

COMMITTEE B  
CHARTER COMMISSION  
MEETING MINUTES  
JANUARY 23, 1992  
COUNCIL COMMITTEE ROOM

Present

James Cockett (Committee Chair)  
Dolores Fabrao  
Robert Nakasone (Commission Chair)  
Victor Reyes  
Allan Sparks  
Jamie Woodburn  
Susan Nakano-Ruidas (Staff)

Excused

Sherrilee Dodson  
Annette Mondoy  
Anne Takabuki  
Deborah Wright  
Lloyd Yonenaka

I. CALL TO ORDER

Committee Chair Cockett called the meeting to order at 2:10 p.m.

II. APPROVAL OF MINUTES

Approval of the minutes for Committee B meetings of December 5, 1991 and January 9, 1992 was deferred to a later date.

III. PUBLIC TESTIMONY

None.

IV. OVERVIEW/DISCUSSION OF ARTICLE 8 - CHAPTER 7

SECTION 8-7.4 PUBLIC SAFETY COMMISSION PROCEDURES

- A. B. N. "Doc" Evans, Chairman, Public Safety Commission
- B. Yvonne "Bonnie" Tuell, Public Safety Commission Member

Tuell gave Committee members a brief overview of the Public Safety Commission, explaining that in 1986 this was put on the ballot by the County Council, voted on by the public and passed. June 18, 1987 the first 9 people were appointed to the commission.

Commission Chair Nakasone noted that "the original intent was to really look at the possibility of consolidating the police, fire, and civil service under the umbrella of Public Safety. There are several counties that do have dual roles as public safety officers. Initially it was to look in the future as a possible system that might replace a separate police and fire commission, or be added to the type of system we now have; looking into identifying dual service in areas like Hana, Lanai, Molokai - you could have a person having two functions with 24 hour service." The idea was also "to have somebody review the fire and civil defense."

Evans noted that the title Public Safety Commission is a misnomer - it is not what they do. They are basically a fire commission. Commission members serving on "Public Safety have been frustrated for 4 or 5 years" because they are not truly involved in public safety.

PROPOSED CHANGES TO THE MAUI COUNTY CHARTER

CHAPTER 7  
DEPARTMENT OF FIRE CONTROL

*NEW* SECTION 8-7.1. Organization. There shall be a department of fire control consisting of a fire commission, a fire chief and the necessary staff.

*WAS REPEAL OF SECTION 1*

SECTION 8-7.2. FIRE COMMISSION. The Fire Commission shall consist of nine members appointed by the Mayor with the approval of the Council.

The Fire Commission shall:

1. Adopt such rules as it may consider necessary for the conduct of its business and regulation of the matters committed to its charge by law.
2. Prepare and submit to the Mayor a request for an annual appropriation for the operation of the department.
3. Receive, review and investigate any charges brought forth by the public against the conduct of the department <sup>or</sup> any of its members and submit a written report of its findings and recommendations to the Fire Chief for his disposition.
4. Have such other powers and duties as may be provided by law.

*WAS 8-7.2*

SECTION 8-7.3. FIRE CHIEF. The Fire Chief shall be appointed and may be removed by the Fire Commission. The chief may be removed by the Fire Commission only after being informed in writing of the charges which are resulting in his dismissal, and after being given a hearing before the commission. The Fire Chief shall have had a minimum of ten years experience in fire control, at least three years of which shall have been in an administrative capacity.

*WAS 8-7.3*

SECTION 8-7.4. Duties and Functions of the Fire Chief.

The Fire Chief shall:

1. Be the administrative head of the Fire Department.
2. Provide fire protection to the people and property of the county.
3. Investigate the cause, origin and circumstances of fires.
4. Adopt rules relating to the protection of persons and property against fires.
5. Approve building plans and enforce fire codes as provided by law.
6. Train, equip, maintain and supervise the department fire fighters and employees of the department.
7. Maintain and update a five and ten year plan for additional fire fighting facilities and related employees.
8. Have such other powers and duties as may be assigned or as may be provided by law.

*By DIRECTOR COMMITTEE  
SHALL BECOME FIRE  
COMMISSION DUTY*

IV. OVERVIEW/DISCUSSION OF PUBLIC SAFETY COMMISSION PROCEDURES

"Doc" Evans and "Bonnie" Tuell (Continued)

Evans submitted proposed changes to the Charter (see Communication 92-04) with an additional section referring to a Fire Commission, the appointment of the fire chief given to the Fire Commission (instead of the mayor) and a recommended change for the fire chief qualifications from 5 years of experience to 10 years.

Tuell noted the reason for a change in name from the public safety commission to fire commission was the lack of authority to do all of the things related to public safety. Both Tuell and Evans indicated they would be interested in retaining the public safety commission if they could enlarge the "duties or scope by adding authority."

Evans, drawing on personal experience, felt it "necessary to have ten years experience, Captain or above" as a change in the qualifications for fire chief.

Tuell noted that the reason for the Fire Commission hiring the new fire chief was for continuity - "there wouldn't be a new fire chief every time there is a change in mayor." Evans added that it "could be a lifetime appointment, if he can do the job." He also noted that this "problem was brought to our attention by two previous fire chiefs."

Asked if it was necessary to have a trained firefighter reviewing building plans, Evans responded that "I don't think it's absolutely necessary to have a firefighter," but "I still feel if you have been a firefighter, and do go into building inspections, you know a lot more about it than if you'd never been a firefighter."

Asked about any gray areas where "responsibility might fall through between the County and the State" in relation to new generations of hazardous materials, Tuell responded that "Blackburn is the new hazardous materials person in the fire department. He feels he is in charge of all hazardous waste on the island, and he takes it seriously. He is training all the other fire departments. I feel very comfortable with him."

Committee Chair Cockett assured Tuell and Evans that their concerns would be taken under advisement by the Charter Commission.

V. OVERVIEW/DISCUSSION OF ARTICLE 8 - CHAPTER 7

DEPARTMENT OF FIRE CONTROL PROCEDURES

A. Ron Davis, Fire Chief, asked to have the following amendments made to Chapter 7:

1. Section 8-7.2. Change the minimum qualifications to read: minimum of five years experience in fire control in the Maui Fire Department,

V. OVERVIEW/DISCUSSION OF DEPARTMENT OF FIRE CONTROL PROCEDURES  
A. Ron Davis (Continued)

Davis justified his amendment by stating "if you leave it broad, they can come from anywhere."

2. Section 8-7.3. Add a new category to read:  
Responsible for providing mitigation and stabilization of hazardous materials incidents.

Davis noted it was "our job would include evacuation. Cleanup is done by whoever is responsible for a spill. We don't do cleanup, just stabilize."

Asked why you would take a bonafide firefighter and put them behind a desk checking plans, Davis responded that "some time back we got involved in approving certificates of occupancy. If we caught a potential fire hazard during the planning stage, we'd save some time and money." The job of plans checker is "unattractive, less pay and more responsibility approving plans." If a civilian was hired, "we wouldn't want it (responsibility) in the fire department. Honolulu tried both civilian and fire field inspectors in fire prevention - the problem was pay differential." If a civilian were hired, "we would give it back to Land Use and Codes or Planning" but "we would have to train someone in fire codes."

"The person checking the plans is not only providing safety for the public, but plan checkers are looking at how safe it would be if we had to go fight a fire."

Asked how much training in terms of firefighting a person needs to read the fire codes, if it was critical to have firefighting experience, or if he would be comfortable if the plans checker wasn't a trained firefighter, Davis responded: "I'd be comfortable, but firefight training gives him insight into what we face when we go into a building."

Davis' response to the pay differential was "if they had the same base pay as a line lieutenant, then you'd get quality guys applying" for plans checker positions.

Asked his feeling about whether the fire chief should be appointed by the mayor, or be appointed by a fire commission as suggested by the Public Safety Commission, Davis replied: "My feelings are the mayor should keep control of hiring the fire chief. The more departments the mayor doesn't have under her jurisdiction, you lose control of the team effort." Davis further stated that "I have no problem if it went the other way, though."

Asked about his relationship with the Civil Defense agency, Davis responded that "we work together a lot."

V. OVERVIEW/DISCUSSION OF DEPARTMENT OF FIRE CONTROL PROCEDURES  
A. Ron Davis (Continued)

Asked if he was comfortable with that arrangement, Davis replied, "Yes."

Davis noted that it "would be nice to have continuity in the department. The fire chief has the option to go back on the line, but you "can't accomplish too much in four years." I "still feel the mayor should appoint the fire chief."

Davis noted that the Public Safety Commission's recommendation for increase in fire chief qualifications from 5 years to 10 years was "good. Five years is not enough experience to be chief."

Davis thought the Public Safety umbrella idea would lead to a "stronger department for continuity, if" the fire chief is "not a patronage appointment."

VI. OVERVIEW/DISCUSSION OF ARTICLE 8 - CHAPTER 13  
DEPARTMENT OF LIQUOR CONTROL PROCEDURES

- A. Frank Silva, Liquor Control Officer III  
B. Glenn Mukai, Liquor Control Officer III

Silva noted that the Department of Liquor Control is "trying for reorganization in the future." There "needs to be more clarification in the Charter as far as the responsibilities of the (liquor) commission, in reference to the compensation of the director. We would like to see some clarification on whether it's the (liquor) commission" as it states "with in Charter, or" whether it "remains with the Salary Commission. The Salary Commission is made up of people from all walks of life, including those that are within the liquor industry, and which may be a conflict of interest - to have people within that structure deciding on the salary of someone enforcing that type of industry."

"The statutes give the authority for the (liquor) commission to set the compensation for the director. Whereas, the Charter doesn't specifically state that the salary for the director goes to the Salary Commission." Where "department heads are appointed by boards or commissions, shouldn't they also set salaries?"

Silva noted that "we solely operate from funds generated by the liquor industry. We figure out what our budget is and assess them to run our department. So, being the people in the industry sit on the Salary Commission, the more it costs to run the department, the more that will be assessed to the industry. That is the conflict."

VI. OVERVIEW/DISCUSSION OF DEPARTMENT OF LIQUOR CONTROL PROCEDURES  
Frank Silva and Fred Mukai (Continued)

Charter Commission Chair Nakasone noted that they "should consult with Corp Counsel in regards to the conflict - make it clear - should the Salary Commission or the Liquor Commission set the director's salary. Or, you can ask the Board of Ethics for a ruling."

When questioned about the minimum requirements of 5 years experience for the department director, Silva replied that he thought it was "an adequate requirement."

Questioned on the necessity of an Adjudication Board, Silva replied: "Oahu has a commission but not adjudication board; Oahu's commission reviews the applications, grants the license and collects the fines. I think" the adjudication board provides a "fairer process - more fair for the licensee. I like the way it works alot."

Committee Chair Cockett noted that the Charter Commission would take their concerns about who is responsible for setting the director's salary to Corp Counsel.

VII. OVERVIEW/DISCUSSION OF ARTICLE 8 - CHAPTER 8  
DEPARTMENT OF PLANNING PROCEDURES

A. Brian Miskae, Director, noted that in 1973 some of the planning department's duties were changed to the department of public works. "No specific studies have been done to see if it would serve the public purpose to transfer back back" those duties. Miskae indicated that he would be open to accepting the additional duties, if "it would serve the public better."

Asked his feelings on the Council resolution for appointment by the mayor with approval of the Council for his position, Miskae responded: "I'd have mixed feelings. Personally I don't think I'd have a problem standing up before the Council." However, "I like it the way it is."

Asked if 5 years of experience in the field of planning was adequate for his position, Miskae replied: "Across the country the qualifications are basically like this. I don't think changing this would be productive. I think it's reasonable."

Committee member Fabrao noted that the Advisory Committee on Lanai has input to the Maui Planning Commission, but the "Commission is not reflecting the wishes of the people on Lanai."

Miskae responded that "maybe the makeup of the Maui

VII. OVERVIEW/DISCUSSION OF DEPARTMENT OF PLANNING PROCEDURES

A. Brian Miskae (Continued)

Planning Commission needs to be changed, if the system is working to the detriment of Lanai. The majority of issues that affect long term are related to zoning, and the final say is with the County Council. The Molokai Planning Commission shares the same view - they just don't trust the Council."

Miskae continued: "The Planning Commission does not have the final say. If the three island county were allowed to elect a board or commission and have the final say, you would start to fragment the entire county and would undermine the whole system of Maui County government."

Miskae: "I think the regulation of land should be in the zoning ordinances, not in the SMA laws. Whatever you set up impacts the whole county, and if you change every four or eight years, a different approach is taken. The Advisory Committee advises the Planning Commission, which advises the Council. I would be happy to come to Lanai at any time - that's why I'm here - to serve the people."

Asked about the lack of wording in the Charter for community plans, Miskae noted that "280 of the Maui County Code ties together the nine community plans to the general plans. The general plan is updated every ten years."

Miskae: "A set of maps are being drawn up of all the urban areas of all of Maui County." When they are finished, "I will be able to take this set of maps to the Council and say, 'here's a full set of maps that specifically relates to this community plan area. All you have to do is - by a single ordinance - adopt a set of maps; and what you've done is you've implemented comprehensive zoning for an entire community plan area.' Very simple." The maps will designate urban reserve districts, and will include down-zoning, but not upzoning. "With the urban reserve designation, we recognize those areas that are already zoned, but will downzone the rest. This would require individuals to come before the council and ask for zoning changes."

Asked if this proposal has been reviewed by Corp Counsel, Miskae replied: "We've reviewed the matter with Corp Counsel - nothing would impede the council from adopting this. This was not an arbitrary action; substantial amounts of information and millions of dollars in consultants for 'models' has been used to establish these base maps."

Miskae: "This is the direction we want to take while I am planning director. I sincerely hope I will be able to be there to defend our proposal. Keep in mind that" although

VII. OVERVIEW/DISCUSSION OF DEPARTMENT OF PLANNING PROCEDURES

A. Brian Miskae (Continued)

the plans will be "presented to this council, we are going to have another council" after elections.

Miskae also noted that his department has been split so that some planners are working only on the day-to-day work, and some are working only on long range planning.

Regarding a planning commission for Lanai, Miskae noted that "the Molokai Planning Commission" usually "has two items on their agenda - it takes staff time, a lawyer and an engineer." Maybe we should look at the "reconstitution of the planning commission makeup itself. You've got to revisit what we've got, and then start."

VIII. NEXT MEETING DATE

- A. Public Meeting in Hana on January 27, 1992 at 7:00 p.m.
- B. Full Commission Meeting on January 30, 1992 at 4:00 p.m.
- C. Public Meeting in Makawao on January 30, 1992 at 7:00 p.m.

IX. ADJOURNMENT

There being no further business, the meeting was adjourned at 5:26 p.m.

APPROVED:

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James Cockett, Committee Chairman Date