone: And according to this provision there shall be a department....

Sparks: And it also, in a sense then, requires the council to fund it; and so, if the general idea of having such a professional person in the county makes sense, by putting it there you guarantee that it happens. If it's just part of the necessary staff under the mayor's office, and the council decides that's not necessary, the county government and all its citizens may be deprived of it.

Cockett: Mr. Chairman, I'm thinking eight years down the road, too; when there is a change in things...progressing along the line here, that it might be something appropriate to have in the Charter.

Chair Nakasone: You mean mandating of a department?

Cockett: No, as written.

Takabuki: I would think that if a change were to be made and you would put it in the mayor's office, that there would be this principal assistant; I mean, you wouldn't just leave it wide open, because I agree with Al...I'm going to have to agree with him...this position is helpful and it's necessary for the proper functioning of the administration. So, I wouldn't want to see it disappear; but, if the idea is just to consolidate it, I think you would necessarily have to put there would be this principal aide to the mayor. I wouldn't want to take the chance that that would disappear.

Sparks: So under the office of the mayor, you maybe have a separate section that says there will be an assistant...a managing director.

Chair Nakasone: All I'm saying is...having that be under Article 7, rather than established as a county department.

Sparks: If that makes sense legally in drafting these things, I'm not opposed to that.

Fabrao: As long as it's not eliminated.

Chair Nakasone: No, it won't be eliminated; it's just a question of putting it in the right section of the Charter, that's all.

Reyes: I'd like to throw in something... If that is the direction, would somebody like a vice mayor be appropriate. Since, if you look at the succession, in the absence of the mayor the managing director acts as a mayor, and down the line... Would that take care of it, Al, as far as...

Sparks: Vice Mayor...managing director...why don't we just keep the language we've got?

Reyes: Vice mayor...if that department would be eliminated, that person comes under the mayor essentially performing the same functions of managing director, but now you have a place in the Charter...

Chair Nakasone: Is that an elected position, Victor? Is the vice mayor an elected position?

Reyes: The vice mayor? I would say so.

[LAUGHTER]

Sparks: I really kind of agree with Jimmy; it's not really that badly broken. But, I also sympathize with the fact that creating a department and leaving it open, and talking about necessary staff, you may create more administrators and bureaucracy than is actually necessary; it sounds like they had too much on their hands...if they got it up to seven, that was far beyond what I thought the office involved.

Cockett: I have just one more comment on this one; if that office was abused...by that I mean if they had a staff more than seven, like the previous administration, I'd be looking at why and what for; however, you mentioned it's down from seven to three, so I think the efficiency of that office should be...

Takabuki: I have to comment on that one...

[LAUGHTER]

Cockett: That's my point; maybe if it's that way, the new administration after the present mayor leaves office, there'll be a need of progression...the economy will blossom, and things will move forward quicker and faster and more efficient...they need a bigger staff than seven...

Takabuki: I just want to clarify something; there may have been about seven, but as I understand it, the clerical positions are still in the mayor's office; they were just transferred then, is that correct? It isn't that the bodies were cut and it's a different operation. It's just that the mayor saw fit to herself to move them over, and in doing so, she was able to make them appointed and subject to different rules, and compensation, and all that. So, in some ways it's more flexible; I don't know how she feels about it, but in some ways, it is more flexible to be under her office. The bodies didn't just go away; they're still there under her office.

Yonenaka: Well, if there's a resolution, let's vote; if not...then, next...

Chair Nakasone: Recess.

[LAUGHTER]

Cockett: We'll continue with the recommendation of Committee B, that there be no change in Chapter 1, Department of Managment. I propose that as a motion.

Reyes: I second.

Chair Nakasone: Discussion? I think we've already had discussion. [LAUGHTER] Shall we vote by roll call?

Takabuki:	Yes.
Fabrao:	Yes.
Mondoy:	Yes.
Reyes:	Yes.
Woodburn:	Yes.
Sparks:	Yes.
Cockett:	Yes.
Yonenaka:	Yes.
Nakasone:	No.

Sparks: It's a good thing there's nine of us! [LAUGHTER]

Chair Nakasone: Eight affirmative votes; motion carried. Next item.

Cockett: Chapter 2, Department of Corporation Counsel; here again, the recommendation was no change -- I so propose.

Fabrao: Second the motion.

Chair Nakasone: Recommendation...no change. As stated there [conflict] was resolved under [Article] 6-2... I believe we took action on that under A1's... Okay, discussion? All in favor? Objections? MOTION CARRIED.

Cockett: Chapter 3, Department of Prosecuting Attorney; 8-3.2. -- first sentence only -- conflict resolved under Article 6-2. Recommendation -- no change.

Chair Nakasone: Question on that proposed wording...that bracket means to delete.

Cockett: I believe under Chapter 3, 8-3.2. second sentence only was a change... currently reading as follows:

The prosecuting attorney shall be an attorney licensed to practice and in good standing before the Supreme Court of the State and shall have engaged in the practice of law in the State for at least three years.

I believe that change was...

Sparks: Just delete 'in the state.'

Cockett: Yes.

Chair Nakasone: Jim, I apologize; do you want to take action on Chapter 3, the first sentence? Where it's been recommended no change? I jumped to your second portion...

Cockett: Yes.

Chair Nakasone: Objections on that no change? Okay, unanimous; approved. Okay, on the second sentence only...

Cockett: Okay, the change there was to delete 'in the state' because the recommendation was any attorney with at least three years experience; and the recommendation was to accept proposed wording. I move that we accept the proposed wording.

Fabrao: I second it.

Chair Nakasone: The motion is to delete that [portion of the] second sentence which is bracketed, removing that 'in the state.' Discussion? We don't have a legal problem on this?

Sparks: My notes say we might have a legal problem with the way it is. Legally, why should you require them to practice three years in the state?

Cockett: I think that was the discussion, to remove that...

Yonenaka: But, if they're already licensed in the state...

Sparks: Licensed to practice in good standing before the Supreme Court of the state. What does that mean?

Fabrao: It means that you have to practice in this state...

Sparks: Pass this state's bar, right?

Takabuki: Yes, and a member of the bar in good standing.

Chair Nakasone: Further discussion? Objections? Motion carried.

Cockett: The next one is 8-3.3.a., currently reading as follows:
Appoints such deputy prosecuting attorneys and necessary staff as shall be authorized by the council.

The proposed wording:
a. Appoint such deputy prosecuting attorneys and necessary staff as shall be authorized by the council[.], to include investigators who shall have all the powers and privileges of a police officer of the county.

The recommendation is we accept the proposed wording; I so move.

Reyes: Second the motion.

Takabuki: I just have a question because maybe I missed something, but these investigators would have all the powers and privileges of a police officer; is that correct? I mean, they can act as a police officer?

Cockett/Fabrao: Yes. [Simultaneously]

Takabuki: They can arrest...they can do everything that a police officer can do?

Cockett: This was taken away by legislature; Honolulu had changed and put it in their Charter, and they wanted the same authority here.

Sparks: So, are we putting back in our Charter what was in state law until recently?

Takabuki: Is it exactly like this?

Cockett: It was removed by the state...

Sparks: Just exactly what was removed is the question.

Takabuki: I don't know; it just seems so broad...that's all I was concerned about. Those are quite extensive powers, and I thought the whole idea was to allow the investigators to serve processes and do other things; I didn't know it was to have all the powers of a

Takabuki: (Continued) police officer.

Fabrao: When he came and talked with us, he indicated that he was not...he didn't feel free to send his men or his people out there to investigate a case and not have those powers, because they could be also under danger from those people they come in contact with. And so, for me, when you do investigations and you do have some police power, but not the full authority to do that which you are empowered to do or supposed to do...it just doesn't seem right at all.

Takabuki: And I can see them having the powers to do a full and complete investigation as a police officer would, but when you say all the powers and privileges, I mean, that just sounds so broad; and I just didn't know if this was the real intent.

Sparks: Do you know what all the powers and privileges of a police officer are?

Takabuki: I imagine they're rather extensive... [LAUGHTER]

Sparks: I think they are referring to carrying a firearm; that's the main thing here.

Takabuki: I think there's privileged information...I mean, it could get pretty extensive. That's all I'm concerned about; maybe I'm thinking about it in too far reaching terms but it just sounds so broad.

Sparks: I'm sort of cautious like Anne; maybe it would be worth looking up the state law that we lost...

Chair Nakasone: Can we defer action on this?

Cockett: Yes; I was going to recommend that we defer action...

Dave DeLeon: Do you want me to see if there's any prosecutors in? For clarity's sake?

Sparks: Yes, maybe they could help us out and we could move on...

Fabrao: We spent quite a bit of time on that...

Sparks: It sounded logical when we talked to them before, but I don't think Anne was here...

Takabuki: I don't have a problem with the concept, but just seeing the actual language... when it says all powers, it sounds...

Cockett: It did come from them...

Chair Nakasone: Let's defer that question right now.

Cockett: We'll move on to Chapter 4, Department of Finance; 8-4.2. currently reads: The director of finance shall be appointed and may be removed by the mayor.

Proposed wording: The director of finance shall be appointed by the mayor with the approval of the council, and may be removed by the mayor with the approval of the council. This is what was proposed by the council in their recommendations.

In our discussions, there were certain pros and cons regarding some of the appointees; and the resolution was that no change would be implemented on this particular appointment. In other words, it would be as submitted in the previous Charter.

Sparks: Just to be clear, your recommendation is not to accept the proposed wording?

Cockett: That is correct; no change. Not to accept the recommendation of confirmation by the council; the committee proposed that that be no change. I so move that there be no change.

Sparks: Second.

Chair Nakasone: Second by Al; the motion is no change on the current status on the Charter provision, which is may be appointed by the mayor and may be removed by the mayor. Discussion?

Cockett: May I just add that we had a long discussion on this, too, regarding the balance of power; it was thought at that time during our discussions that we do have that balance of power -- the mayor has some appointees, and that the council would confirm the others.

Takabuki: Just another question here...what happened to the concern about reviewing qualifications? I think that was tied in to whether or not there should be this confirmation process; the concern being that there should be some minimum qualifications. Was that not proposed and discussed? I just want to know where it went...

Cockett: The discussion in the qualifications was in the area of whether the person has the background or the knowledge of being a finance director versus whether you do get some highly qualified person to accept the job at what the salary range is presently. Some of the discussions were what we pay them is not really the top type of a CPA that you would get into a position like this...

Chair Nakasone: I have concerns as far as... Does anybody have any discussion?

Sparks: After you state your concerns, we'll have discussion...I'm sure. [LAUGHTER]

Chair Nakasone: Okay; number one, I think what Anne is referring to is my comments about if we're not going to have a so called check and balance in terms of qualifications... I can see this confirmation process as a check, but I don't necessarily agree with the proposal saying...may be removed by the mayor with the approval of the council -- that is a hangup on the opposite side of removal. I would support the appointment with approval, but the mayor would be able to remove that department head at the mayor's will. I do support the same provision as the Big Island Charter; they go through a confirmation process. But, if you look at these provisions here, as far as the experience...that's why I'm concerned. Five years in private or public financial position -- that can be referred back to a bookkeeper...that would meet the minimum requirements.

Sparks: Three years of which have been in an administrative capacity...that's not a bookkeeper.

Chair Nakasone: Why? You could be a head bookkeeper...that's an administrative position, in charge of a bookkeeping department. But, that's what I'm concerned about...

Cockett: Can we defer this one? Again, until we come up with the qualifications as you had suggested?

Fabrao: Didn't we discuss this? Isn't it the qualifications of any position... I thought we discussed this and it's covered somewhere in the Charter regarding qualifications of

Fabrao: (Continued) people who are appointed or will be considered for these jobs... It seems that we're going around and around in circles about this.

Cockett: What was our concern was the fact that we did have the five years experience, we did have that three years of administrative; we accepted that as being formidable for this type of appointment. We took under consideration that it would be somebody with some "moxie" in the position that they are appointed to...

Fabrao: Yes.

Sparks: I agree with that position, but I was just trying to recall some of our earlier conversations; I think in Bob's concern earlier in our conversation, he was suggesting that there was some other way to guarantee high quality...high qualifications for this position. And, it would be a similar problem with public works, and so forth... And, you were suggesting maybe the civil service commission, or something like that? I'm trying to remember that conversation...set some standards and do some screening of people before...

Chair Nakasone: Right. Qualified...

Sparks: To declare that they'd be qualified... My memory is that conversation was interesting and went on for some time, but didn't really come to any good resolution, or any good new way of doing it, let's say.

Chair Nakasone: Jim, can I bring another example here? In Chapter 12, we talked about... what would be the minimum requirements and they emphasized the fact that it should be a captain or above, since you are dealing with a police chief; and, I understand the applications that were submitted for the job was lower than a captain...it was a lieutenant or a sergeant. So, that's the kind of concerns I have; I know a few terms back we had a finance director, was appointed, I think, came from corp counsel to finance director.

Takabuki: He was an attorney.

Chair Nakasone: Right; he's an attorney... That's the kind of things I'm concerned about. If you're looking at a department of finance, you should have some person that's qualified, experienced, and somehow we have to deal with...

Cockett: The hangup here is the qualification aspect of it?

Chair Nakasone: I'm really concerned about qualifications; whether it's through the confirmation process of the council, or whether we can identify and be more specific in terms of qualifications.

Fabrao: Maybe we could clarify this administrative capacity; maybe that could... You're referring to that Chapter 12...be appointed from captain and above... What would you put in there that would make it clearer than that three years experience should be in an administrative capacity as... What position? That's kind of broad, you know...

Sparks: Here's a suggestion for a very slight wording change; what we have now is virtually word-for-word the same as they have in the Honolulu Charter, except they say "shall have had a minimum of five years training or experience in public or private financial position, at least three years of which shall have been in a responsible administrative capacity," rather than just in an administrative capacity. [LAUGHTER]

Bob can cite the Hawaii Charter on these issues as far as confirmation by council; but, we can cite Kauai and Honolulu, and lots of other places, that don't do it

Sparks: (Continued) by council confirmation, and it doesn't seem that they do much more in terms of trying to define the minimum qualifications. Is it broken? I don't think so.

Chair Nakasone: Any further discussion?

Reyes: If I may add something...as I recall, as well, to put certain qualifications might limit the choice by any administration to appoint a qualified person to that position. If you put a certain minimum qualification...sometimes the diploma itself doesn't say that the person will be qualified. Number two, I guess there was also discussion, by subjecting the appointment to the council, it will drag on and it will have some effect on the functioning of, for example, a new administration to get on with the business of the county. I recall some discussion about that possibility of that long, drawn out confirmation process... So, because the Charter is based on a mayor who is...well, a strong mayor type of Charter... We had that discussion because it's a strong mayor, the mayor should have that prerogative to appoint the person he or she feels qualified for the position. If that appointment doesn't perform the job, it's her butt against the voters in the next election.

Chair Nakasone: Further discussion? Lloyd.

Yonenaka: Is there a motion on the floor?

Chair Nakasone: Yes; there's a motion on the floor.

Yonenaka: To accept the...

Chair Nakasone: No Change.

Yonenaka: I second.

Sparks: I did already. [LAUGHTER]

Takabuki: I just have one... If in voting for this no change, are we saying that we're not looking at the issue of qualifications? Because, I think the Chair's point is well taken; although, I myself, probably would not support confirmation of this particular department, I do think it's a valid concern. I guess my question is...is the issue dead on reviewing language pertaining to qualifications?

Chair Nakasone: Jim, are you recommending that you want to take a second look at the qualifications question?

Cockett: In the discussion portion I mentioned that, but Bob superseded me with an explanation that we should pursue the approval as the committee recommended...you mentioned that with your comparison with the other counties.

Sparks: The way I see it, and I think we had this conversation before, is you can be real precise in your minimum qualifications and sometimes that can be very frustrating. If some person doesn't have the precise number of years, and precisely the kind of experience you've spelled out, precisely the kind of degree that you've spelled out, and maybe still they could be the best person; so, you can frustrate yourself that way too. On the other hand, I can see Bob's point, where sometimes a real popular mayor can put all kinds of crone buddies that aren't really well qualified in, and the public doesn't pick up on it for a long time, but business drags. So, in my mind, it's a bit of a tension there -- how you do this; I guess I come down on the side of hoping that if the mayor

Sparks: (Continued) appoints incompetents, that the political process will take care of them in the long run.

Chair Nakasone: Well, that's four years of the mayor's term...

Sparks: I know, I know, I know...

Cockett: With all the communications we have...just reading about all the junkets... about not paying the bills in Honolulu, or taking the family to Japan... I mean, all of those things -- nothing gets hidden. I believe that if there's any malpractice here, it will surface immediately.

Chair Nakasone: Okay; any further discussion? Just one comment the Chair want's to make; this county is a multi-million dollar business, you're talking over \$180 million budget plus, and to me, I'd rather be safe than sorry to make sure that we do have qualified people to run the departments, rather than political patronage. That's my concern; if they are qualified -- fine, no arguments. But, before in the past, several administrations have used department heads as figureheads; the technicians were the deputies. As a council member, I did experience that; and, we did experience frustrations, too. That's my concern.

Sparks: As I said, I have certain sympathy with that; but, keep in mind that the patronage thing can tried to be played by council, too. And, it's like Victor was saying, you can get this appointment scene into being a political ball game going back and forth, with all these deals being made...and, this kind of cuts through that. I would like to see, if a poor appointment has been made, I would like to see the council use their investigative authority -- with the media watching -- to put the heat on what that department head is doing with that department...or not doing with that department, and play the game that way. And, they certainly have plenty of authority there, if they want to use it. And after a certain number of go arounds with the public watching the headlines, that should be a way of fixing a really bad situation, I would think. That's my preference.

Chair Nakasone: Any more discussion? Okay, ready for the question? Roll call...

Takabuki:	Yes.
Fabrao:	That's to recommend no change? Yes.
Mondoy:	Yes.
Reyes:	Yes.
Woodburn:	Yes.
Sparks:	Yes.
Cockett:	Yes.
Yonenaka:	Yes.
Nakasone:	No.

Motion carried.

Cockett: Chapter 4 -- 8-4.3.7. currently reads as follows:
Prepare and issue warrants.

Proposed wording would be: Prepare and issue warrants and checks. The recommendation is to accept proposed wording "and checks." The justification is this will allow a period of time for switching from issuing warrants to issuing checks. I recommend approval.

Mondoy: Second.

Chair Nakasone: Okay, the question is to approve the recommendation as stated. Discussion? Objections? Motion carried.

Cockett: Chapter 8-4.13. currently reads as follows:

Have custody of all official's surety bonds, except the surety bond of the director of finance, which shall be in the custody of the county clerk.

Proposed wording was left to the committee's discretion; the request was to somehow note that there is only one surety bond covering all.

The recommendation was no change; the justification for that was to leave it open for other finance director's to use more than one bond.

Sparks: That's a justification for the current wording?

Cockett: Yes.

Sparks: Oh, I see. Educate me...there can be more than one surety bond? Right now there is only one?

Takabuki: It's a blanket bond.

Sparks: But it doesn't always need to be in the future?

Takabuki: That's the way the insurance companies, or surety companies are issuing them now; they could change it, but the practice was blanket bonds.

Cockett: This was a recommendation from the finance director that it be changed.

Woodburn: Under the blanket bond policy, are all the individuals covered for the same amount? Or, can you specify...

Takabuki: I think it's one amount -- it's a large amount -- I can't remember what it was, but it's quite a large sum; I don't think they break it out, but I'm not positive.

Sparks: If we leave the wording the way it is, there's no great harm done, I guess, but it doesn't match what actually happens.

Woodburn: Well, the practice of the industry may change...

Takabuki: That's right.

Cockett: I recommend no change.

Sparks: Yes; I'll second.

Chair Nakasone: Second by Al; the motion is to recommend no change in 8-4.13. Discussion? Everybody sure what they are voting on? Any further discussion? Objections? If none, motion carried.

Cockett: Chapter 5, Department of Public Works; 8-5.2. currently reads as follows:
The director of public works shall be appointed and may be removed by the mayor.

Proposed wording: The director of public works shall be appointed by the mayor with the approval of the council, and may be removed by the mayor with the approval of the council.

The committee recommended no change.

Sparks: Before we get into that one, did I miss...did we approve that business about the warrants and checks?

Chair Nakasone: Yes.

Sparks: Okay; thank you.

Takabuki: Approved to not change...

Sparks: Sometimes Bob moves so fast I can't keep up with him; and other times he's
sooooooooooooooooo slowwwwwwwwwww.

[LAUGHTER]

Cockett: I propose no change.

Fabrao: I second the motion.

Chair Nakasone: Okay, the question is...recommendation is no change. Discussion? No
discussion? The Chairman's comment's are the same as the finance director's position.

Cockett: Yes, Mr. Chairman; okay, fine....

Chair Nakasone: Any further discussion? The Chair would like to state my position on that
also; I believe there is a need to recognize -- either by confirmation, or by establishing
a little more specific qualifications, or minimum requirements -- especially with the
department of public works, as with the department of finance.

Ready for the question? Okay, roll call...

Yonenaka: Yes.

Cockett: Yes.

Sparks: Yes.

Woodburn: Yes.

Reyes: Yes.

Mondoy: Yes.

Fabrao: Yes.

Takabuki: Yes.

Nakasone: No.

Motion carried.

Cockett: 8-5.3.3. currently reads as follows:

Supervise and maintain the county's highways, drainage and flood control
systems and sewer systems and maintain the county's buildings.

The proposed wording it to transfer the solid and liquid waste functions
to the newly proposed department of waste management. And, the recommendation is only if
the new department is created. That's where the hangup is because it has not been created.
However, the proposal is to recommend a department of waste management as proposed by the
council.

Yonenaka: Was this proposal supported by the department of public works?

Cockett: In our discussion with Mr. Kaya, we did bring this up; and, he saw no problems
except right now, with the crew he has, he works both sides of the street. That's his
function right now, however, the recommendation was because of the magnitude of the waste
water situation, and also the waste pits...rubbish pits by the EPA; it takes more of an
expert now to really ride herd on that department. As you recall seeing in the paper, there
are many problems that Maui's facing with regard to the EPA -- and also on Oahu -- and the
idea is to hopefully bring this under control with a new department.

Cockett: (Continued) The proposal is...the proposition is that they go forward and form this new division, or this department I should say. The recommendation is that we do, and I propose such.

Fabiao: I second the motion.

Chair Nakasone: Okay, second by Dolores; the motion is to create a new department of waste management. Discussion?

Woodburn: Is there anything that precludes the administration from doing that without Charter provision?

Yonenaka: Yes; they can't.

Takabuki: They can not...

Sparks: It seems to me that there used to be a provision that you could with the council's approvals -- create departments; but not any longer, is that right?

Chair Nakasone: They can create departments; there's a Charter provision in there...

Takabuki: But it has to be through the Charter.

Cockett: It was recommended by the council; they wanted their recommendation to the Charter Commission to establish this department.

Takabuki: It was one of those resolutions that was just carried over; and, I don't know that the council recommended it, but it was a carry over.

Chair Nakasone: Discussion? Jamie.

Woodburn: Was the response that the administration cannot create a department if it's not provided for in the Charter? Is that correct?

Takabuki: They can't.

Sparks: I think there was a provision like that at one time, but...

Chair Nakasone: They can... Short recess...

[MEETING RECONVENED]

Cockett: In reviewing this Chapter 5...by reading on, on page 3, under new department of waste management; here again, it's creating a new department. The recommendation was we refer this to the full commission for discussion. I propose that we do defer this to the full commission for discussion.

Chair Nakasone: Okay, just a note by the Chair that 8-5.4.1. is being deferred prior to the question of creating a new department of waste management.
Are you open to discussion on this?

Cockett: I thought we referred this to the full commission. I'm sorry, we have a quota. Yes, why don't we go ahead and discuss it.

Fabrao: I'd like to make several comments...under the present system, under the department of public works, we did have a lot of discussion on that; there's a lot of work to be done by public works with the same staff that they have to cover regular work, as well as the management of liquid and solid wastes. So therefore, if we are not of the mind to create a new department, at least have a subdivision under public works with the staffing and the management to do that other extra stuff that they need to do -- so that the regular public works will not be overburdened.

Woodburn: I concur with the recommendation to maybe create it as a division within public works, and then put the onus on public works to make the arguments to council with respect to funding requirements. When George testified, I didn't get the feeling that he was pushing for a new department; I think his complaint was that he was just overwhelmed with the amount of work and the lack of manpower. If it's a different division, then he can make his arguments for additional funds and let council consider it.

Yonenaka: To make it a division...how would that work?

Chair Nakasone: Internal organization.

Yonenaka: Okay; so they can do it without Charter amendment. or anything...

Takabuki: It is a division...actually not waste management; it's solid waste, waste water, reclamation, and so forth...there are five divisions.

Reyes: I'm of the opinion that maybe we should go ahead and form a new department for a number of reasons, but basically I believe that we wouldn't be in the mess we're in right now, if there was a full functioning waste management division. Right now we're doing a lot of catch up work in terms of everything that we've heard in the news, and just being aware of what's happening in the county; and because of the lack of infrastructure, housing is delayed, the major needs of the county are being bottlenecked. I believe that if we are really going to do a good job for the county, we have to have a full functioning department of waste management. It's a concern about the environment, the way of life, the quality of life and it's catching up with us. It's something that if we recognize the present situation, I think we'd be doing the county good if we have a new department of waste management. My only concern is the director's recommendation that if you have to have a liquid...he feels that the liquid should be under the department of water supply because of...they're two of the same substances... Under the current situation, I would probably be as much concerned about that as a public health issue... And, the lack of progress in that area, or the set back that we're all suffering right now...

Chair Nakasone: Any further comments? The Chair has some comments; again, I'm very cautious about creating departments. I don't know, Victor, if the waste and the water department might come up with a good solution to our water shortage...drinking water. [LAUGHTER] Anyway, I think I brought up this before with regards to establishing stronger divisions of a department; like a lot of cases existing now and in prior administration, most of the deputies were specialists in their fields. I certainly cannot see why you cannot create a strong division head -- several deputies in a department that would concentrate on solid waste, your highways, and so forth, when the need is there. When you need a specialist, I think there's justification for a deputy and to build up whatever manpower requirements are there. But again, to create another department, you know, I don't think it's going to speed up the efficiency of the county government in terms of providing the required infrastructures; I think it's just a question of having specialized people. Not necessarily creating a new department, but expanding the division's responsibilities and giving them the manpower to do the job.

Reyes: What I said was if we really need to do something, I'm willing to support that; but, I would have no objection...just like when we discussed housing...to put more emphasis on the word housing, under the human concern department. I would go along with emphasizing that we really need to have something like that, recognizing the department of public works.

Sparks: Let me say that I agree with both sides of this one, so I'm feeling a little mixed on it. I think that Victor has a point when he says a new department focuses a lot of attention on something that maybe should be focused on; so there may be something in that. On the other hand, creating new departments may unnecessarily create new expense, new positions, new desks and new offices, and all the rest of it... So, it seems to me the real issue is how do we get enough good manpower on these big issues...like liquid waste and solid waste. If we could do it by beefing up divisions in the public works department, I guess I would support that. I don't see how we do that with the Charter though. It seems to me that's more...at least customarily, that's been a thing where the administration decides that they need to do that, and they sell the case for it to the council and fund the positions that way. Is there something we can do in the Charter that encourages that to happen? I don't know what it is.

Cockett: I go along with your thinking, but my one concern is I'm very concerned about the pay scale of some of these people that you're looking for. The county, in my opinion, doesn't pay enough to get the experts.

Woodburn: That's consistent from the top all the way down.

Cockett: I'll say that from the top down, but you just don't pay enough.

Fabrao: I would like to say that it's not only the fact of beefing up the public works that would get the work done, but you need the expertise...because there's things with the EPA laws, OSHA regs and all that, department of health regulations...regarding the use of some of the...like reclaimable water, and it's not so easy for us to say that we can use that water to just put it back into public use to water vegetables or whatever, because they still need to be treated and all that; so you need the expertise to do that. In my original statement I said that if we were not in the mind to create a new department, that we should somehow address it so that those issues would be looked into.

Cockett: I'd be happy to rescind my proposal if you want to start anew.

Chair Nakasone: Well, you recommended to the full commission...

Sparks: That we discuss it, and we're discussing it.

Reyes: May I add one more thing? I think if we, again leaning on the side of a full department of waste management you have a direct accountability, rather than right now you have a division within the public works where if something goes wrong, you have one more person to be accountable to the mayor or to be answerable to the council; where if you have a full department of waste management, things can be taken care of in a timely manner and there's a point person.

Mondoy: I'm sorry; I understood it that it would be a person like a deputy, so that he would answer to the director.

Reyes: With a full department, there'd be a director; he's a director and he's directly responsible.

Mondoy: Say we beef up what we already have under public works, this deputy would be answerable to their director. So, that's the same thing, right?

Reyes: No. With a full director, the director is answerable to the council, to the mayor...there's no other layer in between. With a deputy, there's one person between the mayor and the deputy.

Sparks: The other point that was made previously that maybe we should bring up again, is when the public works director was here, he made the point that they can sometimes shift between divisions under the existing structure. If they need more manpower in highways, I suppose...

Woodburn: Refuse; and that was a plus.

Sparks: They move them around, and that was a plus for the system they have now, I guess; unless they abuse it, to the point where they actually should be hiring more people and aren't...just working a lot of overtime, or something. But, that seemed to be a plus for keeping the one department with a bunch of divisions.

Fabrao: Except that he also implied that in doing that, the workers that were taken to do this other job...that was all left behind; so we're always in the state of catch up.

Sparks: It sounded like they needed more people.

Fabrao: In fact, they needed them quite some time before.

Woodburn: I don't think those are Charter issues though. Those are management, departmental, divisional issues that need to be made...arguments need to be made to administration, and administrative arguments made to council, and have resolution at that. But, I don't believe that that's a Charter issue.

Chair Nakasone: Further discussion? The Chair would just like to make one recommendation with regards to how it can be addressed. If this Commission doesn't believe that we should create a new department of waste management, we'll need to identify in our Commission report that the concerns that this Commission has with regards to creating or why not creating a department, but rather to emphasize the need for having special, high level division heads...something in that manner.

Sparks: That would be one way to do it. I wonder if we could put a provision under here and say there shall be a deputy for...

Fabrao: That's one way of doing it. Otherwise, I believe that sometimes if you do just recommend something, the implication is that it's not so important, so that it can be layed over and talked about next time. And, I think waste management is such a critical issue nation wide...all over the world, in fact...that we should address it...somehow in the Charter.

Sparks: The other thought I have is it isn't immediately apparent to me how solid waste and liquid waste are that compatible, and why they should be lumped together. So, under the existing system, we have a solid waste division and a waste water division...

Cockett: Well, I can add one thing -- both are scrutinized by the EPA.

Chair Nakasone: Any more discussion? What's the pleasure of this Commission in regards

Chair Nakasone: (Continued) to creating a new department?

Sparks: From your legal angle, would there be any problem with putting there shall be a deputy for waste water and a deputy for solid waste, or something like that?

Takabuki: I don't think it's legally a problem to do that; but, it would just be treating one department very differently than all the rest. It's silent as far as...

Sparks: We haven't gotten to the others though... [LAUGHTER]

Takabuki: No, I don't see it as being a legal problem.

Sparks: Philosophically, I'm opposed to trying to do too much precision organizing through the Charter; but on the other hand, if you put it in the Charter, then it's kind of hard for them to ignore it.

Takabuki: I think Bob made a good point about putting some emphasis in the report that we felt it was such an important issue, that it should be addressed in this manner. Just make that kind of statement.

Cockett: Why don't we do that then?

Sparks: The problem with that is that it would go the way the cost of government has gone...

Woodburn: That's alright; the cost of government report is going to go okay, I think.

[LAUGHTER]

Sparks: I don't know; have you ever read one?

Woodburn: No; have you?

[LAUGHTER]

Sparks: Has anybody?

[LAUGHTER]

Fabrao: I would just like to make a comment...observation, maybe; liquid and solid waste is not only the rubbish that we accumulate from taking care of our needs at home, or the liquid water that comes from our toilets and stuff. It also has to do with hazardous waste that are being placed at different places, and we found out that maybe even on Lanai and the other islands, these wastes are being put...that are EPA regulated; so, if that's the kind of emphasis that they're putting on waste, I think we need to address it. I'm sorry, but it just has to be addressed somehow and more strongly than just a recommendation in a report.

Reyes: Would that be addressed if you change the title from the department of public works?

Chair Nakasone: I had a comment in regards to emphasizing the department title, and I think we've discussed this in another department with regards to the priorities or the immediate needs. And personally, I wouldn't object to changing the title.

Reyes: Is there a motion on the table yet?

Chair Nakasone: Nope.

Fabrao: Can we discuss it some more? Would changing the title then...it would place emphasis on waste management; would that not automatically get us the personnel that we need? Or, would that be addressed then as a follow up on normal...because just changing the title doesn't mean that the internal structure is going to change.

Chair Nakasone: No, it doesn't change the internal structure; but, it does emphasize concerns dealing with waste management then.

Fabrao: So, how do we get that issue of addressing the internal structure addressed?

Chair Nakasone: The only way I can see it is by doing it with our Commission's report. The reason for changing it to public works and waste management is to emphasize that public works...it's waste management also. And somehow, whether it's the administration or council, they would recognize what we have discussed with regards to the waste management question. It will just be another amendment to the Charter, and we have to define the reasons for changing the title...this would put a little more emphasis on the question of waste management.

Fabrao: My concern is that even if we change the title, and we do not address the issue at hand, and then it just doesn't make any sense to change the title. But if it's going to put emphasis on it to where it will be addressed, and follow that line of thought, and come to resolution for providing that kind of services to fill that need, I think it's okay. But other than that, it's just like making it in a report and it's just not going to do anything.

Sparks: My response to that is basically it's a PR move to heighten awareness of waste management, and there's no guarantees that the administration and the council will get wise and aggressive, and beef up those parts of public works by just changing the title. I think we want to be clear about that. On the other hand, I don't see a good way to solve this problem...this basic environmental problem in the Charter. I'm just not sure there's a good way to do it by creating departments and deputies, and all that sort of thing. I think we have to leave that up to our elected officials, myself.

Chair Nakasone: One comment...if we support this question of amending the department title, you know, this won't be hidden in a whole mess of a Commission report; it'll be our amendment, so it will be recognized and the intent of this Commission...why we amended that title was what we've discussed.

Reyes: I'd like to move that the title of Chapter 5 be changed from department of public works to the department of public works and waste management.

Cockett: I'll second.

Chair Nakasone: Second by Jim; discussion? If not, any objections? Motion carried.

Cockett: There's one more in this Chapter 5; 8-5.4.1. currently reads as follows: Hear and determine applications for variances from the strict application of any general plan, zoning, subdivision or building ordinances.

This is proposed by the council, if I recall; proposed wording: Hear and determine applications for variances from the strict application of [any general plan,] the provisions contained within any zoning, subdivision or [building ordinances]

Cockett: (Continued) sign ordinances.

The committee recommends that we approve this wording.

Woodburn: The recommendation was that it be referred to this Commission for further discussion.

Fabrao: Yes.

Chair Nakasone: Okay; discussion?

Woodburn: Who's empowered currently to make changes to the general plan?

Takabuki: The council.

Chair Nakasone: By ordinance.

Takabuki: I think the amendment is good, but I personally would have liked to seen it go a step further and take out the reference to zoning; which, I don't understand why that should be left in, when those other things such as building ordinances we're taking out. The board of variance and appeals, if we leave it as it's recommended here, would be able to make a variance for the zoning of a particular parcel; which becomes possibly spot zoning or zoning by variance...whatever you want to call it...and it takes it out of the hands of the council and the mayor. So, I frankly don't understand why that should be left in; and, I don't know if there's some reason why that one particular area was unaddressed, and I'd like to understand it.

Dave DeLeon: Can I say something? It's the parameters set within the zoning; they cannot change the zoning. They wouldn't be able to go from business to residential use, but within the zoning it sometimes sets like setbacks and other requirements...

Takabuki: Is that clear?

Dave DeLeon: This is the language...at least the language... I don't know; I'm looking now. We had an exact language submitted by corporation counsel.

Takabuki: And it's like this?

Dave DeLeon: Yeah.

Takabuki: And they feel that takes away or clarifies that they don't have the power to change the zoning or variance from that zoning?

Dave DeLeon: They can't change the zoning, but they can change the use...

Chair Nakasone: But permitted use in a certain zoning would go under this provision though.

Dave DeLeon: I'm not an attorney; I'm just telling you what corporation counsel told me.

Chair Nakasone: Sorry.

Takabuki: I don't think it's fair; that's all that I would say, and maybe if that was the intent then fine, I agree with that. But to me, it's not worded clear enough.

Chair Nakasone: It seems that the bracket should be under any zoning; it should be a bracket out, rather than...

Takabuki: [NON VERBAL AGREEMENT]

Sparks: As I understand it, it's along the lines of what Dave was talking about; there are some...and it says "the provisions contained within any zoning"... "the strict application of the provisions contained within any"...it doesn't say you can change the zoning, but...

Yonenaka: They are only talking about the...

Sparks: Yes; like a certain residential zoning might say you have to be ten or twelve feet from the line when you build, and so forth; and maybe there's a particular hardship in a particular case where that doesn't make a lot of sense, and then they can go to this appeals board. But it isn't a matter of the appeals board saying we'll change the zoning for you.

Chair Nakasone: The objection really is...I think we need some corp counsel's...

Takabuki: No; if that's true, then that's fine with me.

Dave DeLeon: Corp counsel submitted the language. It was an actual submittal.

Sparks: Is this it?

Fabrao: Is this corp counsel's?

Chair Nakasone: Well it sounds like it's in the reverse...

Dave DeLeon: It was pretty clear to me, because I think this is like the one that administration wrote about what they'd like to see happening...

Sparks: They are concerned about the appeals board having too much influence, I think.

Woodburn: Absolutely.

Sparks: So getting general plans out and building ordinances out...

Fabrao: Then that limits their power to just those things within zoning...

Sparks: Perhaps there could be some language though that makes it clearer that they can't do spot zoning.

Dave DeLeon: That would be within the parameters of an opinion; that would be part of the particular record for that agency, and that would always stand as part of the guidance. You don't want to write a whole opinion to put in the Charter.

Yonenaka: I think it's legal.

Takabuki: Okay, if that was the true intent; when I looked at it, I just didn't read it quite that way.

Yonenaka: What it says, basically, is that they'll hear the applications concerning the "strict application of the provisions contained within any zoning." I understand what you...

Chair Nakasone: Provisions contained "within any zoning," is why I'm concerned. A variance would be of a permitted use...wouldn't that be a variance of a provision contained within a zoning? They can allow uses aside from the permitted uses...

Takabuki: You could take every provision in there and grant a variance, if you really wanted to...taking it to an extreme.

Reyes: Is there a way we can postpone or defer?

Takabuki: Can I just bring up one more concern? They proposed to bracket building ordinances, so how would a person then, who for some reason doesn't build correctly or according to the ordinance, how would they get...

Sparks: Go back and build it right.

Cockett: Tear it down.

Takabuki: There are many times when that really is not practical, that's all I am saying. Sometimes it happens when there are minor problems, or someone just needs to do something and they are just limited for some reason and aren't able to do it; so, by taking this out, there will be absolutely no variances from the building ordinances.

Sparks: It could be a real issue; I can see your point.

Takabuki: I'm just concerned because I know it does happen to every day people.

Dave DeLeon: The building ordinances might be under codes.

Takabuki: They don't grant variances from the building codes.

Chair Nakasone: Not codes...not the building codes.

Takabuki: They don't grant variances; they amend it...they propose amendments...they are a technical group.

Sparks: What is a building ordinance?

Takabuki: It's...everything...

Dave DeLeon: A uniform building code.

Takabuki: The UBC...it's huge.

Sparks: It's the building code; is that a building ordinance?

Takabuki: Those are the building ordinances, I would think.

Chair Nakasone: The building code is through ordinance.

Sparks: So is there another place that they get to...

Fabrao: Be addressed.

Sparks: Address codes? Like the next section of the...

Takabuki: Anyway, we were deferring this, right?

Chair Nakasone: So, we're going to amend to five votes on the approval. [LAUGHTER]

Sparks: I agree; this one needs a little more...

Chair Nakasone: If there's no objections, let's defer...

Fabrao: I thought in these final meetings, that we were going to try to work for longer periods to get this work done; if not, we're not going to be able to get it done ...unless we meet longer. I'm making a statement.

Sparks: I thought we were going to...

Takabuki: Can we recess?

Chair Nakasone: Yes; recess.

Sparks: Before we recess, can we discuss how we're going to get our work done? Whether we're going to have to have more meetings, or longer meetings, or what we're going to have to do?

Chair Nakasone: This was a question that was brought up last time.

Mondoy: If it's made clear, then at least I know how to schedule.

Sparks: You weren't apprised that we were going to try to go longer today?

Mondoy: Not today.

Fabrao: I thought we discussed that though.

Takabuki: She wasn't here; Annette wasn't here.

Fabrao: So then, if we can't make any decisions, why would there be any need for us to continue? If we can't make any decision on the rest of these items?

Sparks: Procedurally we can decide how we're going to get the work done, I think.

Chair Nakasone: The next meeting on June 4, I'd like to recommend to the members of the Commission that we all are set to be here for decision making; so, plan your schedules accordingly.

Cockett: By saying decision making, you're saying that's staying longer than 6:00; like 7:00 or 8:00?

Chair Nakasone: We might recess and then come back again.

Takabuki: How about starting earlier? Is that a possibility?

Chair Nakasone: Jamie's not going to be here.

Woodburn: No; I can participate by phone if there some way we can organize an agenda when a vote's called. However it has to work...

Chair Nakasone: Do you want to give your proxy to me? [LAUGHTER]

Woodburn: You've got my proxy -- I'll vote yes right now on the ones that I want, and no on the ones I don't want.

Sparks: One other comment on the next meeting; not only starting early, but I wonder if we really need to hear from the other county water directors.

Cockett: They are already scheduled though.

Woodburn: I don't think so... [LAUGHTER]

Chair Nakasone: They have a right to speak with regards to public testimony, if they want to.

Sparks: But they're not in our county...what right do they have?

Chair Nakasone: It's called statutes...state law.

Woodburn: If these are issues that are going to be brought up, pending modification, can't I submit my positions?

Chair Nakasone: Sure; put them in writing.

Woodburn: So, as long as I know what the agenda is...

Chair Nakasone: Just put your support for...

Sparks: And if you're not sure about any of them, talk to me about it...

Takabuki: We do have a Committee C, too...I can help you with that.

[LAUGHTER]

Cockett: Jamie, if you'd comment on all of them, either yes or no...

Fabrao: That would be good.

Woodburn: Can I do that?

Chair Nakasone: Is there any problem with meeting earlier with anybody? Is that a problem, or is 3:00 fine? Let's reschedule the next meeting at 3:00 p.m.

Fabrao: Why do those people from the other side need to come? They were invited under the invited under the invitation of our water board?

Sparks: Our water board asked us for the meeting with them. Asked us to hear them, basically, right?

Chair Nakasone: Well, we can refuse; but I think we cannot refuse based on your statute as far as public testimony.

Sparks: Basically I have no problem listening to them; I think it would be fascinating. But, I am worried about getting our work done; so maybe we can have this kind of compromise -- everybody has the understanding that we'll listen to them and not ask questions, and go on...

Chair Nakasone: No, we cannot say that. Any one wants to amend the rules of the Commission?

Woodburn: I second that.

Sparks: Let's go back and get it down to seven.

Woodburn: How can we amend it if we don't have enough to amend it?

Chair Nakasone: We can't do it because it's not on the agenda. Put it on the agenda for our next meeting...amendment of the rules.

Woodburn: I think the rules ought to be amended...I think it's too restrictive.

Sparks: Let's go to seven...

Chair Nakasone: No, let's go to six; but the final -- leave it at eight.

Fabrao: I don't know; we've gone this far already...we should leave it at eight.

Chair Nakasone: It seems to be we're having a hard time getting a quorum.

Sparks: We need to move it along, and all these vacations are coming...

Chair Nakasone: Okay; I'm sorry that recessing the meeting won't solve the problem; we won't get the numbers together.

We'll continue with Committee B's report next Thursday at 3:00 p.m.

Woodburn: Before next Thursday's meeting, before I go, can I submit my position on Committee B and C in writing and have that stand?

Chair Nakasone: Yes. So, if we amend the rules, we can accept your proxy.

Sparks: It's not in the rules now...

Chair Nakasone: I know; that's why we've got to amend it.

Fabrao: Wait a minute; why would amending the rules have anything to do with his vote?

Cockett: Because he won't be here.

Sparks: What we actually end up voting on is sometimes different than...

Yonenaka: Yes; if there's a change on even a word or two, it would actually change...

Cockett: Well, there'd be no problem with Committee B because he was on the committee. Committee C might be a little problem...

Takabuki: C's not a problem.

Fabrao: Oh, yeah?

Takabuki: Is it a problem? [LAUGHTER]

Cockett: Sorry; I didn't mean it that way.

V. NEXT MEETING DATE
June 4, 1992 - 3:00 p.m. - Council Committee Room [NOTE: Be prepared for long meeting.]

VI. ADJOURNMENT
There being no further business, the meeting was adjourned at 6:15 p.m.

ACCEPTED:

Robert Nakasone, Chairman Date