

MAUI COUNTY CHARTER COMMISSION PUBLIC MEETING  
County Council Committee Room, Maui  
Monday, September 10, 2001  
12:00 p.m.

PRESENT

Terryl Vencl, Chair  
Vince Bagoyo  
Bill Fuhrmann  
Gwen Hiraga  
Karolyn Mossman  
Stephen Petro  
Erlinda Rosario

STAFF

Brian Moto, Corporation Counsel  
David Raatz, Corporation Counsel  
Ke`ala Pasco, Charter Commission Assistant

EXCUSED

R. Sean McLaughlin, Vice-Chair  
Carole Ameral  
Stephen Holaday  
Donn Takahashi

CALL TO ORDER

Chair Vencl called the meeting to order at 12:10 p.m. and introduced the following commissioners: Bill Fuhrmann; Erlinda Rosario; Karolyn Mossman; Gwen Hiraga; Stephen Petro; and Vince Bagoyo. Also present: Brian Moto and David Raatz (Corporation Counsel); and Ke`ala Pasco (Charter Commission Assistant). Vice-Chair Sean McLaughlin and commissioners Ameral, Holaday, and Takahashi were excused.

No one signed up to testify, so Chair Vencl proceeded with Charter Commission business. The minutes from the August 29 meeting were handed out with a list of changes that had been made since the minutes were first emailed to the Commission. Motion was made to approve (Commissioner Rosario), seconded (Commissioner Bagoyo), and unanimously carried. Excused: Vice-Chair Sean McLaughlin and commissioners Ameral, Holaday, and Takahashi.

Communications to be accepted into record were as follows: a brochure on neighborhood boards; the 1992 Maui News article that Glenn Shepherd brought to the meeting on August 29<sup>th</sup>; Dave Mackwell's testimony; the Police Commission letter; Jonathan Starr's testimony; Chair Kawano's Repeal and Termination memos; Daniel Grantham's email; and Bill Fuhrmann's correspondence. Motion was made to approve (Commissioner Petro), seconded (Commissioner Rosario), and unanimously carried. Excused: Vice-Chair Sean McLaughlin and commissioners Ameral, Holaday, and Takahashi.

Chair Vencl said we have a lot of work to do. This is the time to start watching communications. If anything intrigues you, or if you need clarification, please let us know as soon as possible. Her opening remarks differed from those at the public hearing meetings. Our focus now is how to best organize all the information received, and to begin to talk about it. The Commission will be meeting with different departments, but won't have time to get everything answered right away. Chair Vencl asked that commissioners write down questions as they read through documents, then ask those questions when the appropriate representative is present. They'll respond in writing or speak to the Commission if needed.

Chair Venci announced that our guest speakers today are Wes Lo and Michele Yoshimura (Finance) and David Goode (Public Works). Roy Hiraga (Elections), John Min (Planning), and David Craddick (Water) will be at our next meeting. She originally asked Councilmember Tavares to come on the 8<sup>th</sup>, but we're pushing her back to the end of October or the beginning of November. Chair Venci said we'll be scrambling for more time near the end of the year, and asked the commissioners to give some thought to how we should organize the things we need to get done, share their thoughts, then get back to the time schedule.

Another issue is how do we want to deal with this report. Do we need a consultant person, or a legal person? We should have one person do the whole report (preliminary and final). Do we want to bring in experts?

Chair Venci welcomed Mr. Lo and Ms. Yoshimura, and said she'd asked them to come to speak to the Commission regarding: changing the budget date; putting a cap on county indebtedness; a two-year budget; and bonds within the county of Maui.

Commissioner Hiraga requested copies of the letters sent to all departments. Chair Venci will make sure she gets them.

Mr. Lo said that he met with some council members regarding changing the budget date. They looked at state laws, the historical perspective, state and county legislation. Everything was built around the property tax. 75% of the County's general fund comes from property tax, then transient accommodations tax. Over the last three years, miscellaneous items occurred. The formula for contributions to go to the state was changed. After the budget was approved, Act 100 reduced the amount the county could give to the state. However, those are aberrations; unusual events. The real property tax needs to be affirmed and delivered in April. He's not sure just how much we would accomplish if we change the due date. TAT is estimated, never certified; we may have to change the law for property tax. Not averse to doing it, but there are a lot of state laws.

Commissioner Mossman asked what the process is when something comes in late. The charter currently specifies that if there is a shortfall, you immediately need to go to the mayor. Any excess monies can be carried to the succeeding year. Is the ability to have a supplemental budget effective for the needs of the county? Mr. Lo replied that he thinks it's fairly effective. It really depends on the council.

Mr. Moto said that one matter of concern to Finance is that the Mayor submits the budget by March 15; by article 9, the Council must act on that by May. Mr. Lo discussed the schedule of fees for community centers, garbage collectors, etc. They need a certain amount of time to prepare notices to the public and print out the billing statements. Garbage fees can change from year to year; they just hope people will start paying by the time the new fiscal year starts. What exactly would adding an extra amount of time provide the Council? It wasn't settled until after the fiscal year started. The Governor has his own timelines. Commissioner Hiraga stated that the Governor has to sign before 60 days are through.

Commissioner Bagoyo wanted to know if we should consider changing the fiscal year. Mr. Lo mentioned the supplemental process, and Ms. Yoshimura said she's comfortable with the date to make the submission to the Council. They'd have to look at state laws before making any changes. Mr. Lo said that changing the fiscal year would mean

dealing with market situation estimates. The Real Property Tax is the only thing they can really control. After looking at the charter, they should really concentrate on the Real Property Tax. He doesn't feel the need to change the date; the budget and the fiscal year need to work hand in hand.

Commissioner Petro stated that another reason for changing the fiscal year for is because it'll give non-profits some more time. Their window would be bigger.

Chair Venci said that from her perspective, the community thinks there's some windfall and Council can't make decisions if there's no change in the budget date. Then there's the issue about education if the public thinks there could be a bigger budget and distribution. She's been told by people on O`ahu that they've moved forward by two weeks. Some people wonder why Maui County can't do something that simple. How do we address this in the community?

Commissioner Petro added that the governor can sign the bill, but he doesn't have to release the money, so we're caught anyway. Mr. Lo agreed; Mr. Moto said that state law provides the allotment process. The Legislature appropriates then dispenses the funds.

Commissioner Fuhrmann mentioned the need to submit any shortfalls, and asked if the Mayor had the same need to submit in the event of a windfall. Mr. Lo replied that some municipalities are required, but said you'll never get those kinds of revenues. You could do it for some of them. The problem is that the budget cycle is built on an annual basis. The premise of the balanced budget is you spend everything in the given year, but no one does that. There has to be conservatism in the budget because otherwise, what would happen on a rainy day? The system seems to work, but if you report it, you take away that cushion.

Commissioner Fuhrmann asked about establishing some kind of trigger for when the account hits 10%. Commissioner Mossman said there is a mechanism (if the Mayor wants to).

Chair Venci asked Mr. Lo what his feelings were regarding a two-year budget similar to the state's. He questioned the benefit of a two-year budget. The Council's perspective appears to be that they spend more time on the budget in this case, and will have to be broader on categories. Wouldn't you want to see RPT every year?

Chair Venci asked about capping the indebtedness, to which Mr. Lo replied that there are really tight guidelines on debt in the charter; it may be better handled as a policy. It's based on a debt service formula, and we need to avoid making them too high or too low. Mr. Low provided handouts.

Regarding setting aside 1% for open space acquisition, Commissioner Bagoyo asked if it could be done by policy, and what the general feeling was about mandating that amount. Mr. Lo said they'd come up with recommendations for that. He said not to put it in the charter because it'd be subject to any administration. He then asked if it's something we wanted mandated for the future.

Commissioner Hiraga asked if the Mayor discussed his proposed 1% with Mr. Lo as a charter provision. Mr. Lo said we need to look for land acquisition someplace, and that it

needs to be brought up for the people. Commissioner Hiraga responded that some years are good and some are bad, so we shouldn't mandate this.

Commissioner Bagoyo mentioned that he hasn't seen any open space acquisition on Molokai, Lanai, in Hana, or Ha'iku and questioned the balance. Is it based on revenues from those districts? There is a tremendous amount of competing interests. If we have a bad year, we should be open, but not required to give 1%.

Mr. Lo said that in his opinion, he could swing \$1.4 - \$2.6 M, but that the finance department would choose real property tax because you know when you get it. It accounts for 75% of the general fund.

Commissioner Fuhrmann said he had four pages of questions. Real property tax is the only number you can control, primarily by rates. He heard that computer system for doing real property taxes is O'ahu based. Needs a way to address what's really fair.

Mr. Lo replied that improvements could be made on assessments of properties. If you choose general fund revenues, you don't actually get that until November after the fiscal year, so the real property tax is closest to the budget cycle.

Chair Venci said we may need the Mayor to come explain his point of view. Commissioners were advised to filter all questions through her.

Commissioner Mossman asked how much money was spent on land acquisition, and requested information on how the lands were used afterward (wants report on the past 5 years).

#### BREAK

The meeting was called back to order at 1:25. The Commission heard testimony from the public.

#### TESTIMONY

MR. JIM SMITH

Mr. Smith saw the budget on the agenda and wanted to participate and share what he's gotten from the past ten years:

- 1) The process was bigger and more cumbersome in the 1980s. The budget was available at the library. There was a change in early 1990s. The budget process was being politicized. The "new school," entrepreneurial government focused on results rather than regulations. The public was treated as customers who needed customer service, so concept of government as separate was reflected in how the budget evolved into a program budget. Directors were then given program budgets, and a lump sum of money to manage. It was a defective program, no one was accountable, but make the program more efficient. Cancel the political idea, so couldn't identify who was accountable. It wasn't all that efficient. The directors had a great discretionary authority. Money was transferred without council approval. Control slipped away.

- 2) Charter article number 9 may need to be more specific (the supplemental budget); set your budget, then make appropriate changes. The annual budget isn't an annual budget; change or "reappropriate" funding.
- 3) Limit the number of times the budget can be changed (maybe once per year). See how it works out.
- 4) The word "program" has been seized and expanded to mean "departments." Strike that word.

Chair Vencl said that she'd like to accept into record handouts from the Department of Public Works and Wes Lo. Motion was made to approve (Commissioner Rosario), seconded (Commissioner Mossman), and unanimously carried. Excused: Vice-Chair Sean McLaughlin and commissioners Ameral, Holaday, and Takahashi.

Chair Vencl said that we have a time frame to get things done. The Commission will ask other questions in writing and requests a response in writing.

Mr. Goode said that they are aware of certain jurisdictions handling sewer systems in conjunction with water boards, semi or fully autonomous, or doing it as a utility. Charging fees would help make the sewer fund self-supporting; they don't collect any revenues from general funds. Some combine cities that flow downhill to a sanitation district, sanitation facilities, etc.

The staff felt that almost any scheme had pluses and minuses. Different systems sometimes clash with each other. Water conservation projects (toilet flappers, replace toilets, showers, etc.) work closely together with the water department. There is a biological process to treat dirty water (reclaimed water, sludge, etc.) Regarding safe drinking water and clean water regulations, Mr. Goode said he's a little hesitant on combining, since the facilities, licensing, engineers, responsibilities, and fields of expertise are so different. They also do so many biological treatments that it's best to keep them separate.

Commissioner Bagoyo said he's in favor of full autonomy of the board; the board being paid, and rules shouldn't go to the County Council. Mr. Goode responded that the rule making process gives the board more autonomy; technical might be a good place to start, then it'd go to the Mayor and the Council. The Board of Water Supply is a most difficult responsibility. A \$10,000 change order had to go to the board and it was a waste of time. If they have that responsibility, they should get paid (up the ante). It's a big job; land use committee meetings last for twelve hours. Look to the board and the council for policy; don't waste time. For road issues and a tighter interface, the board should be the guiding light.

Chair Vencl said the community concern was based on interfacing, so they're looking to put sewer with water. That's part of their concern. Mr. Goode said to let utilities, road, and water company know what projects are in advance. There's good interfacing right now.

Chair Vencl asked what the suggestion is for paying. We need to be specific; up to \$1000 month? Mr. Goode said the payment would be the reminder that we need to be prepared and focused. As for other commissioners, I haven't thought too much about it.

Commissioner Bagoyo asked about the deal to sell reclaimed water, and its cost. Mr. Goode replied that selling reclaimed water is a disposal issue. Rates are set for some by

negotiating the cost of non-potable water. A new customer switching from potable to reclaimed water, had a fixed rate. The ability to transport wastewater is diminishing. It would be great to bring back reclaimed water.

Commissioner Bagoyo asked if there were any changes to be looked at for the charter. Public Works has a lot of opportunities. Mr. Goode mentioned wastewater and a second deputy. They also discussed: recycling (the difference between design and engineering); puddle striping and shoulder maintenance; and landfills. Commissioner Bagoyo asked if recycling includes the landfill; Lana'i has no place to take it to. Commissioner Petro said Molokai is having a drought right now, but they have a good system (drive through recycling, then solid waste).

Commissioner Bagoyo asked about DOT's transportation plan; the State does the overall plan, then we do the island plan. Mr. Goode said they did nine out of ten projects. There's a plan, but they haven't kept up with it. However, the small changes are excellent (three miles in Kihei without going on Pi'ilani Highway or South Kihei Road); the city lights. The lag in infrastructure isn't that bad. Part of that is real time, and you do the lights as best as you can.

Commissioner Mossman asked what impact a project would have on the community as a whole. Mr. Goode replied that it depends on the size of the request. A larger project with a smaller SMA has to show added traffic. The larger development builds inner roadways. There is the TAIR traffic analysis impact report, which is educated guesswork.

Commissioner Mossman also mentioned a traffic impact fee as an additional revenue source. She also asked if there was a plan for `ohanas being developed; she's looking for patterns or adjustments we need to make.

Mr. Goode stated that there is real time monitoring of what's going on. According to the zoning code, anything with 7,500 square feet or more can add an `ohana. The roadways are becoming more impacted, they should be doing a better job.

Commissioner Hiraga said that in 1996, they transferred functions, and wanted to know if it's working. Mr. Goode said that they have to delineate what functions worked; they're still grappling with that. Needs to step back and review MOU. The planning function is generally working; he wants to abolish housing codes.

Commissioner Hiraga said that when combining parts, things slip through, so consolidation may serve the public better. The charter should also address how to better serve the public. She's heard a lot of complaints. Is it a matter of enforcement or interpretation? She really needs to see if this charter is amended; the ordinances need to be taken care of. There should be an implementation deadline for corrections and changes.

Chair Vencl said that a lot of things may not be charter changes, but they're definitely hot topics. All these things should be listed and looked at. We may not need to do a ballot change. They certainly need to be dealt with so that we have done our job with the public and tried to ease their frustrations.

Commissioner Fuhrmann mentioned the community plans and their timely adoption, and asked what effect it has on Mr. Goode's plan. Mr. Goode said that there are a number

of effects, but it takes so long, you don't know what the final plan will be. It's an ongoing debate: is the community plan law or guide?

Mr. Goode said the commission needs to respond to those that come to speak. Consider having an appendix/table that itemizes the topic and its appropriate venue.

Commissioner Fuhrmann asked if neighborhood boards, a community change of heart, or a report to Mr. Goode would be helpful. Mr. Goode replied that he'd rather just see a more cleanly written plan. He asked if we could agree on the number we see as our population base and plan accordingly (sewer treatment, road numbers, etc.). Anti-developers vs. contractors will always be there. There is no framework; every project hears both of these sides. If we had direction, it'd be easier to plan, and it'd help us get beyond that rut.

Commissioner Petro said that a comprehensive plan that's accepted by the federal and supported by the state and county is a very interesting idea. There should be a projection.

Commissioner Mossman asked where that would be created; thought that's what the planning process was supposed to do.

Mr. Goode said that he reads most of the plans. In 2010, they can add a couple more hundred people. The general plan is good, but its language is "flowery, like apple pie." Having raw numbers helps. Traffic light stuff doesn't belong in the community plan. Nothing tells you what anything costs. That's a real key item. This should be stated in the community plan, the high level; let the plan figure out what that is. Let the community decide.

Commissioner Bagoyo pointed out that he doesn't see anything about planning facilities or infrastructure (planning, public facilities, engineering, design). Mr. Goode said that's a good point; it should be considered in the charter. Commissioner Bagoyo asked him to look at that particular section again, and to let the Commission know what they can look at. Commissioner Petro also likes the idea, and wants in writing information about community planning and forecasting, time, CAC, and community plans.

Commissioner Hiraga stated that the county administration prepares the CIP, and asked what part Mr. Goode played in that. He replied that the community plan called for sidewalks (never did that). Can definitely do a better plan knocking them down and it's only 3 yrs old. The new DOT is doing great; dialog is at an all time high.

Commissioner Hiraga said the county reviews the community plan; the back section is not being done. There should be a checklist in the order of priority,

Mr. Goode said regarding that discussion relating to water board and a special engineer director or deputy. He feels the opposite. They need to make complex engineering decisions. This should be a situation in which you can stamp based on the competency level. Some PEs are really good, but having a PE will limit the pool of good administrators. The requirement has changed; should change the engineering staffs as well. He wants the best pool of applicants, with at least 5 - 7 years of experience in related fields.

BREAK

The meeting resumed at 2:55 p.m.

Chair Venci said she sent out a list of all questions that were sent out to community. With regard to those themes, she needs feedback from the commissioners. Are there those of us with particular interests that want to take on a subject to find out and share more information, get as much info as we can, as quickly as we can?

Commissioner Fuhrmann said it would help to know which things we can or can't change at the charter level.

Commissioner Bagoyo said once he has a chance to listen to all presentations. He thinks we should come up with issues we're all passionate about. He has certain things based on discussions and testimonies at various meetings, and will certainly be making his recommendations for the commissioners to look at so the issues can be debated by the Commission. After the Commission has spoken to all department heads and experts, sort those things out, form an opinion, then ask legal counsel to look at the pros and cons.

Commissioner Mossman said she's still against the "double work" of subcommittees, and is not sure we're as far apart as we might think we are. She's all for plugging through and coming up with what we want, then seeing what the ramifications of that are, then getting the language.

Commissioner Bagoyo thought there was an urgency to changing the budget cycle. Listening to Mr. Lo cleared that up, so he won't recommend that anymore.

Commissioner Petro thinks it'd be more helpful for each commissioner to recommend particular issues. Then get another opinion to see if we can do it or not. He wants the large group instead of subcommittees.

Commissioner Rosario prefers that subcommittees do the homework, then present the information to the group for debate. At least you'd have answers. As far as 3<sup>rd</sup> party, we should come up with recommendations, then ask for the expert's opinion after.

Commissioner Fuhrmann wants to look at everything on the table. He's against subcommittees.

Commissioner Hiraga asked Chair Venci how she envisioned subcommittees being set up. Chair Venci replied that she looked back and tried to keep meetings as compressed as possible, but feels like we'll be short on time. She saw subcommittees as a way to compress info and present it to the group as a whole. She knows there are some people who may want to delve into subjects more than others. We'd be able to come back with written answers.

Commissioner Hiraga asked if there are questions, does Brian do research. Or is that what a consultant would do? Brian and David have a lot to do already. Mr. Moto asked the commissioners to look to Chair Venci to authorize requests so he's not besieged by multiple requests.

Commissioner Petro said that at the time of discussions, we might find that all the research we need might be in one particular department or only two departments, and not the whole charter. That would be the appropriate time to ask for the research to be

done. If we're going to change a department very radically, then if we decide this, that would be the right time. I can almost rest assured that there will be a lot of commonality.

Commissioner Bagoyo said that as an example, we have heard many testimonies on the terms of the county council. The issue will be two or four years; very simple, no research needed. On the other hand, we have also heard about taking the SMA out of the planning to county council. And we still don't know if it's going on the table or not. He understands what Commissioner Rosario said, but he doesn't think there's going to be a major change.

Chair Vencl also asked the commissioners to give some thought to whether or not the writer of the report should have legal expertise, or if we have someone write the report, then have someone else put things on a ballot? How would you like to proceed in getting that person? It would be helpful for this person to hear everything going on. We should investigate this opportunity as soon as possible. A few legal people have expressed interest. She has at least an outline / guide for the Commission to use. She envisions an appendix in the back of their report.

Commissioner Hiraga asked about the Attorney General's review. It was passed on to Deputy Attorney General Charlene Aina. She called about our request for an advisory opinion, but didn't promise a certain amount of time. She's not sure whether the Attorney General's office would respond to the merit of our request.

Chair Vencl's final comment is that she was called for jury duty on September 24<sup>th</sup>. The agenda is prepared, but she may not be able to attend. Vice-Chair McLaughlin will be here.

The next meeting is the county clerk, planning, and water.

Commissioner Petro said we can suggest a special commission to look at the whole district voting issue, but we can make that decision ourselves if we want.

Commissioner Mossman wants to know what the current numbers are with the new census data.

#### CONCLUSION

Chair Vencl said she'd give everyone copies of letters that were sent out with the questions asked of each department thus far. The Commission has received previous questions from Mr. Hiraga.

The meeting was adjourned at 3:20 p.m.

## COMMUNICATIONS

1. Board of Ethics
2. County Council
3. Department of Public Works
4. Department of Water Supply
5. Cost of Government Commission

CHANGES TO THE MINUTES ARE UNDERLINED.

1<sup>st</sup> page, 3<sup>rd</sup> paragraph: The eleven commissioners were selected by the Mayor and confirmed by the Council.

4<sup>th</sup> page, 3<sup>rd</sup> paragraph under Ms. de Naie: Vice-Chair McLaughlin asked if Ms. de Naie had taken a position of endorsing the Mayor's proposal.

4<sup>th</sup> page, 4<sup>th</sup> paragraph under Ms. de Naie: delete "The process can't go on forever."

7<sup>th</sup> page, 2<sup>nd</sup> paragraph under William Crockett: delete "Can't build up a hybrid."

8<sup>th</sup> page, 3<sup>rd</sup> paragraph should read: Vice-Chair McLaughlin then asked how Ms. Nielsen felt about a salary commission, and asked for her view on full time status for county council members. Ms. Nielsen said council members should be full time and compensated as such. Their workload has tripled since Maui has grown so much.

13<sup>th</sup> page, last paragraph: delete "If this is appropriate."