

MAUI COUNTY CHARTER COMMISSION PUBLIC MEETING  
County Council Committee Room, Maui  
Monday, September 24, 2001  
12:00 p.m.

PRESENT

Terryl Vencl, Chair  
R. Sean McLaughlin, Vice-Chair  
Vince Bagoyo  
Bill Fuhrmann  
Gwen Hiraga  
Stephen Holaday  
Karolyn Mossman  
Stephen Petro  
Donn Takahashi

STAFF

Brian Moto, Corporation Counsel  
Ke'ala Pasco, Charter Commission Assistant

EXCUSED

Carole Ameal  
Erlinda Rosario

CALL TO ORDER

Chair Vencl called the meeting to order at 12:10 p.m. No one had signed up to testify, so she proceeded with Charter Commission business.

The minutes from the September 10<sup>th</sup> meeting were handed out. Motion was made to approve (Commissioner Petro), seconded (Commissioner Mossman), and unanimously carried. Excused: Commissioners Ameal and Rosario.

Communications to be accepted into record were from the following: Board of Ethics; County Council; Department of Public Works; Department of Water Supply; and the Cost of Government Commission. Commissioner Fuhrmann brought copies of an article by Lowell Kalapa (pertaining to county government debt limits). Motion was made to accept these communications (Commissioner Holaday), seconded (Commissioner Takahashi), and unanimously carried. Excused: Commissioners Ameal and Rosario.

Commissioner Bagoyo received a letter from Linda Okamoto; he requested that it be accepted into the record. Motion was made to accept this letter (Commissioner Takahashi), seconded (Vice-Chair McLaughlin), and unanimously carried. Excused: Commissioners Ameal and Rosario.

Chair Vencl said she'd just received Carole Ameal's resignation. Commissioner Mossman suggested moving forward without a new person. Commissioner Fuhrmann suggested having someone from West Maui; Commissioner Mossman said we don't have anyone from South Maui. Commissioner Takahashi said we could possibly adjust the number required for a quorum. Mr. Moto said the voting requirements will remain unchanged, as if still had same amount of members. Chair Vencl will write a letter to the Mayor and County Council stating where the Commission has been and where it's going. Mr. Moto said the letter could say whatever we wish as long as the Council is notified of Carole Ameal's official resignation.

Vice-Chair McLaughlin asked if the Mayor is obligated to fill this vacancy. Mr. Moto replied that the Hawaii State Statute says that vacancies should be filled. Commissioner McLaughlin said that the letter should include our understanding of the law;

Commissioner Fuhrmann said we should be expeditious in the process of retaining a new person so they don't fall even further behind. Chair Vencel will write a letter to the Mayor and Council stating that Ms. Ameral has resigned, tell them where the Commission stands at this point, and leave it up to them to appoint a new person or not. She will request that we move as quickly as possible, and will send copies of the letter to everyone.

Chair Vencel will invite Elvin Kamoku from the Fire Commission and Don Couch from the Ethics Commission to speak at the next meeting on Monday, October 8<sup>th</sup>. Regarding having someone speak about Open Space, it was decided that the Commission will wait for Wes Lo to get back to them about the Mayor's 1% proposal. Chair Vencel also hopes to have an action on the writer of the Commission's reports at the next meeting.

Commissioner Petro requested meeting one hour earlier, at 11:00 a.m., to help facilitate his travel. There were no objections, so the next two meetings (October 8<sup>th</sup> and 22<sup>nd</sup>) will be from 11:00 a.m. – 2:30 p.m.

Chair Vencel stated that the Commission had a really full schedule, and asked commissioners to keep their comments brief. Any questions unanswered within the time frame were to be directed to Chair Vencel, who will follow up.

ROY HIRAGA, COUNTY CLERK

Mr. Hiraga presented his responses to Chair Vencel's letter, in which she asked about four year terms, the Mayor's term, having a full time Council, and runoff voting.

Regarding four year terms for council members, Mr. Hiraga said it was his personal opinion that advantages would be as follows: council members would have the benefit of more historical knowledge; they'd have more time to complete their objectives; it would lessen campaigning while in office; and provide them with more time to familiarize themselves with appropriate procedures. A disadvantage would be the difficulty of "getting rid of" ineffective members.

As far as staggering terms every two years, would that allow for continuity? The opportunity of working with those that have been there for a longer period of time is an advantage. The establishment of term limits takes the power away from voters. Government should empower voters by giving them decision-making ability. Members at the end of the term performing admirably should have voters afford them the decision.

The Mayor's term is different. We need limits on the administration side of government because of their ability to abuse their power. This prevents leaders from abusing their authority. Government needs to be run in a hands-on fashion. The Council is responsible for policy making.

Commissioner Petro asked what the rationale and reasoning were behind the recommendation that the charter be changed to include term limits. Mr. Hiraga doesn't recall the overriding reason; he'll research it. He can find when an issue was voted on in the council minutes, but more discussion was probably held in committee meetings. He doesn't recall any other charter commission recommending term limits.

The public wants a full time council with full time compensation and no side jobs. Mr. Hiraga said that unless a change is made to the authority vested with the salary

commission, he prefers to defer to the salary commission on that. His personal opinion is that it would reduce the pull of prospective members, increase the probability that the candidate is retired, and increases the odds of having someone from the private sector.

Vice-Chair McLaughlin needed some clarification on any ethical problems or conflicts, and asked if it had been a problem. Mr. Hiraga replied that both Goro Hokama and Dennis Nakamura both fell into that category, but when they were sitting on their respective councils, it wasn't a conflict. They recused from votes on occasion.

Commissioner Petro asked what the range of pay would be for a full time council member, and if the county could afford that level of pay. Mr. Hiraga replied that it would be left up to the salary commission.

Commissioner Hiraga asked if it was a state law that prohibited the Mayor and Council from having a second, part time job. Mr. Moto believes it is for the Mayor; there is no equivalent state law covering legislators such as council members.

Commissioner Fuhrmann asked if the salary commission decides how the council works, and Commissioner Takahashi asked if there were any studies of similar populations or cities that would show if the majority was full or part time. Mr. Hiraga stated that a matrix was submitted to the salary commission that included the different venues, populations, and salary breakdowns. He believes the matrix came from the Office of Council Services.

Commissioner Bagoyo said the challenge of the County Council is the matter of managing the issues that are presented. The little things get to be so time consuming; they need a process to streamline things. The Maui County Council is very inefficient. The Charter should encourage efficiency to the extent that it can. It'd be more efficient to define efficient mechanisms. An example given was referring all communications to a committee.

BM found the statute for Commissioner Hiraga's earlier question. The chapter dealing with public service states that no full time officer of state, city, or county may engage in the private practice of any business (this is the law as of today, but it's expiring next July). Another section in civil service law says they're permitted as long as it doesn't conflict with government duties.

Commissioner Fuhrmann said that the "full time officer" wording means we need to clarify full time; then the law applies. Council members were never considered full time.

Commissioner Mossman wants to know if it's going to be replaced. A person could still be designated full time and have another job. Mr. Moto said he'd be happy to do some research.

Regarding instant runoff voting, there is a video circulating. Will try to set it up so the Commission can watch it as a group.

Mr. Hiraga said that he checked with ESNS, the state's company; the equipment can't process IRV ballots. He's willing to look at programs and equipment to see how much more is needed, but before taking that step, which one of the IRV proposals will be used?

The IRV proposal would reduce the amount of work needed only if it's a county election. Unless federal and state go to the same scheme, we'd still have to have two elections. There are still some advantages to the system, but this was generally used by 22 US cities. Why did they abandon this system? It was introduced into the Hawai'i state legislative session, carried over, and then never heard of again. Chair Vencl requested copies of Mr. Hiraga's notes.

The commission received three letters in support of IRV ("boosts voter turnout; cheaper; saves taxpayers cost of second election"). Preferential voting sanctioned for over 100 years.

Mr. Hiraga said it wouldn't be prudent to ask voters to participate in something more complicated. We'd have to physically audit a percentage of the ballots. Manual auditing would take hours to fulfill election requirements.

Commissioner Mossman asked if there was a significant difference between the primary and general elections. Mr. Hiraga will have to get back to the Commission.

Commissioner Fuhrmann asked how often the list of voters got updated. Mr. Hiraga said that to purge or remove names from the voter load has become more complicated. Now have "fail safe votes." The first voter registration confirmation cards are not forwardable; the second one is forwardable. People can even reregister on election day. If the second card comes back, the voter gets placed on the fail safe list. If the voter misses two complete cycles, then purged off the rolls. Over 10,000 people on list can be purged.

Mr. Hiraga said that based on the latest census figures, single member districts, keep the number of seats to the current nine. Moloka'i and Lana'i have to find more people to create one district, so they're forced to be with Maui. The federal law says you can have discrepancies of up to 2 or -2 %; the state uses 4%.

Some of the disadvantages of district voting include (will submit the rest in writing): increased cost; additional ballots; additional equipment needed; GIS; housing program; and there's no space in county building, so they'd have to lease another facility.

In a single member district route, keep the requirements at 10%. 1500 signatures can force a special election. No help from the state; right now they bear the majority of the cost.

Regarding at-large voting, we already have it and have residency requirements. The registered voter count was 73,331 (people registered to vote).

Vice-Chair McLaughlin wants to know more about the structure (multi-member districts and proportional districts). He'll send his questions to Mr. Hiraga in writing.

Commissioner Mossman said the current Charter shows specifications and asked if it was possible that it'd be reapportionate, and if the Charter Commission could look at that in the future. Mr. Hiraga replied that it's possible that the Commission could establish the initial set up; would need subsequent reapportioning. He said there are two options. He's still waiting for the legal opinion from legal counsel. In light of the new reapportioning plan, the number scheme is now reversed. We could leave description as is, but it may cause confusion for future candidates. Vice-Chair McLaughlin asked

about district requirements for council members. Vacancies are offered by the Mayor's office. If none of the candidates receive the majority, we must have a runoff. The person with the highest number of votes is automatically the winner.

The Magna Carta (the original Charter) dealt with and balanced power between the administrative and the legislative branches. It was inappropriate to legislate by charter.

Chair Venci asked when the reapportionment proposal would be voted on. The answer is October 26.

The Charter helps not only to balance power, but also to help people. The process should be simplified and made easier to encourage greater representation. Mr. Hiraga said there will be a schedule on the website (there is a targeted date to submit).

Chair Venci said Mr. Hiraga did a good job of lining things up. He gave the commissioners a good formula to look at.

BREAK

The meeting was called back to order at 1:35 p.m.

JOHN MIN, PLANNING DIRECTOR

Mr. Min was working off an outline. He brought samples of the general plan and a broad policy plan without maps. He works with the land use and planning committees. The department has two divisions (see outline).

Mr. Min really thought the Planning Department just had to do planning, but he didn't have the staff. He's tried to dedicate the staff, with part-time clerical support for the long-range section. Some projects have been started and completed; there are a number of things in process.

KIVA is what a permit application gets logged in. KIVA can provide a database, special use permits and special management permits can be identified, and various approvals can be expedited.

The GIS (information technology) is critical to the way they work. Paper maps aren't sufficient. He's hoping to complete their work in 18 - 24 months. Zoning information can be pulled up quickly, and eventually put online. He can improve capabilities with community plan updates. Internal operational initiatives will help advance.

Smart Growth is not just a single idea; it's a process of working to develop a consensus about the future of our community. We have to update the general plan soon. One of the objectives of this committee is to define Smart Growth for Maui. What are some smart growth principles that we should be adopting? Which will work for us?

It runs the gamut, whole range of applications (A). They also get a lot of informational requests from the public (B).

The Governor signed into law amendments to Chapter 205 A. The numbers are somewhat conservative. Maui County processes more SMA major permits than all other counties combined. Maui has very large SMA boundaries.

Commissioner Takahashi asked if zoning inquiries were a source of revenue. Mr. Min said the department gets a lot of information this way. Once they get the digital mapping system set up, the number should go down significantly. Commissioner Takahashi asked if they'd charge for inquiries then; Mr. Min says they typically charge only when someone applies. It's one thing to specify property use, another thing when an application is filed.

Commissioner Bagoyo asked when he planned to implement . . .

BREAK

The meeting was called back to order at 2:02 p.m.

Mr. Min continued, saying that another aspect to implementation is that legal considerations come into play: a single-family residence was permitted under park zoning; the SMA law clearly exempted that particular circumstance. The community plan says one thing, zoning says another.

Another aspect is budgetary; it costs money to implement some of these projects. They have to use practical constraint because they don't have the funding to do everything they want. A number of actions have been identified but not prioritized, which raises practical questions about how you pick and choose. It's important to have a long-range planning program; they're dependent upon support they can get through the budget. It all depends on overall considerations, a downturn in economy, etc.

Mr. Min's final comment was that he passed out a draft of the proposed revision to the Charter (he got an OK from the Mayor to share). The final language may be subject to Corporation Counsel review, but he wanted to convey that having had the long-range planning function dissolved, it bothers him. Planning departments have to plan. In terms of duties and functions, he recommends revisions of the Charter every ten years. It doesn't talk about the planning department preparing for the general plan. Chair Venci clarified that Mr. Min is suggesting an inclusion, and basically changing the numbers that follow.

Vice-Chair McLaughlin asked about the recommendation that the planning commission be advisory, per the Mayor. Mr. Min said that as a practical matter, there are a number of SMA applications that council will have to deal with; that number will go higher. The question is whether or not they'll be willing to handle that workload. The SMA permit application (when they really look at the project itself, landscape planning, drainage, etc.) vs. a change of zoning (establish basic development guidelines, allow property to be used for residential use, basic policy).

Commissioner Bagoyo mentioned some comments received regarding moving SMA to the legislative branch. He thinks it'd reduce public influence, become a political issue at Council, and become a judicial process.

Commissioner Petro wanted to clarify that Mr. Min was suggesting they leave the process the way it is, with the planning commission determining the SMA rather than going to the Council. Mr. Min verified that the only thing he was presenting was the one change in Chapter 8.

Commissioner Mossman said the Commission has heard a lot of testimony about putting teeth in the CAC and community plans, and asked where that process was written up (it's not in the charter). She asked Mr. Min about his ideas relating to that and how they fit into the charter, if at all. Mr. Min referred to the Maui county code #2.0. Council member Charmaine Tavares is looking into it with her committee. The Council is currently reviewing plans from seven or eight years ago, so the process is under scrutiny because it takes so long. In 1989, we didn't have community plans, only a general plan. They put together nine plans; within the following year, all were passed to Council for approval. It took them about seven years. This time, community plans were updated in 1991 or 1992. They're very complex documents, so issues come up because it takes so long. A plan that may have been relative and supported ten years ago, may not be relevant today because times have changed. In 1989, partners worked on redevelopment of most of Wailuku town and even some of Happy Valley. It took a lot of meetings, but within a year's time, it got to Council and moved along very quickly. A lot of the bugs had been worked out by then, so the Council looked at it with fresh eyes. Moving things along is so important.

Commissioner Mossman asked if it was Mr. Min's recommendation that the Charter address that. He replied that it's best left up to the legislative process.

Commissioner Fuhrmann said if it's updated every ten years, it's not happening. Community plans are part of general plans. Mr. Min personally thinks ten years is a good time frame, but some others may be too long.

Commissioner Hiraga asked if there was a process for specific charter provisions under planning, under proposed CIP projects. Mr. Min replied that there really isn't a process; the CIP committee set up by the Mayor meets every other week to get an update on all projects (he's not personally involved).

Commissioner Hiraga asked if, in terms of applications, this included variances, and asked how Mr. Min felt it's working in his department where certain variances are still being handled. Mr. Min thinks that for the most part, the areas of responsibility have been defined and signed, but they will make copies of that report for us.

Commissioner Hiraga's last comment was that Planning is a small department with 32 employees responsible for nine major boards and committees. It's in a position where it's more critical.

Commissioner Bagoyo asked if anyone from the planning department sits on the Board of Water Supply, and if Mr. Min is an ex-officio voting member. The Public Works director is a voting member of the BWS. Some comments were about stability; someone needs to handle the infrastructure. There seems to be a fragment of different plans that needs to be put together somehow in the budget request.

Mr. Min replied that water is not included because they're semi-autonomous. He doesn't have a position on that. The water department works with the planning department to prepare for water use and development. The planning department can assist by preparing good development and population forecasts, which provide a good assessment of what's happening and where. DOE collects a lot of data but he doesn't know what their process is.

Commissioner Bagoyo asked which department would best handle this; knowing population development is very helpful in planning and the budget. He asked what assumption they're using, and if all facilities were working with the same numbers. He said a lot of physical and social infrastructure is going to be required. Is there any other department that can help, or shall we create one because this is so important. The public complains about traffic, lack of water, etc.; please think about what department or agency can help us. He didn't realize that 12,000 applications needed to be processed by only 32 employees, and commended Mr. Min and his staff for putting that together.

Chair Vencl thanked Mr. Min for his time. The Commission will probably ask him to come back.

BREAK

The meeting was called back to order at 2:47 p.m. Chair Vencl apologized to Mr. Craddick for the delay (the Commission will probably call him back if we need more time). She asked for public testimony first from those who signed up.

TESTIMONY

MS. MARIE KIMMEY

Ms. Kimmey was on the BWS in 1995; she enjoyed the experience with the Commission and working with Mr. Craddick. She asked the Commission to be careful about making substantial changes. It's currently hard to move all the water from the east side to the central area. Stored water runs out so we go into a drought stage pretty quick. Working on commission was challenging. The only thing that kept them going was that they were able to select the department chair. She probably wouldn't have stayed if it weren't for Mr. Craddick. She believes the BWS needs to have control over who's in charge. The person is selected by mayor and interviewed and selected by council, so there are enough checks and balances. Ms. Kimmey honestly feels it would undermine the water board if the members didn't have control over who runs the Department; it's a tough enough commission.

MR. WARREN WATANABE

Mr. Watanabe was vice-chair of the BWS, serving approximately from 1992 - 1996. From the time he went on the board to the time he got off, he realized that we are one community; he saw great improvements, better structure, and more direction on everything from CIP projects to protecting the watershed. He feels we're going in the right direction; sometimes we have to compromise and do what's best for the island. The emphasis should be on more federal funding to assist us with major capital improvements. Our system has improved greatly.

That completes the public testimony for today. Chair Vencl apologized for the delay.

DAVID CRADDICK, BOARD OF WATER SUPPLY DIRECTOR

Mr. Craddick introduced Quirino Antonio, deputy manager for the Hawai'i water department, which has two ex-officio voting members; and Director from Kaua'i, whose

three ex-officio members are all voting members. They have four community members appointed by the Mayor and affirmed by the council.

Hawai'i's rules and regulations are enacted by the BOD, and rates are adopted by the BOD. Kaula's council doesn't approve rates; their semi-autonomy comes and goes, depending on the situation.

Mr. Craddick is required by state law to go through the council; the Maui BWS is semi-autonomous. Mr. Craddick said he has read all of the minutes, and asked the commissioners to keep an open mind and consider all the facts. Since 1949, he is the 13<sup>th</sup> manager.

Mr. Craddick asked if, regarding accountability, the Mayor and the council are accountable when they make their selections. He thinks allocation needs improvement; not the water board. He mentioned that the Council falls short when they need to decide about one area over another, or Hawaiians over another. It's a "wild and crazy kind of planning." The infrastructure planning is nearly impossible.

Regarding CIP concurrence, the BWS should only know the general and community plans. Mr. Craddick said that Lahaina people were talking about upcountry, and the upcountry people only talked about allocation. The first issue is where are we going first? Then how fast, and how far? Are we going to buy it? What's the necessary comfort level? Is the water quality acceptable to the community? Will they take care of it?

Mr. Craddick summed it up and said that the reduction of service in dry months should be anticipated.

Commissioners Hiraga and Petro left at 2:40 p.m.

Chair Vencl said the Commission would definitely ask Mr. Craddick to come back, and that the Commission will digest all the information before coming up with questions. She then mentioned that one scenario is that the water department is said to be similar to a business with a CEO.

Mr. Craddick said that's how it is right now; he has no problem with that. The level of micromanagement within the department varies year by year. The number of jobs in recent years declined due to jobs being micromanaged. The average change order was 6.1%. Burial issues jumped prices up 30%.

Regarding micromanaging, Commissioner Holaday asked if there was a difference between making political statements and micromanaging. Mr. Craddick replied that he didn't think so because they stick with the money issue. They lost six BOD members in one year, and had to deal with a complete loss of knowledge. That was a rarity; there's normally enough continuity of knowledge in the BWS.

Commissioner Bagoyo asked about the total value of assets, which is \$246 M. He then asked if there were any other jurisdictions that had private utilities; the matrix only talks about the public system. Mr. Craddick responded that he'd only been asked for ones that were under the municipal government.

Commissioner Bagoyo stated that listening to Mr. Craddick's testimony, he didn't hear any proposals for any changes the Commission should consider. He said Mr. Craddick

talked about the historical perspective and the problems experienced. Mr. Craddick looks for in candidates. Mr. Craddick replied that there are enough fields, laypeople, and expertise; we need that perspective on there. It doesn't hurt to have qualifications. Commissioner Bagoyo asked him to come back with qualifications the Commission should consider, people with knowledge in those specific areas.

Commissioner Bagoyo then asked how Mr. Craddick does his capital improvement budget, to which Mr. Craddick said that typically, the state transportation and public works responds. Anytime we can coordinate with them, a number of times they deferred or speeded things up. The CIP process is driven by the community and general plan.

Vice-Chair McLaughlin asked if Mr. Craddick was recommending any changes to the charter. Mr. Craddick hesitates to do that without an action by the board.

Chair Vencl said that the communication from the department is in the binder. If commissioners have any more questions, they should forward them to her. She'll ask Mr. Craddick to respond, and they can ask him to come back for more discussion.

Commissioner Mossman asked what the Commission could do about the inter-departmental issue. Mr. Craddick replied that one of their BOD members said that but it's not based in fact. They're not putting the old plastic pipes in anymore; they're putting in copper. There are some in Wailea and the upper part of Lahaina. There are broken lines in all relatively new subdivisions. We have to get the departments to work together more.

Commissioner Holaday suggested a different rate for agricultural vs. residential. Mr. Craddick said no, because if ag should be subsidized, it'd be handled by the county. If that's good for the county, then that should be good for all, elected people should decide what the subsidy is, not the board.

Chair Vencl asked if there was a suggestion that that happens now with ag. Mr. Craddick said that they give a break to ag and it's decided by the board. He doesn't know where that comes from. Commissioner Bagoyo said the one that's paying the ag rates is right here, so we're subsidizing it. The County should be paying it, not the ratepayers.

#### CONCLUSION

Vice-Chair McLaughlin had to leave. Chair Vencl said they've lost quorum, thanked Mr. Craddick and the commissioners.

The meeting was adjourned at 3:33 p.m.