

**MAUI COUNTY
CHARTER COMMISSION
KALANA O MAUI, 7TH FLOOR, COUNCIL'S COMMITTEE ROOM
JUNE 18, 2001**

MINUTES

Present:

Terryl Vencl, Chair
Robert Sean McLaughlin, Vice-Chair
Vince Bagoyo
William Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
Stephen Petro
Erlinda Rosario

Staff:

Myles Inokuma, Executive Assistant to
Mayor
James Takayesu, Corporation Counsel
Brian Moto, Deputy Corporation Counsel
David Raatz, Council Services Observer

Excused:

Carole Ameral
Donn Takahashi

CALL TO ORDER

Chair Terryl Vencl called the Maui County Charter Committee meeting to order at 1:34 P.M. Commission members present: Vince Bagoyo, William Fuhrmann, Gwen Hiraga, Stephen Holaday, Karolyn Mossman, Stephen Petro, Erlinda Rosario, Vice-Chair Robert Sean McLaughlin and Chair Terryl Vencl. Excused Commission members: Carole Ameral and Donn Takahashi. Staff members present: Executive Assistant to Mayor Myles Inokuma, Corporation Counsel James Takayesu, Deputy Corporation Counsel Brian Moto and Council Services Observer David Raatz.

TESTIMONY

Council member Joanne Johnson made two recommendations. First, she suggested that an appeals process be created so that the County Council could intervene in controversial projects at the planning commission. The pro-development interpretation of Special Management Areas (SMA) by the Planning Commission could place the County at risk for litigation. Intervention process is underutilized, owing to the lack of financial wherewithal of an individual or group to launch a counter-campaign. Placing SMA's under the County Council would reduce the availability of public intervention and review, attorney Kimo Frankel noted on Oahu's processes. Secondly, she recommended attorney John Van Dyke as independent counsel to Charter Commission.

Kelly Arbor, Council member Johnson's assistant, recommended constitutional law expert John Van Dyke as outside counsel. She further suggested teleconferences as a means of cutting costs of transportation for consultants from other areas.

APPROVAL OF MINUTES

Approval of completed minutes deferred until next meeting.

COMMUNICATIONS

Chair Vencl informed the Commission of the receipt of the following items:

- 1) Department of Liquor Control Recommended Charter Changes;
- 2) Instant runoff voting video;
- 3) Election questions answered by Mr. Roy Hiraga.

Included in the package of information are:

- 1) Schedule of meetings.
- 2) Revised Rules.

UNFINISHED BUSINESS

STAFF

In compliance with procurement policy, efforts have been made to locate three bids from vendors of secretarial services. Keala Pasco, Chair Vencl's secretary, who works for Maui Hotel Association on a part-time basis, put out a bid of \$600 for 30 hours/month. Commissioner Ameral approached two vendors, both of which wanted \$25 hour and no less than 80 hours/month. Deputy Corporation Counsel Brian Moto reported that sufficient action has been taken to comply with procurement policy and that Ms. Pasco, an independent contractor with general excise tax records, satisfies qualifications and will pass civil service exemption of Department of Personnel Services. Mr. Moto also noted that independent contractors are subject to immediate termination at any time.

**MOTION: TO ACCEPT MS. KEALA PASCO'S BID FOR
SECRETARIAL SERVICES UNTIL JULY 2002.
Seconded and carried unanimously.**

(Bagoyo/McLaughlin)

**AYES: COMMISSIONERS
BAGOYO, FURHMANN, HIRAGA, HOLADAY,
MOSSMAN (with reservation), PETRO, ROSARIO,
VICE-CHAIR MCLAUGHLIN AND CHAIR VENCL.**

NOES: NONE.

EXCUSED: COMMISSIONERS AMERAL AND TAKAHASHI.

LEGAL CONSULTANT

An outside consultant would provide balance to Corporation Counsel and Council Services (Council Services' workload precludes any outside contractor other than Council members; Raatz' role on County Commission is as an observer). There was general discussion as to the need for legal advisors verses research people on select topics and the timely process of hiring experts. A list of consultants can be compiled according to specialty and advice sought at time of need (short-term contracts allowed). Corporation Counsel Takayesu stated that a Notice of Solicitation for legal counselor has been published in compliance with Procurement of Professional Services Law and bids sought till the end of June, at which time process ends and Administration will conduct review of candidates' qualifications. If, in the future, the need arises for additional advisors, the selection process can be reopened and consultant approved in about a week. Mr. Takayesu will get back to Commission as to the need for County Council's approval of candidates prior to expert's assistance. Selection of legal advisors deferred until time comes when specialists are needed.

CHAPTER 50

Corporation Counsel Takayesu recommends the compliance with Chapter 50. If all bases are covered, then "efforts cannot be invalidated by some procedural or technical problem," he states. In HGEA vs. County of Maui, Chapter 50 was cited by the Supreme Court. A statement of analysis upon completed written research will be submitted to the State Attorney General. Furthermore, Corporation Counsel clarified the County Council's veto power. County Council can submit an alternative to Charter provisions, but they cannot veto Commission's recommendation.

NEW BUSINESS

INVESTIGATIVE COMMITTEE

. On the agenda for the September meeting, Commissioner Hiraga would like a discussion of potential subcommittees. Deputy Corporation Counsel Moto suggested a way to deal with the quorum issue at public meetings: the creation of an investigative committee and the concurrent posting of an agenda. Although the primary intention of the meeting is to hear public input, the Commission can still conduct business at public meetings if it chooses. Logistics regarding charter flights are still being arranged to accommodate members' individual schedule and needs.

ATTENDANCE

If, at any time, a Commissioner is unable to make a meeting, Chair Vencl should be made aware so that a quorum is reached and meeting scheduled as planned. Accumulation of unexcused absences will result in Chair Vencl's notification to Mayor.

MEETING SCHEDULE

The meeting scheduled for the ninth of July is canceled

MINUTES

Sunshine Law requires summary, not verbatim, minutes, which is sufficient for future perusal of Commission intent. The commission chose to use summary minutes. Regarding the Commission report, Commission's actions can be drafted and revised periodically by a skilled person .

ADJOURNMENT

Chair Vencl adjourned the meeting.

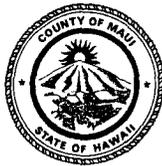
Respectfully submitted,

Darlynn Tapaoan
For Westside Services

*Minutes transcribed by cassette tapes. Recording Secretary not present at the meeting.

James "Kimo" Apana
Mayor

Grant Y. M. Chun
Managing Director



RECEIVED
CORPORATION COUNSEL
2002 JUN 17 PM 12:04

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

CHARTER COMMISSION
County of Maui
1727 Wili Pa Loop, Suite B
Wailuku, Maui, Hawai'i 96793

June 13, 2002

Honorable James Apana
Mayor, Maui County

Honorable Patrick Kawano
Chair, Maui County Council

Dear Mayor Apana and Council Chair Kawano:

On behalf of the Maui County Charter Commission, I am happy to transmit to you a summary of the decisions of the Charter Commission following the Committee of the Whole meeting on May 8 and 9 pursuant to H.R.S. Chapter 50. At those sessions, the Council developed two alternative proposed amendments and offered a series of constructive suggestions to the Commission. The Charter Commission met on June 5, 2002 to consider the alternatives and suggestions made by the Council.

With regard to the proposed alternatives, which concern the Citizen Advisory Committees and the Board and Departments of Water Supply, the Commission decided not to accept the alternatives of the Council and to maintain their own proposed amendments. The Council now has the opportunity under H.R.S. Chapter 50 to recall its proposed language. If it chooses not to recall its proposed alternatives, the language proposed by the Commission and the language proposed by the Council will both be presented to the voters for their consideration. If both proposals on the same topic receive a majority vote, the one with the highest percentage of favorable votes will be deemed to have adopted as an amendment to the Charter.

With regard to the constructive recommendations and suggestions offered by the Council, the Commission accepted and acted upon many of them and declined to accept some of them. The paragraphs that follow describe the action taken by the Commission.

Proposal One, confirming the equal worth and dignity of every individual.

The Charter Commission declined to adopt the Council's recommendation that the Commission reassess the importance of and need for this proposal. The Commission determined that this language was important to confirm the value and contribution of each person in Maui's diverse communities as the fundamental basis for the County's democratic governance.

Proposal Two extending the length of the terms of Councilmembers from two to four years.

The Charter Commission declined to adopt the Council's recommendation to delete the final sentence of proposed Section 15-1, based on the determination that this language would be helpful to avoid future uncertainty. The Commission also declined to adopt the suggestion made by several Councilmembers that it consider the method of staggering the terms of Councilmembers utilized by Honolulu when it changed its election system. The Commission determined that its proposed system – giving the five top vote-getters the four-year terms – would ensure that four Council seats would be filled in those years when the Mayor's post is to be decided and five Council seats would be filled in elections held two years later. Under this system, therefore, five countywide elections will be held in each election cycle.

Proposal Three concerning the responsibilities of the Corporation Counsel – the Council did not make any recommendations.

Proposal Four concerning granting police power to the investigators working for the Office of the Prosecuting Attorney.

The Charter Commission accepted the Council's recommendation that this proposed amendment be deleted, but strongly recommends that the Council act quickly to grant these police powers to investigators working for the Prosecuting Attorney by ordinance, as it is done in Hawai'i County.

Proposal Five concerning the Department of Public Works.

The Council did not make any recommendations regarding this proposal, but the Commission did adjust the language in its proposed amendment somewhat to clarify the revised responsibilities of this Department. This proposal will now be Proposal Four.

Proposal Six concerning the Fire Department.

The Charter Commission accepted the Council's recommendation to delete the proposed Section B of the Fire Chief's duties and also to make it clear that the Chief will be required to perform the duties assigned by the Fire and Public Safety Commission, not by the Mayor. The Commission decided to keep the formal name of the department as the Department of Fire and Public Safety, to be consistent with the names of other departments, but understands of course that the department will continue to be called the "Maui Fire Department" in common speech. This proposal will be renumbered as Proposal Five.

Proposal Seven concerning the Planning Department.

The Charter Commission declined to accept the alternative proposed by the Council regarding the Community Advisory Committees, which differs from the Commission's proposal in that the Council's proposals would make the Committees permanent, while under the Commission's proposal the Committees would stay in existence only until their recommendations have been acted upon. The Commission agreed with the Planning Director that the staffing requirements for permanent Committees would be burdensome on the Planning Department. Unless the Council decides to recall its proposal, both alternatives will be presented to the voters in November. If both proposals should receive a majority vote, the one with the highest percentage of affirmative votes will be deemed to have been adopted.

In order to present clear alternatives to the public, the Commission has separated the parts of its original Proposal Seven that concern the Community Action Committees from the parts that concern other aspects of the planning process. The proposals having to do with the planning process in general will now be numbered Proposal Six, and the changes having to do with the Community Action Committees will be numbered Proposal Seven. The Council's language regarding the Community Action Committees will be characterized as "Alternative Proposal Seven." As authorized in H.R.S. Chapter 50, the Commission has developed ballot language to describe the Council's proposal, as well as language that describes its own proposal.

The Commission also declined to accept the Council's suggestion that the deadlines for action be eliminated, agreeing again with the Planning Director that such deadlines can be useful in keeping the planning process moving in an orderly fashion. The Commission did agree with the Council that the annual report of the Planning Director on the status of implementing and enforcing the general and community plans should be transmitted to the Mayor and Council.

Proposal Eight regarding termination of the Director of Personnel Services.

The Charter Commission declined to follow the recommendation of the Council to delete this provision. The Commission determined that this proposal does address an important problem that requires clarification.

Proposal Nine regarding restructuring the Board and Department of Water Supply.

The Charter Commission declined to accept the alternative proposed by the Council, which would make the Department a regular County agency subject to the Mayor's management and the Council's legislative oversight. Unless the Council decides to recall its proposal, both alternatives will be presented to the voters in November. If both proposals should receive a majority vote, the one with the highest percentage of affirmative votes will be deemed to have been adopted. As authorized in H.R.S. Chapter 50, the Commission has developed ballot language to describe the Council's proposal, as well as language that describes its own proposal.

The Charter Commission, at the suggestion of several Councilmembers and in order to avoid ambiguity, eliminated the phrase giving the Council authority to "enact legislation that might be appropriate in light of the [annual] audit."

Proposal Ten regarding the creation of a new Department of Transportation.

The Charter Commission declined to accept the recommendation of the Council that this provision be deleted. The Commission determined that it was important to give greater priority to the transportation needs of Maui County, and that even if the new department begins with a limited staff, its creation will give this issue greater visibility and attention.

Proposal Eleven regarding the Salary Commission.

Because of the new statute enacted by the Hawai'i State Legislature this session, it was unnecessary to modify the responsibilities of the Salary Commission, so the earlier language proposed on this topic has been removed. The Commission will have the same powers it has had, but the terms of its members will be staggered.

Proposal Twelve concerning open-space acquisition.

The Council had no recommendations on this provision.

Proposal Thirteen regarding ethical standards governing members of the boards and commissions.

The Charter Commission agreed with the Council's recommendation that this proposal should be deleted.

Proposal Fourteen regarding notice of meetings.

The Council had no recommendations on this proposal, but after further consideration the Charter Commission decided to remove this proposal. The Commission determined it is inappropriate to change the language in the Charter, in light of rapidly-changing technology, but nonetheless strongly encourages all boards and commissions to provide more accessible notices of their public hearings and meetings. In particular, such notices should be posted on the County website and should be posted on community bulletin boards whenever possible.

Proposal Fifteen concerning meeting locations.

The Council had no recommendations on this proposal. It has been renumbered to become Proposal Thirteen.

Proposal Sixteen regarding transitional changes.

The Charter Commission determined that this proposal was unnecessary and has transferred the changes included in this proposal to the relevant substantive areas and to the housekeeping proposal, which will now be numbered Proposal Fourteen.

Proposal Seventeen regarding housekeeping changes.

The Council had no recommendations on this proposal. The Charter Commission made no changes, except to include some of the nonsubstantive transitional changes into this proposal.

Thank you again for the honor of serving the County on the Charter Commission.

Sincerely yours,



Terryl Vencl, Chair