

MAUI COUNTY CHARTER COMMISSION PUBLIC MEETING
County Council Committee Room, Maui
Wednesday, April 17, 2002
8:00 a.m.

PRESENT

Teryl Vencl, Chair
R. Sean McLaughlin, Vice-Chair
Vince Bagoyo
Ray DeMello
Bill Fuhrmann
Gwen Hiraga
Stephen Holaday
Karolyn Mossman
Stephen Petro
Erlinda Rosario

STAFF

Ke`ala Pasco, Charter Commission Assistant
James Takayesu, Corporation Counsel
Jon Van Dyke, Charter Commission Analyst

EXCUSED

Brian Moto, First Deputy Corporation Counsel
Donn Takahashi

CALL TO ORDER

Chair Vencl called the meeting to order at 8:10 a.m. Present: Vice-Chair McLaughlin; Commissioners Bagoyo, DeMello, Fuhrmann, Hiraga, Holaday, Mossman, Petro, and Rosario. Staff present: Pasco; Takayesu; and Van Dyke. Commissioner Takahashi and Deputy Corporation Counsel Brian Moto were excused.

Chair Vencl asked for an approval of the minutes. Motion was made (Bagoyo), seconded (DeMello), and unanimously approved to accept the minutes from April 10 (excused: Takahashi). Vice-Chair McLaughlin mentioned that Akaku's (unedited) videotapes are available to the public.

Communications were received from Valley Isle Electric, Bug Man Termite & Pest Control, Janet and Vincent (last name?), and Roy Hiraga. Motion was made (Bagoyo), seconded (Rosario), and unanimously approved to accept these communications into record (excused: Takahashi).

TESTIMONY

MR. MYLES INOKUMA

Mr. Inokuma testified about Proposal 14, which would reduce the length of service for boards and commissions from five to three years. He's not sure this proposal would actually do what it's intending to do.

- 1) Boards and commissions created by the Charter are the ones we have many appointments for; it's the ones established by ordinance that we're having problems with.
- 2) Once the notice goes out, there's a time requirement. They meet every day, all day; it's very intense. It's hard to get people for the street lighting and naming committees.
- 3) Gender equality and geographical representation need to be actively pursued (keeping in mind the flight schedules for Lana`i and Moloka`i, and the inconvenience of driving from Hana).
- 4) We also need parity in the political aspect.
- 5) Decreasing the length of term would create more vacancies to fill every year.

MR. JIM SMITH

Mr. Smith said there were things at the last meeting that concerned him. He mentioned the following:

- 1) The definition of financial interest shouldn't be assigned by the state legislature as they amend the statutory code continuously. This subverts our charter. We should be relying upon our own code. Once you take an organic document and turn it into the legislative mix, it weakens the document. If you accept the idea that the Council shall define financial interest, then you don't need to specify who'd be prohibited.
- 2) Eliminate paragraph I. You could put it in the legislative frame; but it'd be more effective if you further add "shall be subjected to administrative fine." Protect whoever's appointed to the Board of Ethics. Let the County Council define those terms and take care of who coerces someone.

Mr. Smith testified for three minutes. He asked to come back to complete his testimony.

MS. KELLY ARBOR

Ms. Arbor testified as an individual. She expressed her disappointment that the Commission deleted the provisions for initiative and recall (particularly in light of four year terms).

- 1) She urged the Commission to especially consider making it easier for recall.
- 2) She said there's fear in the community that initiative would be abused, but it may actually be helpful for the Council to have that impetus. Right now, it's just so difficult to get anything on the ballot.
- 3) She asked the Commission to look at some of the positive benefits of this.

Vice-Chair McLaughlin reminded Ms. Arbor that the Commission probably wouldn't review the initiative issue. Current provisions in the Charter are very strict. Initiative can only put a very specifically worded question to the Council. He asked her if she'd considered proposing initiative to the Council for them to add. She replied that it's clear that certain areas are complex. In general, the idea of having a direct democracy opportunity like this would be helpful for steering. He concluded that the onus is now on the proponents of this issue, and it's now up to the Council.

MR. DEGRAY VANDERBILT

Mr. Vanderbilt said he was really upset with this final meeting. He addressed the following:

- 1) The article in The Maui News (4/16) gave a brief overview of proposals that might have come out from the meeting on April 10. He checked the website and there was no reference to the minutes or to the draft.
- 2) The agenda for April 10 listed everything; the one for April 17 didn't.
- 3) Today was the first chance for the public to review the draft proposal. He didn't have time to focus his testimony.
- 4) He claimed the Commission was represented by industry lobbyists or major developers. The majority of policies proposed that would assist the public and balance out the old boy network went down the tubes. There were no minutes from the meeting on April 10, no testimonies, but plenty from the developers.

- 5) What about the environment? Some members expressed concern, but what happened? It got left in Public Works, which is already overloaded. The county and this Commission seems satisfied to leave it to the feds and the state. This county's going the same way as LA.

Mr. Vanderbilt hadn't finished his testimony by three minutes. He asked to come back to conclude.

MR. JIM SMITH

Mr. Smith returned to continue his testimony. He had three additional minutes.

- 1) Attach items to the agenda so the public can review it at least six days prior to the meeting. He asked the Commission to continue this to another meeting, so at least there's more time for them to prepare. Timing shouldn't be more important than substance ... don't focus on getting this out today.
- 2) Regarding Water, Mr. Smith asked what "successive statutes" means (it's open ended). If you're giving them the power to coordinate, and reports to make it autonomous, and interweaving with the Water code (which has to be amended when community plans are amended). Update them at least every five years ... this is very confusing.
- 3) Mr. Smith questioned "subject to approval of Council as provided by law." What law? He's confused about where that's going. An audit or the Council can initiate legislation. Work isn't done on this issue. Address this before sending it out.
- 4) He referred to minutes and audio tapes, saying that whenever there's a conflict, the existing tapes should be the authority rather than the account of what happened.

MR. DEGRAY VANDERBILT

Mr. Vanderbilt apologized in case he offended anyone by being less than calm. He said it's really hard for the public who really cares about the government; they sometimes have to speak out to ensure the public's role is protected. He continued:

- 1) Four year terms is another strengthening of the establishment. You haven't made recall any easier. Four years is too long to wait because it's all about name recognition. You don't need to reeducate the Council. Unless the public really wants it (not the developers), forget it. He thinks this has been on the ballot maybe once or twice, and asked why it should be put out again.
- 2) John Min and David Craddick don't have the time to prepare if they're to sit on the Water board.
- 3) Rethink initiative. Make the public feel like they're wanted in the public process.

Chair Venci closed testimony. Mr. Van Dyke commented that the document the Commission is looking at today was drafted after the last meeting; it's a working document (his attempt to summarize). The commissioners should look at the staff document first. Copies have been made for people who want to follow along.

Chair Venci added that she was still looking up dates and filling in blanks yesterday, so the document wasn't ready. This is the last meeting before the document goes to the Council. The public will have an opportunity to testify to the Council, and to the Commission again in June.

Commissioner Mossman expressed her displeasure that the public didn't get the document when commissioners got it. Commissioner Petro clarified that this isn't new; it's just a summary (a

collection of actions taken). He asked Corporation Counsel about compliance with the sunshine law.

Mr. Takayesu affirmed that the Commission was in compliance. This is the first Charter complying with HRS 50; it'll be available for the next several months. There will be additional opportunities to appear before this Commission and the Council.

Mr. Takayesu then addressed Mr. Smith's concerns about the state water code and "as provided by law." When it comes to drafting style, the more general approach is better because when the state law changes, you're subject to it. Broader language (an organic act of the County) doesn't have to have the detail of ordinances or rules and regulations.

Commissioner Mossman clarified that her concern was about the Commission doing the right thing (the public was told that this draft would be given out when the commissioners got it). Commissioner Hiraga said she raised that concern in the meeting on April 3. Mr. Takayesu noted that only the agenda needed to be available. Mr. Van Dyke said the public would have time to see it. When another meeting was mentioned, Chair Vencl reminded everyone that the report was due to the Council by the following Monday. Commissioner Bagoyo specifically asked before the last meeting adjourned for this information to be available to the public simultaneously (he got the draft yesterday by email).

Chair Vencl wanted to move ahead with the document. Mr. Vanderbilt interjected that he'd requested the draft report through her office yesterday.

Mr. Moto commended Mr. Van Dyke on excellent work. He put his comments on paper so the Commission could get his thoughts right away.

Chair Vencl said she wanted to take the draft item by item. Since the page numbers on Mr. Van Dyke's report got lost in the transmission, it was suggested that the Commission work with Mr. Moto's report and deal with his changes as they went through the document.

➤ Assistant's Note: Page numbers within the minutes correspond to Mr. Moto's report. Numbers shown as {such} correspond to pages of the official Draft Report. This report can be found at (<http://www.co.maui.hi.us/boards/bDetail.php?BoardID=37>) under Issues. It is also available through Corporation Counsel (808-270-7741).

DRAFT REPORT

The cover letter was changed to include Council Chair Kawano. The word "review" was deleted wherever "Maui County Charter Review Commission" was used. Dates and words were added or corrected for accuracy and clarification.

Vice-Chair McLaughlin asked to delete geographical designations under "Background," saying it implied that those commissioners were handled differently. As there were no objections, the geographical designations were deleted. {3}

To expedite this process, Commissioner Bagoyo said Corporation Counsel should be trusted to double check any dates (including when the public meetings that were held); Commissioner Petro concurred. Vice-Chair McLaughlin moved to adopt all changes up to page 6.

Both "public hearing" and "public informational meeting," had been used in regard to meetings; "public meetings" would be used instead. Kaunakakai Cafetorium was changed to Kaunakakai School Cafetorium. {5}

Vice-Chair McLaughlin thought they were going to look at combining or restructuring the number of questions on the ballot. He was open to clarifying the number of proposals. Chair Vencl said it's appropriate to suggest that they mesh some of the proposals.

Chair Vencl turned the discussion to Council terms. Mr. Moto made a stylistic change. Regarding Council members, he wants the sentence to end after "for those Council members serving at time of transition." Commissioner Mossman commented that because Mr. Moto points out that there could be more than one person in that position, the wording needs to be changed to "if any." {8}

Mr. Van Dyke said that all nine are up for reelection in 2004. The top five vote getters will get four year terms. Mr. Takayesu added that after Council member Charmaine Tavares, everyone else has less than four years. No one has to drop back to a two year term.

Much discussion followed for the purpose of clarifying the terms; it was determined that twelve years is the key. Mr. Van Dyke referred to the last sentence of 15-1, saying that Council member Nishiki would be able to run, but only for two years because of the twelve year limit (he'll have served ten years as of 2004). {8}

Chair Vencl reminded the commissioners that they haven't dealt with Commissioner Mossman's suggestion to change "if one" to "if any." Commissioner Mossman just wanted to make it clear that they weren't singling out anyone. If using "any," we need parentheses wherever it's appropriate. {8}

Mr. Moto addressed a grammatical issue. "Shall" is mandatory; "will" is indicative (one is a command, and the other is a prediction). It was decided that any time the word "will" is used, it should be changed to "shall." Mr. Van Dyke asked about "council member" vs. "councilmember." It was decided that it should be one word. {8}

Commissioner Fuhrmann questioned "twelve consecutive years" vs. "full terms." Terms will be gauged by the length of time served, which would be a total of twelve years.

Much discussion followed regarding whether or not the pros and cons should be debated or expanded upon during this meeting. Mr. Takayesu said it's appropriate to discuss, as the Commission should do as much as possible to provide people with notices up front.

Discussion ensued regarding 8-2(3)(b), in which Mr. Takayesu said he liked adding "the County of Maui," because ODC made it very clear that the County of Maui is their client. It's consistent with their rules of professional comment. A semi colon should be added after "Maui," and "through" should be deleted. Mr. Moto said to change it to its council, and to leave the word "all."

Under pros, delete "independent." Then there's no question if there were dependent boards and commissions. {10}

Moving on to Proposal 5, Vice-Chair McLaughlin noted that the meaning of Environmental Management isn't clarified until the pros are described. It should be up to the new department to determine its responsibilities, but he asked how the Commission should explain this. Mr. Van

Dyke said his notes were in conflict on this so he included what he thought there was a consensus on (dealing more with pollution than protecting endangered species. Protecting the beauty was a catch all phrase. Commissioner Mossman liked that we were talking about environmental waste. {11}

Mr. Van Dyke said he called it the Public Works department so it refers to the previous one and the future one. Mr. Moto conceded, but then Commissioner Hiraga said each department should be called what it really is. His description talks about existing functions, but we're looking at changing the name of the department. It was decided that Department of Public Works and Waste Management would be used. The word "powers" should be changed to "responsibilities." {11}

Mr. Van Dyke asked for clarification on Proposal 6. It refers to the Department of Fire and Public Safety (not "Control"). {13}

Vice-Chair McLaughlin and Commissioner Bagoyo had questions regarding not engaging legal consultants in 8-7(2) on page 13. Mr. Moto replied that it's so the record reflects that that's not the intent, and so future lawyers would have the proper information. He further explained that contracts originally made out of the Fire Department would be signed by the Department of Finance. Discussion continued; Commissioner Hiraga asked if it should be completely taken out. Mr. Moto said that while he hadn't originally thought about it, he agreed with Commissioner Bagoyo regarding independent contract authority (they can always go through the procurement process). Vice-Chair McLaughlin supported Commissioner Hiraga, saying that they were trying to mirror the Police Commission. All were in favor of taking the sentence out completely (excused: Takahashi). {14}

Chair Vencl said page 14 mostly had stylistic changes. Commissioner Mossman brought attention to the very first line on page 15; it should read, "accordance with the following." "High degrees of education" was changed to "appropriate education ..." {15}

Mr. Van Dyke asked about the capitalization of general plan and citizen advisory committees. The decision was left up to him (consistency was the only request). {17}

The discussion continued. It was decided that pages 17 and 18 were fine as suggested.

Chair Vencl there was concern from the Council (and maybe Planning) about numbers two and three at the top of page 18. They had concerns about the number of days listed here; the Council might not have received the document in a timely manner.

Mr. Moto summarized his first major substantive comment on the draft: the County of Maui doesn't have inherent zoning power. The state statute (section 46-4) concerns the County's ability to zone; it raises the question of what's important. This requirement that zoning actions be done by ordinance states that the power of zoning must be a distinct legislative act. The term ordinance in this country means law or by authority. An ordinance is equivalent to legislative action. Now we're having legislation by inaction, which counters what an ordinance is. You don't have an ordinance, and you won't have one. You can't force it.

Mr. Moto then addressed the length of time provided. In his experience, 180 days is short. There are a number of zoning and land ordinance bills that take longer. Commissioner Petro said the whole issue of giving a time limit came as a result of testimony; the inaction (seven years) is much too long. There should be a provision that CACs shall remain intact until they act, and we wanted them to act in a timely fashion. He continued that community plans are so dear to the

community, they want some action. He asked how a provision could be included that would force action by the Council.

Vice-Chair McLaughlin expressed support for further discussion on enforceable language. He asked how the adoption of a community plan fits into this time requirement. Mr. Van Dyke answered that in 8-8(5) (number 5 at the top of page 19), it states "shall be part of the general plan." There is no time limit.

For 8-8(6), motion was made (Mossman), seconded (McLaughlin), and unanimously approved to delete the wording after "planning director" in numbers 3 and 4 (excused: Takahashi). {18}

There was further discussion about CACs, deadlines, timelines, enforcement, and provisions for when the Charter isn't followed. Chair Venci said there might be further clarifications when it comes back to the Commission. Mr. Van Dyke said lawsuits could be brought to challenge the Council's lack of action.

BREAK

Chair Venci called a ten minute break. The meeting was called back to order at 10:45 a.m.

Conversation picked up from page 20. Mr. Moto pointed out that there was a blank line to fill out at the bottom of the page. {22}

Mr. Moto's first comment for page 21 was to clarify the main reason the Board of Water Supply is semi-autonomous is because its rates and fees are set by administrative rules. Chair Venci said we'd keep nine board members on the Board, two of which will be the Director of Planning and the Director of Public Works. {22 - 23}

For the bottom of page 21, motion was made (Mossman), seconded (McLaughlin), and unanimously approved to delete the state water code, all the way to statutes, and substitute "other applicable state laws." {23}

Mr. Takayesu said there was some concern with saying "approval" because some counties didn't regulate private water systems, and subdividers might not have the sophistication necessary for the long term. Change the ordinance to follow the Big Island. Under subdivision laws, we can get into this area, and to a different source of authority. Commissioner Bagoyo said subdivisions are still approved by the Department of Public Works, and the water system must comply with the specifications and so forth under the code. He asked what wasn't being complied with; Mr. Takayesu said back up wells. They're looking at subdivision standards (national fire codes) to try to avoid problems.

Mr. Moto brought attention to the few changes on page 22: change bracketing for "shall be"; alternate wording for "these community..."; and specify the date for the adoption of the Charter amendment (January 2, 2004). He said the other changes were minor. {23 - 24}

Chair Venci moved on to the cons for the Department of Transportation. Commissioner Mossman said that testimonies expressed concern about adding additional cost to government. She wanted to recognize that concern with language ("increase the size of government"), but Commissioner Bagoyo wasn't comfortable with the language and said we didn't have enough information. Commissioner Mossman conceded; Chair Venci said to strike it.

Conversation about the Salary Commission dealt with the mayor's authority to appoint someone and whether or not the five year terms conflict with the proposal to reduce terms. Vice-Chair McLaughlin said staggering diminishes the authority of the current mayor; we need to explain what the underlying policy is. Regarding a possible conflict with terms, Mr. Van Dyke replied that specific wording always overrides any general provisions.

Chair Vencil said to leave it at five, Vice-Chair McLaughlin supported having it longer than the mayor, and Commissioner Hiraga said she didn't support reducing terms from five to three years. Mr. Takayesu said to try to make it consistent with the new law taking effect in July.

Motion was made (McLaughlin) and seconded (Petro) to incorporate Mr. Takayesu's input: "The commission shall determine the compensation of elected officials and make recommendations to the mayor for the compensation of appointed directors ..." {28}

Change "establishing" to "evaluating the compensation of appointed department heads ..." Commissioner Mossman said that goes against the intent of the law (to allow the administration to deal with these separately) so she doesn't support the motion. {28}

Discussion continued until Mr. Van Dyke suggested new wording (page 28). All except Commissioner Mossman were in favor (excused: Takahashi). Chair Vencil commented that the new language would be more in line with the state's. {29}

Moving on to Proposal 12, Mr. Van Dyke said he utilized language people gave us and adapted it slightly. Mr. Moto said he struck the word "council's" on page 27. {29}

Commissioner Fuhrmann said we should set the procedure and mandate how funds are to be spent (not letting it just sit there and accrue). The Council could say how these acquisitions are made; legislation could require public hearings prior to any acquisition (the ordinance could specify "before the action is closed").

Commissioner Mossman requested clarification on number 2, asking if it said this program would be operated under the Department of Parks and Recreation. Chair Vencil read it to mean that the fund was not to be used for Parks, that this was over and above that.

Commissioner Mossman then asked if number 4 entailed the typical processes and language for all of the funds, or if we were setting up for all the "ordinance stuff." Mr. Moto answered that this language is a bit more detailed than language of this type that's included in the County Charter. The current Charter doesn't provide for many funds; those sections don't go into as much detail as we do here.

Motion was made (Mossman), seconded (Hiraga), and unanimously approved (excused: Takahashi) to delete the wording after "expenditures of the revenues in this fund." Commissioner Hiraga said we should just have the first sentence. {30}

Motion was also made (Mossman), seconded (Rosario) to insert a provision that where the money would fall would be determined by ordinance. Mr. Van Dyke said the administration of this fund shall be determined by ordinance. Commissioner Hiraga said to delete number 2. Commissioners Mossman and Rosario withdrew the motion and second.

Changes include moving sentence 2 to the end of paragraph, adding "administration and" between the expenditures, and renumbering the items accordingly. Further discussion addressed where this new fund should go (the mayor was looking at it to go under Parks). The

whole intent is not to confuse 1% as being part of any other funds; it's a new fund for a new purpose. Commissioner Holaday said that can be achieved by ending the sentence after "historically made." {30}

Vice-Chair McLaughlin supported Commissioner Mossman's idea initial to generalize it a little bit more, saying that it wouldn't be inappropriate to use these funds to buy a drainage easement. If we were going to buy a park anyway, the open space fund shouldn't be used. We shouldn't be using the new fund for traditional uses that would have been done anyway. Leaving it as just Parks and Recreation is being too narrow.

Motion was made (Holaday), seconded (McLaughlin), and unanimously approved to end number 3 after "historically made" (excused: Takahashi). {30}

Further discussion ensued regarding Section 9-11, Lapse in Appropriations. Mr. Van Dyke said to add "or for the opens space fund established in Section 9-19." He also reiterated that specific language would prevail over any generalized language, but they're putting language in after the capital improvement to make it crystal clear. {30}

Chair Vencl moved on to page 28. Mr. Moto said it was entirely up to the Commission whether they accepted his first comment regarding certified real property tax. A more substantive issue concerned the phrase "or take any official action on," which broadens the scope (as defined in the state ethics code). Although the preparatory language talks about the Lana'i Planning Commission, it might also affect situations such as the Molina incident. If that is the case, whether by intent or consequence of language, shouldn't the narrative disclose that? Does this mean that members would be prevented from other things like participating in discussions? Mere participation and discussion is not an official act.

Mr. Takayesu said the interpretation that has been applied to the state code is that they can participate, but they can't vote. Mr. Moto continued that the reason this amendment may affect this is because of "any matter affected by such financial interest." Instead "any matter of business or undertaking ..." Whether you can vote or not, would you be voting on a matter affected by business or such undertaking (management, controlling interest, or officer or employee? Mr. Moto said it seems to alter the grounds, so he wanted to make sure he was reading it correctly.

Commissioner Hiraga asked Mr. Takayesu if it was appropriate or inappropriate, and if he saw a problem with this language. He replied that the code of ethics is in HRS, but it applies to the state. If you feel the definition is a good one, then reference it instead of HRS.

Both Commissioner Mossman and Vice-Chair McLaughlin wanted it noted for the record that they're very concerned about this. Mr. Takayesu said that trying to set guidelines yet make it sufficiently clear whether this is by the code of ethics or not is a hard area. Almost every activity affects Congress; they've been using that to take over. "Substantial effect" might not have that much meaning, but it can be used. Have language that could be a little bit more specific; the present language might be too vague and too restrictive. We want some type of objective standard.

Commissioner Petro said if we take the language stated in HRS 84-3 and insert it in there, it'd help the Ethics Commission determine what "substantial financial interest is." There was much discussion until a motion was made (McLaughlin) and seconded (Mossman) to delete Proposal 13 in its entirety. These are very complex issues; the current Charter established the Board of

Ethics. They haven't recommended any of these changes; thus, it'd be inappropriate for this Commission to go ahead.

Chair Vencl called for the question; the motion on the floor is to delete Proposal 13. Ayes: McLaughlin and Mossman. The rest of the commissioners were opposed (excused: Takahashi).

BREAK

Chair Vencl said we'd break for lunch until 1:00 p.m. The meeting was called back to order at 1:07 p.m. Commissioner Hiraga had to leave for a meeting, but she'll try to come back if the meeting is still going.

Chair Vencl said we're still on pages 28 and 29 regarding Proposal 13. Mr. Moto said assuming for the sake of argument that we stick with the Charter language as proposed, the narrative that describes it will need to be attached (the amendment also redefines and modifies those circumstances in which a county officer can be disqualified from voting). Everyone was okay with that.

Extensive discussion followed. It was ultimately decided to go with what we have and use HRS language. {32}

Motion was made (McLaughlin) and seconded (Rosario) to strike Proposal 14. Vice-Chair McLaughlin reiterated his belief that we put a lot of questions on the ballot, and there's already a difficulty in filling spots. While the proposal is well intended, it doesn't address the core issues.

Commissioner Bagoyo opposed the motion. If a person is reappointed, it'd give him six years. We also had some input regarding this, so he wants to stick with what we have.

After further discussion, Chair Vencl called for the question regarding deleting Proposal 14. All were in favor except Commissioner Bagoyo and Chair Vencl. Abstained: Mossman. Excused: Takahashi.

Chair Vencl then moved on to Proposal 15. Providing greater notice of meetings. Mr. Van Dyke needed clarification on 13-2(11). He said he'd follow Mr. Moto's suggestion.

Chair Vencl moved on to Proposal 16 on page 31. Commissioner Bagoyo said he had some concerns about holding any public meetings on private grounds; the primary location should be a public building. We need to specifically state the date, time, and place consistently so the public knows where those meetings are. Private meeting spaces should be a last resort. Vice-Chair McLaughlin said another con is it might show favoritism (public facilities are neutral).

There was extensive discussion until Mr. Van Dyke suggested "in the event a public building is not available or appropriate, the meeting can be held in another public facility that's accessible to the public." Motion was made (Holaday) and seconded (Bagoyo).

More discussion followed. The Commission ultimately voted unanimously to accept Mr. Van Dyke's wording. {34}

Chair Vencl stated that the next item should be Proposal 17, on the bottom of page, but she opened discussion about an important question on the bottom of page 32. The state law has a provision in case there's a tie for fifth place. Vice-Chair McLaughlin said that they'd both be elected; it'd just to determine who gets the longer term.

Chair Vencl moved on to page 33. The existing Public Safety Commission is being renamed and taking on added responsibility. Commissioner Bagoyo expressed concern that when the current Public Safety Commission was confirmed, it was with their current responsibilities. We don't know if these people are qualified to handle the ability to hire and fire so it's all new (one of the captains that testified didn't even know the public safety commissioners). Chair Vencl said she understands Commissioner Bagoyo's concern, but she has faith in the people.

Commissioner Bagoyo moved to make a change; there was no second, so the motion failed. Vice-Chair McLaughlin abstained (excused: Takahashi).

Motion was made (Mossman), seconded (Petro), and approved to add a sentence clarifying that the current Public Safety Commission would continue to hold office with regard to the new Fire and Public Safety Commission. Opposed: Bagoyo (excused: Takahashi). {36}

Chair Vencl moved down to Section 15-3 regarding the Salary Commission. Mr. Moto said it may be fine as it is; it's just wordsmithing. {36}

Chair Vencl then moved on to Proposal 18 – Housekeeping Changes on page 33. Vice-Chair McLaughlin noted that we received districts from the County Clerk, and said there were no diacritical marks. He suggested getting Commissioner Fuhrmann's help.

Mr. Van Dyke expressed appreciation to Roy Hiraga and Don Medeiros for their rapid response on a difficult job. It was decided that we'd include what we received today along with a map that shows these areas. Mr. Van Dyke affirmed that we want to put these three pages in with their diacritical markings. Vice-Chair McLaughlin clarified that it's a housekeeping measure because we're trying to define the boundaries of these areas (we're not moving boundary lines). {38}

Chair Vencl confirmed that everyone was okay with this, then moved on to D. Eliminate References to Political Parties. Commissioner Mossman thought we didn't agree to do this and said it shouldn't be here. Vice-Chair McLaughlin said he thinks she's referring to board and commission appointees; this is consistent as a housekeeping measure (not a substantive one).

Motion was made (Fuhrmann) and seconded (McLaughlin) to clean up the language as a housekeeping measure. All were in favor (excused: Takahashi). {38}

E. Change "Crime of Moral Turpitude" to "Felony." All were in favor (excused: Takahashi). {38}

F. Clarify Restrictions on County Employees Appearing Before Boards and Commissions. Mr. Takayasu and Mr. Van Dyke explained why this was such a complicated area, citing the Waiahole case. Mr. Van Dyke said we may want to tidy it up or go into more detail. He suggested letting matters develop as they will, and letting the next Charter Commission deal with it if they choose. Everyone agreed to leave it as it is (excused: Takahashi). {39}

Chair Vencl confirmed that everyone agreed. She moved on to policy recommendations on page 37. She mentioned that there were two bullet points, and asked if we should add "consider consolidating boards and commissions designed by ordinance." Commissioner Bagoyo said yes, and that we should also encourage the current administration to look at how to combine current responsibilities.

Chair VencI then mentioned that several people brought up the need to add addresses and TMKs in public notices. It's getting easier to pinpoint; but we should add the addresses whenever they're available. {42}

It was okay with everyone (excused: Takahashi). Chair VencI called a five minute break.

BREAK

The meeting was called back to order at 2:27 p.m. We'd finished with the basic document but discussion continued on policy recommendations. Commissioner Mossman said it was okay to handle CACs in the Charter, but other things needed to be looked at through ordinance; "continue to review and revise the planning processes through ordinance." Commissioner Petro said it might be a policy statement to acting on a timely pace; Chair VencI said that's the enforcement issue.

Vice-Chair McLaughlin also commented on that issue. He said what we have in our current policy is that one has to do with the code of ethics (13.10 penalties for violating the Charter itself). "council shall by ordinance..." Although the Charter instructs this, we're not aware that it has as it's existing now; it seems to him that this provision affects that. We're asking councilmembers to basically enforce themselves (the only enforcement is already existing). How do we get past this? Mr. Takayesu said there's no existing ordinance. With the exception of Commissioner Takahashi (who was excused), everyone agreed with Mr. Van Dyke's suggestion that it be recommended that all County officials enact the ordinances called for in Section 10-5 and 13-10 of the Charter. {41}

Chair VencI said the Commission wouldn't be meeting for another month. She brought everyone's attention to a change in the schedule. The agenda said the next meeting is on June 3; however, the meeting will now be held on 6/5. That agenda will be sent out at the appropriate time. It will begin at 8:00 a.m., and she's keeping it open ended.

Chair VencI added that nothing's been posted yet, but she thinks the Council will be looking at this through the Committee of the Whole on May 8. This is basically the document that will be given to the Mayor on Monday.

Commissioner Bagoyo said the only thing he'd like to ask is that everyone's signatures are included. It's important that everyone that participated in this process sign it.

Mr. Van Dyke said we could do a signature page before we leave ... and that he'd email the report for Ke`ala to check formatting. Then it can be presented to the Mayor. Mr. Moto said it should be personally delivered by the Chair. Mr. Van Dyke suggested calling a press conference. Chair VencI said she'd forward Mr. Van Dyke's email to everyone.

Vice-Chair McLaughlin wanted to revisit the process to help him understand. Chair VencI would transmit the report to the Council, which has 30 days to transmit their feedback to us. Then the Commission meets again. If no changes are recommended, do we have further action to take? We sign off when it's really final. We accept or not, then we sign off on it when it's really final. Our final report goes to the clerk's office to be prepared for the ballot.

The Council is within their own window to place ballot measures themselves, so they have a separate time frame. The public may be looking for the next venue. Checks and balances afford multiple additional opportunities. Mr. Moto added that HRS 50 requires the Commission to

prepare for the County Clerk, even if there are no alternatives from the Council. Mr. Takayesu added that administratively, the Commission would be discussing the educational process.

Chair Vencl then brought up the Budget Review since Mr. Takayesu brought up the educational campaign and Mr. Van Dyke would like to look at the wording sooner rather than later. She asked that Ke`ala's contract, which ends 6/30, be extended to October 1. There will be lots of things to do to prepare for the educational campaign. Mr. Van Dyke's part of this will be over on June 30; his contract will not need to be renewed.

Chair Vencl continued that she sent out a request for quotations for the educational campaign (newspaper ads, radio spots, collateral, etc.). Responses received thus far fall within the \$20,000 - \$25,000 range. She also suggested compiling an "executive summary" that would summarize what we've done. This would be a quicker way to disseminate information than doing the mail out or newspapers; it would be available after the primary but before the general election. She'd like to bring this back in a more complete manner on June 5, so she's asking for this and to extend Ke`ala's contract.

She continued that we have a \$44,000 balance as of today. With the educational campaign, we'd be lapsing about \$20,000; the Mayor already has \$20,000 back in the budget. Ke`ala gets \$600 a month; \$15,000 had already been set aside in the budget (so this is already accounted for). Motion was made (Bagoyo) and seconded (Holaday).

Commissioner Bagoyo suggested encumbering the \$20,000 before it lapses on June 30 because in his experience, \$20,000 is not enough for placements. He had several questions about the cost of the educational campaign (inserts, strategies for ad placements, etc.). Motion was made (Mossman), seconded (Petro), and unanimously approved (excused: Takahashi) to give Chair Vencl the ability to research and encumber funds as she deems appropriate, and to convey that information by email by June 5.

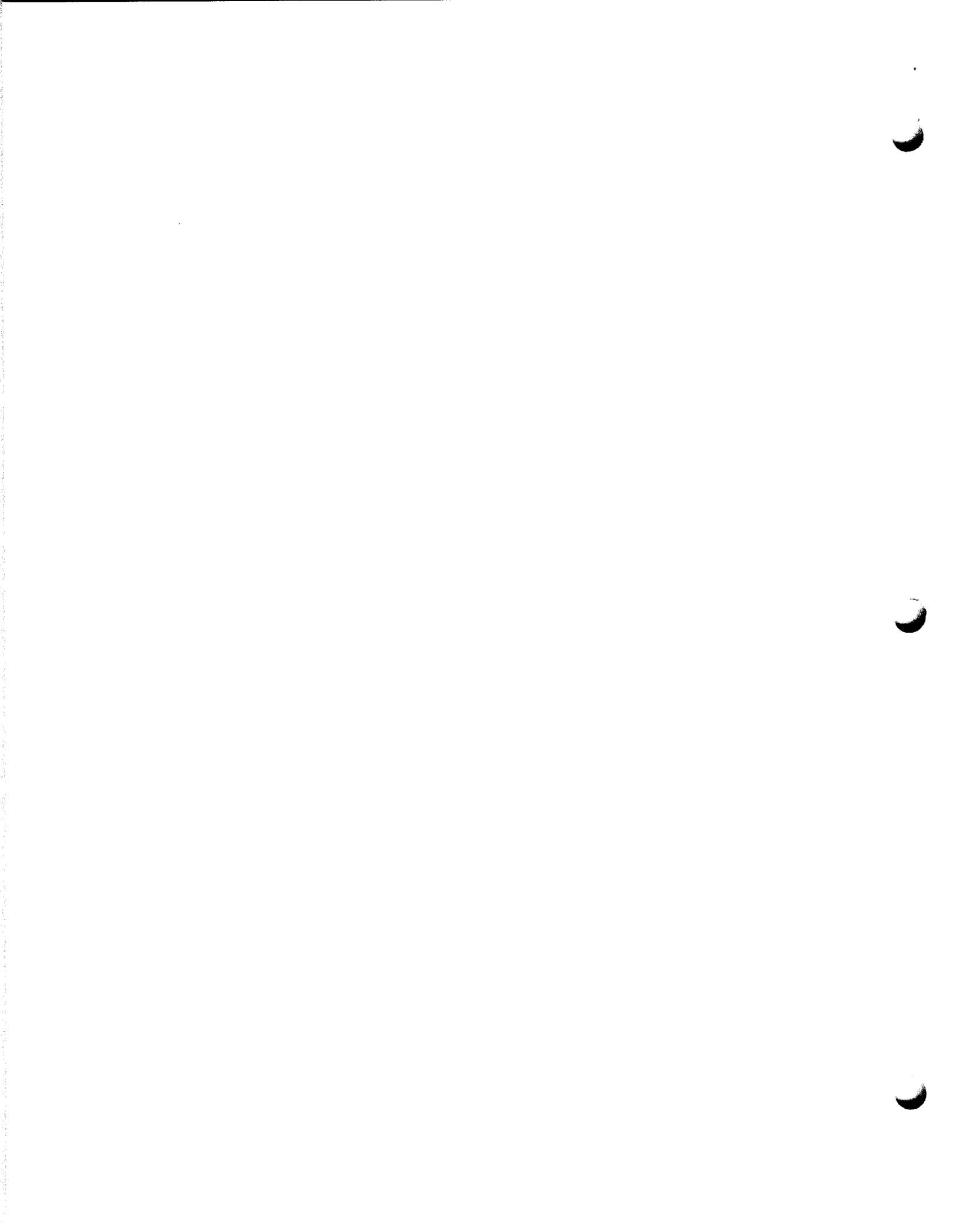
Chair Vencl said that she used a "request for quotation." If we go over \$25,000, then we have to do a "request for proposal." Mr. Moto said there's nothing to prevent her from breaking up the items (the job doesn't have to be done by only one person).

There was a motion on the floor. Commissioner Petro said he had faith that the Chair would prepare the best price. Vice-Chair McLaughlin also supports the proposal. He knows from working with Chair Vencl for the last year that she will make the best decision. We need to educate the voters and balance the pros and cons, not sell the Commission's proposals to the voters. They need to be encouraged to vote either way; we need to provide clear information and a balanced perspective. There may be a League of Women Voters on Maui whose goal would be to educate voters in a non-partisan way.

Mr. Takayesu said the key thing is that we're asking voters to take a longer time than they're used to. We want to make them understand how important it is to vote, and that this is their opportunity. When in doubt, don't vote. This is a big part of the process; we need to get the message out and create interest so people will take the time.

Chair Vencl said another idea in addition to the educational piece was to have a cutout they can take to the booth. We'd deal with the clerk's office to make it look like the ballot.

Commissioner Mossman said that while there are a lot of good suggestions, people can email the Chair. We should move on. All were in favor of the motion (excused: Takahashi).



Vice-Chair McLaughlin brought up HRS 50, Chapter 13 regarding commissioners being reimbursed. That's a \$11,000 liability per state law that perhaps we haven't dealt with. He reiterated that he'd dedicate his money to Akaku. He asked if there was a way to handle the reimbursement so that there wouldn't be any tax implications.

CONCLUSION

Chair Venci excused Commissioner Bagoyo. She asked Mr. Moto and Mr. Takayesu to prepare a waiver for commissioners who decided to donate the money back to the Commission.

Chair Venci thanked Akaku, Mr. Van Dyke, the attorneys, and all the commissioners, saying she was very proud of their commitment, expertise, and efforts on the Commission. She reminded them that she'd see them on June 5. The meeting was adjourned at 3:00 p.m.


Ke'ala Pasco, Charter Commission Assistant

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COMMUNICATIONS SECTION

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