

CHARTER COMMISSION
MEETING MINUTES
MAY 21, 1992
COUNCIL COMMITTEE ROOM

PRESENT

Sherrilee Dodson (Vice Chairman)
Victor Reyes
Allan Sparks
Anne Takabuki
Jamie Woodburn
Deborah Wright
Lloyd Yonenaka
Susan Nakano-Ruidas (Staff)

EXCUSED

James Cockett
Dolores Fabrao
Annette Mondoy
Robert Nakasone (Chairman)

GUEST

Dave DeLeon

- I. CALL TO ORDER
Vice Chair Dodson called the meeting to order at 4:15 p.m.
- II. PUBLIC TESTIMONY
None.
- III. APPROVAL OF MINUTES
The minutes of the May 14, 1992 Charter Commission meeting were accepted as circulated.
- IV. COMMUNICATIONS
Communication 92-41 Letter from Department of Water Supply Director David Craddick requesting a meeting with the Charter Commission June 4, 1992, was accepted.
- V. COMMUNICATIONS
A. COMMITTEE A - Allan Sparks, Chairman
CONTINUATION OF DISCUSSION OF PROPOSED AMENDMENTS - Deferred to next meeting.

Woodburn: Can't we take preliminary action with the number that we have, in that it's not a final decision of this Commission? What we are doing to this point isn't our final position; it's my understanding that what we're coming up with is preliminary, we take that out to the public for public response and testimony, and then prepare amendments to the Charter.

Vice Chair Dodson: Whenever we make a motion and it's passed, and it's voted upon with two-thirds votes, then it is a proposed amendment. What we discussed last time was if we go to public hearing and we find out the public is completely against that particular amendment, then we could come back, make another motion to change that amendment and then it would be changed to whatever the public reaction was. But yes, we are taking action on the amendments.

Sparks: The actual words of our rules say 'final commission report on the proposed amendments to the Maui County Charter shall be signed by at least eight members.' This is not final.

Vice Chair Dodson: It is final in the sense that, unless we make another motion that contradicts it, then that would be final. What I'm trying to get at is if we have to go and vote on all this stuff...every single one of these...after public hearing again, we're never going to get through this stuff. Some of this stuff, we're going to go to public

Vice Chair Dodson: (Continued) hearing and everybody's going to be in agreement on. There are going to be some things that aren't in agreement, and then we can come back and further discuss that, and if we find that we want to make another motion...then we can do that.

My understanding with Bob is that anytime we take a vote on an amendment, preliminary or whatever we call it, we have to have two-thirds vote -- eight members.

Sparks: The earlier portion says 'an affirmative vote of eight members shall be required to act on any proposed amendment.' It doesn't say final act or preliminary act...it just says act.

Woodburn: So, we can't do anything today.

Vice Chair Dodson: I think we can; apparently the people who are not here...are the people who sit on her [Anne's] committee and have gone through all this stuff. So basically what she can do today is educate us, who did not sit on the committee, so that when it does come up to vote, hopefully -- strongly urge -- that the discussion will be a lot less, so we can just move on it a lot quicker. Does that sound like a good idea?

Woodburn: Yes.

[RECESS/RECONVENE]

V.

COMMUNICATIONS

C. COMMITTEE C - Anne Takabuki, Chairman

1. PRESENTATION OF COMMITTEE C REPORT

Takabuki: A lot of these changes are what I would call real fine tuning. There are a few that are fairly substantive, but by and large they are a lot of fine tuning, they are a little technical, and the concern has been raised, and I think validly so, that it's going to be difficult for the voters to get through all this material. So hopefully when it does come time, should most of these be approved, there will be some way to package it in a way that the voter can say yes or no without having to go through thirty... I'm just going to run through very quickly the different proposed changes for the several Articles that my committee examined. If you don't see the Article here, the committee did not propose to change the language. If going through this you see something in the Charter language itself that is not addressed here, please feel free to bring it up.

Section 9-1. Fiscal Year. The proposal was to consider a biennium budget. It didn't seem like there was any strong support, either from the administration or the council, and so the committee felt that it probably wasn't a good idea to try and force this on anyone. Both the council and the administration found it a good vehicle to keep the public informed and to check on status of programs.

As far as the positive aspect of a biennium budget -- to have long term planning -- the committee did later vote to accept a recommendation for a long term operating plan to be submitted, so hopefully that concern for long range planning will be addressed elsewhere.

Section 9-4. Budget and Capital Program: Notice and Hearing. [The proposal] is merely to change the requirement, and take out the language that the hearing be held "no sooner than the first day of April." The feeling on that was that council should be able to call for a hearing prior to April 1st. They get the budget on the 15th [March]...many times they're ready to go and they want to start getting the

Takabuki: (Continued) input, but under the Charter it has this particular window. The committee felt on this one that it wasn't a problem, the council could call for it any time after it had been sent to the council; we recommended to change the language to say 'no later than the thirtieth day of April.'

The next proposal was to add a section to require that administration expend funds appropriated for council-initiated CIP projects. That was a real difficult one to deal with; in fact, we didn't really come to any kind of recommendation on that. We had hoped that when it came to the full commission, we would have further discussion on that. My feeling is that it is a very difficult problem to address, and the mechanisms, I really don't have a good feel for myself, and I'm not sure anyone can come up with some that would be reasonable...that wouldn't infringe too much on administration's authority, and yet accomplish what the council wants.

Woodburn: You're saying that you want to address through amendment form some requirement that CIP funds, once appropriated, be expended?

Takabuki: Yes.

Sparks: The one we didn't deal with on my report was basically the same subject; under the powers of the council, we could in theory tackle that same issue. We had a lot of discussion...

Vice Chair Dodson: I know, and I'm quite surprised that nothing is coming up on it.

Wright: I have already expressed my feelings on it. So far, we don't have anything from a committee that would change or give me more input to change the feeling I had; I didn't like it. I don't know how you strike this balance without infringing too much on the administration aspect of it. I understand the council's concern, but personally, I don't think it sounds like something that is a good idea. I wish we'd get some public input on this.

Sparks: What do you think is not a good idea?

Wright: I don't think that just because funds are appropriated for something there should be a requirement that they have to be spent. Situations change, and to some extent it is the mayor's office that has to administer once the things are appropriated. My lawyer background coming up, I can think of at least a long list of things that could happen where you wouldn't want someone to have to spend money; or, where it wouldn't be feasible for them to spend money in certain circumstances. I don't think it is right to require that; I just don't know enough fail-safes to put in, or how to word it so it would have those fail-safes. To me, it's too hard to define when they could back out of spending the funds; it seems to be fairly absolute -- you have to spend the funds, but maybe that would work out to be a very poor decision at the particular time when that comes up. You have to spend the funds, except that the whole project that it was appropriated for has fallen through -- that's where it runs into a big stumbling block; saying you have to spend this money by a certain date... I don't know; I just don't know a way of putting it so that some of those problems would be covered.

Woodburn: What about some requirement that would address bringing the issue to the public in a public forum if the funds are not going to be expended? Like the council appropriates x amount of monies to build a community center, and for whatever reasons, the administration determines that that isn't a good idea to do this year; having some requirement that there would be public testimony or public hearing to provide an opportunity to

Woodburn: (Continued) explain to the public why the funds aren't going to be expended. Not so much to overturn it, but just to give the opportunity to the administration to give 'these are the reasons we are not going to do this;' and then I would think if there is adequate feedback from the public, there would be an opportunity to either turn that around or to let it stand.

Vice Chair Dodson: The only problem I see with that is you may come into a situation where the public is really gung ho for a project -- they may really want something that is a popular item -- the council goes with it because it's a popular item, and they turn to the administration and say 'hold a public hearing and see how the public feels' -- the public comes out in strong support. But there still may be that stumbling block, whether the land may not be available, it has to go through condemnation, or other various issues that could come up, that make it impossible for the administration to go through with that; but they are forced into a position...

Woodburn: I'm not saying force them into a position of expending the funds, it's just providing the public with an opportunity to be told this is why. The issue is the council says we appropriate money and it's not being spent, and so they are probably responding to public outcry or feedback saying 'hey, you guys, you said you were going to do this...you appropriated the money...' -- and then the mayor comes out looking like the bad guy because he or she isn't spending the money. If there is an opportunity to go back to the public, not so much to require that the monies be spent, but just for an explanation. Any time capital funds have been appropriated and are not spent within the fiscal year, or are not intended to be spent, maybe go back to the public and say this is why.

Vice Chair Dodson: I think the mayor, in the past, does enable herself to do that by going through the media; you know, the council comes out and says 'we appropriated this money, but she's holding it up.' In most instances I've seen, she's come back and defended her position through the media, and gotten out to the public and said 'this is the reason why we can't spend that money right now...this is the reason why I'm not going to.'

Woodburn: So, you don't think it's necessary to make it by Charter?

Vice Chair Dodson: I think public input is good, but I think the public input comes into the council...through their elected officials. They put their CIP projects in based on public pressure, or whatever it is, but the actual implementation of it, to me, should stay with the mayor because she is the administrator, she knows what...

Woodburn: I agree with that.

Reyes: I can see where during the appropriation process, based on revenue projections, there is not money; and then the time comes when it is to be spent, now all of a sudden the mayor has to have some priorities and this particular project may not make the cut. However, if indeed there is enough funds to pursue the project, and the mayor doesn't see fit to spend, I think there should be enough recourse for the council to either amend or redirect the monies there. I think it's just fair for the council to have some chance to reevaluate the position that they took in the beginning, and if the administration is adamant about pursuing it, let it go around in terms of discussion instead of trying it in the media...and it becomes emotional; we've seen that happen. I think the public will benefit if the council will have to chance to either amend or make a proposal.. If the mayor doesn't agree, maybe there might be a second priority that has come up in the meantime -- this is assuming the money is available. If the money is not sufficient, I agree, the administration has the prerogative to prioritize where the budget should go. But, if there is enough revenue, the council...being also representative of the people...should at least

Reyes: (Continued) have a chance at some input. Not an absolute thing, but somehow give the council a say...

Vice Chair Dodson: We have that eighteen month lapse, that if it is not spent in the eighteen months... Is that what you are talking about? A shorter lapse period?

Reyes: I think even if the mayor just sits on it and it lapses, the council has no chance to do anything about it.

Vice Chair Dodson: During that eighteen months?

Reyes: Right.

Vice Chair Dodson: So, you want the eighteen month period shorter?

Reyes: The sitting on it or the lapsing is a technicality; maybe we should do away with the lapsing.

Vice Chair Dodson: Completely?

Reyes: So it doesn't become an issue.

Vice Chair Dodson: So the mayor has to come out and say I'm not going to spend this money this month, but I may spend it next month... I think you either have to put some limit, the eighteen month limit, or if you put no limit...I don't see how that's going to work.

Reyes: I think what the council is asking...let's say it's on the fifteenth month, or the twelfth...and it seems that the administration is not... I'm not talking about this administration, I'm talking about the Charter here, so any administration, for that matter. I think if the administration's intention is to sit on it...lapse it...by technicality, the council should be made aware of it so they will have enough time, and I don't care if that eighteen month period is there, at least give the council a chance if the administration's intention is to sit on it and exercise the lapsing provision in the Charter.

Wright: Part of what you are saying, Victor, comes on the next page as a separate proposal; it talks about the council being able to initiate changes to the capital program throughout the year. There's a separate proposal that they could change priorities on that, and that might take care of part of what you are talking about.

I'm not really against some of that, I'm just not clear right now on a) how it would be written up, and b) how it would work. Part of what you're saying, Victor...you've put out three or four different proposals, and one of them has to do with this can they require funds to be expended; another is how long before it lapses, is really in a different area; and then, can they reprioritize which is on this other section...which says basically that the committee is recommending that they be able to reprioritize. My problem is still on the expending of funds portion. I don't know how that would be written, and I'm a little afraid that we really don't have enough information; it seems like there are so many problems that could arise with that portion. I'm not opposed to what Jamie said -- getting public input -- but I'm really afraid of changing that around too much, because it seems to me that there's too many different things that could come up that you just can't cover in a Charter.

Reyes: I think I recall the background of this proposal; I think because

Reyes: (Continued) it's an ordinance, and when you write the ordinance, that's again a technicality.

Vice Chair Dodson: Which ordinance are you referring to?

Reyes: When the council appropriates, it's passed through an ordinance -- I think this came out in one of the public testimonies -- here's the rationale...the council passes an ordinance to appropriate a CIP, because it's an ordinance and the mayor sits on it and it lapses, it's a technical violation because the ordinance is not followed. That's why there is this proposal; I'd like to give the council some flexibility, but not in the sense to force administration...that would be too strong. If that's the only item we're considering, I'm willing to suggest we give the council some flexibility, if we can agree on the language and if the Commission feels the council should have some input.

I think I remember the reasoning behind this proposal number 3; someone suggested because it passes through an ordinance, if you don't spend it...because it's an ordinance...it becomes a violation.

Sparks: He might be remembering when we discussed this under my committee, under council powers it gives them the power to override the mayor's veto, and it says in that case...and they are talking about appropriating money...a bill that appropriates money gets passed, the mayor has a right to veto it, then the council has the right to override the veto, and then it's supposed to be logged.

The nitty-gritty problem that bothers Bob a lot, is that the mayor can go ahead and sign this ordinance, and then not spend the money. So, they don't even get a chance to override the veto...that's part of the problem. In the end it comes down to, no matter which way you look at it, there can be times...and, I'd like to know how many of those times there really are -- how real is this problem that we're talking about -- but his notion is that there can be times that the council, in its wisdom, makes a policy decision in favor of a certain CIP project, and the mayor just completely frustrates them by not spending the money. Maybe there's only a manini number of those examples, in which case maybe we can stop fussing about it so much. But, nobody has come up with a way of dealing with that issue yet; that's what Anne's saying.

Takabuki: I've thought about it a lot and I really cannot think of a mechanism that would be effective, and yet would not end up tying the mayor's hands or making him/her do something that may not be in the best interest. Like Debbie says, there are so many exceptions that can come up and I cannot think of a good way to put such a blanket rule.

Woodburn: Why don't we ask the Clerk, or somebody, to find out how often this happens...if it is a problem.

Yonenaka: I think it's a problem in the sense that it probably has happened, on a yearly basis maybe. How much of a problem in terms of how important that project was, is...

Woodburn: That's what I'm saying; if we can get some kind of a handle on what we're dealing with; there's one project a year that gets sat on for \$100,000...

Yonenaka: I think the fact that probably nobody in here can think of a situation tells you how important that...

Reyes: The most recent example was the widening of the Lower Main Street.

Yonenaka: Oh, sure, but if you look at it, Victor, we could...

Reyes: You were asking for a specific example, okay? That was the latest one.

Yonenaka: What we are saying is that no matter what, she had to spend the \$5 million on that. If it is law, it's law; I mean you have to if you have to, and it might be a totally dumb idea to do it. I think the reasoning behind not spending it wasn't bad either.

Wright: It's not that I'm necessarily so opposed to the concept, I just don't know how to quantify it...provide some fail-safes for a lot of things coming up. Maybe Jamie is right, if we could get some concept of how often this occurs... Right now, I feel at loss to understand what the council is saying; and, I understand why this would be very difficult to handle in a lot of situations...

Woodburn: Given the volume of material that we are dealing with, I don't think we should chew up a whole bunch of time with something that may not be a huge problem.

Reyes: Someone asked for an example, okay? But had it been that there was a provision that the council would have had input, then at least if the mayor doesn't intend to spend the money, and the money is there, the council should have been given the chance to say something about it.

Takabuki: A little later on in this committee report we talk about this abandonment idea, which I think you are kind of touching on; whereby the mayor, after a certain length of time, should indicate his or her decision whether they intend to spend the money. And, if they don't and that is clear, then you're right, the council should know about it and they should have an opportunity to say something about where that money should go. But even that, I still haven't really figured out a mechanism -- should it be after six months or twelve months, or when does he or she form this real intention or decision?

Vice Chair Dodson: What I can see is the council coming out and saying 'we're going to appropriate \$10 million for a new sewage treatment plant, and we want the mayor to do it.' So, the mayor says 'okay, I intend to do it.' Then they put it out to bid, and they don't have anybody coming in under \$20 million. What do you do?

Yonenaka: Build half a plant! [LAUGHTER]

Reyes: Right, go back to the council...that's the idea...continue the communication, not end it right there.

Sparks: In my mind, the problem isn't where there are those kinds of situations. I think that reasonable people can see reasonable reasons for not doing what was initially passed by the council. It's situations where the council says it's in the public interest to have this swimming pool, and the mayor says it's not in the interest of the public to have this swimming pool because her priorities are different. So, there's a policy difference; and when it comes down to that, the mayor seems to have all the cards in terms of just not spending the money if she disagrees what's in the public interest. That bothers me a little bit because I think one side or the other should be weighted on basic policy decisions...should be weighted with the legislative branch. The mayor has an awful lot of influence right now through the initiation process and the veto process, and it seems a little unbalanced in favor of the mayor on those kinds of issues. But again, I'm with Anne; I'm not sure how you write the language to fix that particular problem..

Takabuki: Without creating other problems...

Vice Chair Dodson: Where do you draw the lines? Like a swimming pool is obviously going to be just a policy decision, but a sewage treatment plant is not a policy decision...it's a need, a real need; I mean, where do you draw the line?

Sparks: Each circumstance might be a bit...there'll be different circumstances and...

Vice Chair Dodson: And if you start drawing lines, the mayor could say... They could come up with anything up there and say it's a public need, rather than a policy.

Sparks: As it stands now, it seems to me, that if they have appropriated money as an ordinance...whether she's vetoed it or not, and been overridden or not...it is a law; and if somebody feels that it's outrageous enough for her not to follow the law that's been passed, they can take her to court and get her on penalties for not following the Charter. Nobody that I know has ever done that yet, but it's still there as a last-ditch effort.

Wright: Now that you've suggested it, Al, it will happen! [LAUGHTER]

Sparks: If the public were listening to our conversation, but they are not.

Reyes: So, I think it makes for healthy public process to have this type of mechanism; I agree, how do you word the language in there, but I think if we understand the concept that it's not really a taking power away from the mayor, but providing for a more healthy public discussion of some important issues. The council may have an idea or a stand, and the mayor has another idea; so, to bring it to the public forum for discussion, I think it's a healthy sign -- that's how I feel. And, if our problem is the language, then let's not deal with the language, but if we feel that it's healthy for the county to have it, let's worry about the language later.

Vice Chair Dodson: The language isn't the only thing that's bothering me; the concept is bothering me, as well. Like Jamie said, I haven't seen any major problems arise because of this. I like the balance; I like the administration doing what they are doing, and I like council doing what they are doing. I don't like tipping the scales one way or another, and I don't feel they are all that tipped to the mayor's side right now. So, it's not just the language that's bothering me, personally, it's a lot more than that; it's the concept...it's changing the concept.

Wright: The language bothers me a lot! [LAUGHTER] I'm telling you, all I can see is what Anne has been saying; I just see us creating a tremendous number of other problems unless... If somebody came up with some great language, it would be wonderful; but I just can't quite imagine... It's like sitting down and not making an amendment to the Charter, but writing a whole procedural manual on what will happen in what circumstance when. That's the problem I have with this; it's not like a simple sentence or a simple Charter amendment is going to cure this.

Woodburn: That's administration; that's management...

Wright: That's what I'm saying; to me it's like writing out an entire list of procedures. If this circumstance arises, then the mayor can do this; if this circumstance arises, it has to go back to the council...and all I can see, is there are so many different circumstances that it doesn't seem like it's part of that. If someone could

Wright: (Continued) propose some language, then it might be where we all felt a little more comfortable, or we could look at something concrete; but right now, I can't come up with wording that to me wouldn't just open up a whole lot of other problems down the line. And then, we'd have a special Charter Commission in a couple years just to deal with the mess that we created.

Reyes: Can we look at the Hawaii County Charter? The Big Island's Charter has that provision...I think Domingo did say that the council has a way to review the appropriation if the intention of the administration is to lapse. So, if we're groping for a situation, I think the Big Island's Charter already has a provision similar to that; it's not really, because the council has a lot of power to do something about it, but at least they provide a means or mechanism for the council to make a suggestion or amend it prior to the lapsing -- if the administration's intention is to lapse.

Sparks: This is about the third or fourth time we've had a big discussion on this subject, and you can't make a decision on it today, anyway. So, I'd like to suggest that we go ahead and educate ourselves on some of these other things that the committee has to report. And, when we discuss it again, as we will, maybe you could have the particulars on the Big Island wording. That's my suggestion.

Takabuki: Let me volunteer to look into this a little bit more, and find out the scope of the problem; a lot of us are saying we don't know if it really is a problem. I think, from my past experience, it probably is, and I understand their concern; I am not opposed to the concept, but I cannot think of the mechanics. In the next week, I can try to dig into this and look at what Victor is saying; let me come back next time and see if there are any other ideas out there in talking to people, like Alice or someone else. If we can't reach something next time, then at that point I would have to say we probably should just not do anything. Give it a week and let me see what I can find out.

Number 4; Section 9-4. Budget and Capital Program: Notice and Hearing. I think this is self-explanatory. Alice Lee had requested that budget summaries be available earlier and in the paper. In talking to both the council and the administration representatives, it seemed that five days within submittal would be reasonable.

Sparks: By the administration?

Takabuki: I talked to the budget director and she indicated it's really not a problem to get it to the papers -- it's done, but just to give that margin of comfort to get it there in time, perhaps five days would be reasonable.

Number 5, Section 9-6. Capital Program; Scope; Council Action. This is the proposed amendment that would clarify that the council can amend the CIP program at any time during the fiscal year. In the past, apparently the language has been interpreted in the Charter to the effect that the council couldn't initiate changes; there's a history behind that, but this would clarify that they could make those changes and propose changes, as long as the monies were not encumbered or, of course, expended.

Wright: You're saying with the proviso that it's unencumbered, unexpended and not otherwise deemed necessary for health and safety.

Sparks: Deemed by whom?

Wright: I'm just trying to make sure I understand the proposal.

Sparks: So, give me some more background on this. I put a question mark by this one since I'm not sure I understand what's at stake here.

Takabuki: In the past, once the budget went into effect, the council was not able to initiate any changes; even though the money may be just sitting there, or was for something else that they knew the mayor wasn't going to expend, or whatever the case. They couldn't go ahead and try to move the money, or they couldn't even increase a certain appropriation on their own when it needed money, they had to wait for the administration to come down with a bill. What the council is saying is if they know this project is not a priority anymore, and project B needs money, they want to be able to initiate those kinds of changes...or delete a project completely.

Vice Chair Dodson: Does this tie back into what we were discussing a few minutes ago?

Takabuki: It does, a little bit.

Vice Chair Dodson: So if they felt the mayor was just sitting on it, they could just pull it back and maybe just give it to other projects.

Takabuki: But see, they could also change her priorities; we were talking more about council initiated appropriations, but under this amendment, they could change any CIP project appropriation -- provided it was not expended, or...

Vice Chair Dodson: And then would that go back up to the mayor?

Takabuki: And she can veto, yes; so there's still that check.

Sparks: How do they know what isn't encumbered?

Takabuki: They can find out by either looking at the contract logs, and seeing whether a contract was issued, or getting a status report from finance.

Sparks: Sounds okay to me.

Takabuki: Number 6; Section 9-6. Capital Program; Scope; Council Action. Sort of another fine tuning kind of change, that will clarify that the capital program would be in a separate ordinance. That would, I think, facilitate the amendment process too; right now you have them combined, and they have different lives...one expires after twelve months, and one goes on for eighteen. It's kind of a housekeeping type of change.

Sparks: How do they find the existing one legal? The existing process legal?

Takabuki: I don't know if there was a lot of discussion in the opinion, but they just said they found that it was...

The next one, number 7; Section 9-7. Restrictions on Budget and Capital Program; Revenue Rates. The proposal is just to recognize that there maybe other procedures which will establish different rates, fees, taxes, assessments, etc. It would permit the council to forego having to go through a duplicate process, if state laws are already in effect. Does that make sense?

Sparks: I wasn't real sure when I read this over this morning. You're saying if there are state laws that already take care of it, you don't need to write county rules.

Takabuki: You don't have to go through another full procedure. I think what they were pointing out was the fuel tax, and maybe even to some degree the weight tax; but there are certain taxes that a procedure is set forth in state law. The council had

Takabuki: (Continued) this other procedure that requires that they go through the rate setting process. They were just trying to clarify that if there is a procedure already in effect, that that would be recognized.

Sparks: If they like the rules that are set by the state; but isn't it a matter of the state exempts that area anyway? So, could you set rules or rates that are higher, more stringent than the state? If the state has already set one?

Takabuki: Yes. If the state said you needed one public hearing to set the fuel tax, you could call for three; you could make it stricter, in a sense, or you could give them more time for the review process.

Sparks: You say rates, taxes and assessments; if the state has already levied one, can we levy another one? What are we talking about here?

Takabuki: I think just procedure; that's the way I understood it. This came from the council budget committee; the budget chair, excuse me. I believe that's what they were talking about.

Reyes: So this is an additional paragraph in Section [9]-7 then; is that what they are saying?

Takabuki: It would clarify [9]-3. I think they would want to say 'unless otherwise specifically provided for in this Charter, or by state law.' Something to that effect.

Sparks: By doing that, what are we gaining? I may be missing something...

Reyes: I think what Anne is saying is if the state already has a procedure for collecting certain fees and rates, then the council doesn't have to debate how they are going to do it...if the state already has a procedure for doing so. The council doesn't want to go through the motion again on how to collect certain fees and taxes if the state already has a provision for doing so.

Sparks: This says 'shall be set in the annual budget.' You're going to add 'unless provided for by state law' or something like that?

Takabuki: Something like that. The written memo to us from Alice Lee says that the provision requiring all fees, rates, assessments and taxes to be set in the annual budget should be revised to recognize state laws mandating procedures for certain taxes. 'For example, state law requires specific procedures for setting the fuel tax and vehicle weight tax.' So, they just want to recognize that by complying with that particular procedure, they have complied with whatever they need to set it.

Sparks: So, the state has said how you have to do certain ones.

Takabuki: [Verbal agreement.]

Wright: Not how you have to...

Takabuki: I think they say you must publish this so many days, and you must have this certain hearing; they have certain requirements...

Sparks: But once the state law says that, you can't just go ahead and do

Sparks: (Continued) something different.

Vice Chair Dodson: I think what they are talking about is when there is a state law or certain procedures, they don't need to reiterate that exact same thing in their budget.

Sparks: They need to follow the state law procedures.

Vice Chair Dodson: Yes, but they don't actually have to take and put that stuff down into the budget and just copy it verbatim; if there's already a state law, then we know we have to do it. Is that what we are getting at? They aren't talking about changing the state law, are they?

Wright: No, they can't.

Takabuki: No, they aren't talking about that.

Reyes: For example, let's say the gross vehicle tax...state law says for the first 1500 pounds is so many dollars, and for the next 1500 pounds...then the council doesn't have to reinvent...and say we want for the first 2000 pounds, and the next 2000 pounds. The state has set it at 1500; that's what Alice is saying.

Takabuki: I think it really stemmed from reading the two laws together, that the council had to have two hearings; I think that's where the problem stemmed from...the state law requires one, and you have certain county procedures...that's another.

Sparks: When you get right down to it, 9-7.3. now says 'unless otherwise specifically provided for in this Charter,' or state law...is that what you're going to add?

Takabuki: No, I'm not sure that would be how it would be phrased. Maybe just a separate sentence to say that state procedures of state law are recognized and will satisfy the requirements or procedures under the Charter.

Vice Chair Dodson: The way I read [9-7.]3. -- this is something totally different. This says county imposed taxes; it's nothing to do with state imposed taxes.

Sparks: That's right, but she's talking about procedures for imposing taxes -- state or county.

Vice Chair Dodson: There is a difference; the county sets its own procedures for setting their own taxes, and the state sets its own procedures for setting its own taxes. This one takes care of the county and setting its own taxes; but what we're talking about is when the state has a procedure for setting its own tax...

Sparks: But what you're saying doesn't explain why they might have to do it twice...

Vice Chair Dodson: I know; that's why I don't understand...

Sparks: I don't either!

Takabuki: The county sets the fuel tax rate, but the authority is set by state law and there are certain procedures, including certain procedures relating to public hearings and public notices; I think that's where the problem started, because you had to

Takabuki: (Continued) comply with those procedures with state law and need to comply with your own procedures under the Charter.

Wright: Why doesn't it say 'compliance with state law shall satisfy the procedures of the Charter'?

Takabuki: That's the kind of thing they want to say.

Wright: Okay, maybe that's what they mean...compliance with state law shall satisfy...

Takabuki: I thought it was an easy...

Vice Chair Dodson: We can make anything difficult, you know that.

Takabuki: Number 8, Section 9-9. Appropriations and Changes. The proposal is to allow the mayor to certify additional estimated revenues to be received, and require the mayor to certify actual revenues received.

This situation arose because in the past the mayor was not allowed to certify estimated bond revenues, even though there was a reasonable certainty these bond revenues were going to come in, he or she couldn't certify to the council that these funds need to be appropriated to x project. In the past, the council was not requiring that specific certification because the mayor couldn't really do it; what this would do is allow the mayor to certify, even though the money hasn't really been received. It would have to be some area where the monies were reasonably certain to be received, such as a bond issue which the mayor would have control over, or some other kind of revenue source that would be pretty much assured. That was a concern there...a mayor shouldn't be allowed to certify estimated revenues unless it's a certain circumstance where you know those monies will be likely to come in; that could be a problem otherwise with a deficit...

Vice Chair Dodson: Is the bond issue the only...

Takabuki: I asked that question to some council staff and the budget director, and that was the only thing they could really identify, so I don't know how huge of a problem it is.

Vice Chair Dodson: You say in here you would like to approve as to certain situations as identified; so, are we going to identify those specific circumstances, or...

Sparks: That's your procedural manual, right? [LAUGHTER]

Wright: If it's only bonds, if that's the only thing they could think of, then maybe it wouldn't be too bad.

Vice Chair Dodson: I mean if that's the only thing, we can draft language to that effect.

Sparks: You don't want to be too specific in the Charter.

Takabuki: I don't know how huge a problem it is, to tell you the truth.

Wright: Actual revenues received, if there are additional revenues, as long as that was on a quarterly, that doesn't seem like that would be a problem.

Vice Chair Dodson: But, the "check's in the mail" might be a problem.

Wright: Yes, but I'm saying when you have the revenues...certifying those when they come in, that's not a problem.

Vice Chair Dodson: That's not a problem; she does that now, right?

Takabuki: She certifies from time to time; there's no periodic requirement.

Vice Chair Dodson: Every quarter she'd...but, certifying reasonably expected funds; I don't know about that.

Takabuki: I couldn't get any real concrete examples outside of that bond situation.

Sparks: They don't know how many they're going to sell, but they expect to sell some and that's why they expect to have some revenues; is that the idea? Your recommendation is to require certification of revenues on a periodic basis?

Takabuki: Those are actual revenues received.

Sparks: Yes...on a periodic basis; and that's not done now.

Takabuki: It's just done from time to time.

Woodburn: What's the difference "from time to time" versus "periodic?"

Takabuki: It's done at the mayor's discretion...total discretion, right now.

Sparks: So, we could say quarterly or semi-annually, or something.

Takabuki: Right.

Reyes: How would you word that in Section 9-9?

Vice Chair Dodson: Aren't we going to leave that up to Paul? We'll leave that up to him.

Takabuki: Yes; I didn't draft anything.

Reyes: I'm trying to see if it's already being addressed in the current Charter provisions.

Takabuki: That Section would have to be changed; you're right, Victor, but I just don't have the exact language.

So, are we going to... Well, I guess we can't decide today.

[RECESS/RECONVENE]

Vice Chair Dodson: I have a suggestion; going through this stuff, and assuming that everybody has read it -- and also because we can't take any action -- what I'd like to do is if you've got specific questions about specific things, we can certainly talk about it today. But, unless we have...I just can't see going through every one of these things, especially the procedural stuff...thirteen pages of this... Like you've said, you went through this...I've read this a number of times because I wasn't at those meetings. Anything we are getting into in this session today, is certainly going to be brought up again in the full commission when we're ready to vote.

Sparks: If we want a question answered and be educated a little bit, do it?

Vice Chair Dodson: Yes, please do.

Wright: Page 4, number 11; I don't understand the 'authorize transfers between the legislative and executive branch' proposal. 'Transfers from certain County-wide accounts'...what kind of county wide accounts are you talking about?

Takabuki: There's a huge account in finance that's called County Wide, and in the past there have been transfers of monies...I think for salaries and different adjustments to the legislative budget...that although they are budgeted in one place, really pertain to that branch. And, because of a corp counsel opinion, it was stated that because the legislative branch is not a department, and the Charter talks about transfers between departments, you couldn't make that transfer.

Wright: Then why do you want to? I don't understand what you are talking about for sure here.

Takabuki: I'm trying to think of a real precise example...certain things are just budgeted for on a lump sum county wide basis, and there are times when the legislative branch needs to have those monies transferred to their accounts for some reason. Again, I don't know that it comes up very often...this is one of those that may have been a problem once or twice, and it was just thought of to correct that situation.

Wright: I just don't understand enough about the budgeting and finance area to understand what that means; I don't know what that means.

Vice Chair Dodson: Anne, maybe you can get a... And, try to clarify...

Takabuki: I can try to get a specific example.

Sparks: Just reading it, my question is why do we have to have a special provision for going from certain accounts, called county wide accounts, to other certain accounts of the legislative branch; can't we just have one general provision that covers any transfers across any borders?

Dave DeLeon: The mayor usually initiates the transfers.

Sparks: And this would allow the legislature to initiate the transfer?

Wright: On certain branch and certain accounts?

Vice Chair Dodson: Just the county wide account, right?

Dave DeLeon: This one says the council chair is going to initiate; most transfers are initiated by the mayor.

Wright: I just don't know enough...what are the county wide accounts? I don't even understand what that is.

Reyes: Is this the operational budget we're talking about? Does the council have its own operational budget...is that what we're talking about...from the council's operational budget?

Takabuki: No; from the large county wide appropriation...

Dave DeLeon: Is it possible that this was meant to be...there's a certain amount of the council's appropriations that include part of a county wide pie...like for electricity or computers, or whatever...I'm just grabbing at what that is; if they don't need and it's known that they have too much money in that account, but it's county wide and they want to pull some money out for something else, then they want to authorize council chair to initiate that rather than have to go to the mayor and ask for the money to be spent.

Wright: So they've got money sitting in a county wide account and they want to use it for some other purpose, but they can't get to it because it's... I'm just trying to understand...

Dave DeLeon: I'm just suggesting that might be what's being grabbed here.

Vice Chair Dodson: The council chair initiates it, but what happens after that?

Dave DeLeon: Which means it doesn't go back to administration at all then, because the council initiates and the council says yes or no.

Vice Chair Dodson: So if they're not using all of their electric bill, let's say they're appropriated \$100,000 for electricity, they're only using \$50,00; they want to pull the other \$50,000 putting it into telephones...

Wright: Well not necessarily county wide; they want to put it into the legislative accounts... I don't understand that it would go from a county wide account for one purpose to a county wide account for another; it would go to the legislature to redo completely is what I thought this meant. That's not what it means? It just means from one county wide account to another?

Takabuki: No, I'm sorry; it means from the big county wide account to any legislative account.

Yonenaka: This was brought up by council?

Takabuki: This was brought up by council, but again, they didn't bring up the issue of who initiates on this one specifically; they just wanted to make sure that those kinds of transfers could occur.

Sparks: Under 9-10.2. it says "upon written request of the mayor, part or all of any unencumbered appropriation balance may be transferred within a department by resolution or from one department to another by ordinance." Is there a way we could expand that language to include county wide accounts?

Takabuki: To say from one branch to another is what they want to get at. That's what they want, just to know that it can occur. They didn't bring up the issue of who initiates.

Sparks: If it's by ordinance, they can initiate their own ordinance as the mayor can initiate her own ordinance.

Takabuki: They can not initiate a change to the operating budget.

Sparks: Aren't we going to give them that?

Takabuki: No...only CIP. The mayor has complete discretion over the operating

Takabuki: (Continued) budget; which means she would still be the one to initiate this change, but I think what the council wanted to do was to make sure that the change could occur -- that it would be legal, because the language right now just says between departments. The mayor still needs to initiate this because it's an operating budget item, as I understand this, and that's her jurisdiction.

Wright: What you're saying is right now even the mayor can't initiate this, because it's not from department to department. So, even if they agreed and the mayor agreed right now, then they couldn't do it anyway.

Takabuki: Right; exactly...technically they are saying it can't be done.

Sparks: It seems like you could fix it by adding some more general words into that sentence.

Takabuki: I think that's all they really want; to know that it can occur.

Wright: I understand better now. Obviously I don't have a strong finance background, but on page 4 under 13 it says "allow for reduction of an appropriation to pay an indebtedness if the indebtedness is not in existence." You get money in appropriation for a loan, but the loan never comes about...

Takabuki: The way it comes about is you think you're going to float a bond, and that you're going to make two interest payments; but during the year you float it later and you only make one, because you pay every six months. So all they want to know is that the money can be freed up and spent somewhere else.

Takabuki: I think number 15 needs to be explored a little more -- the abandonment procedure.

Sparks: I needed more education there, myself.

Vice Chair Dodson: I think we went over this earlier and I think we're going to, as a Commission as a whole, have to discuss this. The recommendation is that it be reviewed by the entire Commission, and when we get ready to vote on it I think there will be an in-depth discussion about it at that time. If you have specific questions that will help you think about it for when we do come up to that discussion, but if it's just going to be a discussion pro or con I'd rather just wait until we get into the meat of it with everyone.

Sparks: The one on long term planning I had a question on. Page 5, number 18; I found myself wondering how five years meshes with the typical terms and whether that's a problem or not. Let's say the mayor sets up a five year plan; it's annually changed. The last year of the mayor's term they put up a five year plan; and a new mayor comes in and four years of that five year plan are really fiction probably. That's okay, I guess there's no real problem as long as we're not spending too much time and energy on these fictions.

Wright: Maybe we should have a four year plan.

Vice Chair Dodson: Four or eight...

Sparks: But that doesn't solve it, because every year you update it; I assume that's your plan...plan it ahead five years every year, so every year you do a little fictional exercise.

Sparks: (Continued) Page 7, number 7; this is under ethics. [The proposal is] "add a new section requiring any elected or appointed county officer or employee to disclose position with the county when appearing at public meetings." And, it is recommended that we approve with the clarification that disclosure should, not shall, be made by officers or employees vested with substantial discretionary authority.

I don't know; we're just putting our hopes in here it seems like. If it's only should and there's no enforcement of this that I can see.

Wright: Is there a definition of public meeting? What's a public meeting?

Takabuki: There's no definition; I think they were just referring to any open public forum...it would be a community association meeting, it could be anything where the public is invited to attend. This came from the ethics board.

Wright: Well I know, but I don't care; there's two things...what Al's saying and...if they want people to disclose things; like if you go to the community association meeting, they want you to disclose your position with the county. But, I can see a lot of gatherings where you could run into problems...is this a public meeting, should you have stood up and said every time you expressed an opinion, that you are such and such with... And so then you say it doesn't matter because we'll just say should and not shall, but at the same time then, why bother? Because should...that's not going to make anybody, and what's going to happen to them if they don't -- nothing, because they're not really required to do it. You're just saying this is a preference, not a requirement.

Sparks: And, it's in the prohibition section, isn't it? Yes, it is.

Wright: I'm not opposed to the concept; I think maybe they should do that, but if you're not going to say that they have to do it and you're not going to define when they have to do it, then I don't know that it should be in there. Again, it's more of a procedural of the ethics Commission's rules; not for the Charter then.

Sparks: What happens if you put shall?

Takabuki: In the discussion that we had at committee level, it was felt that it could be too severe of a punishment if someone somehow just inadvertently forgets, or doesn't think that it's a public meeting, like Debbie said, it's vague, and doesn't do it, and that shouldn't happen either.

Sparks: Okay, if I buy that logic, I still conclude that we shouldn't put it in there at all probably. Unless we have a whole section in the Charter that says 'these would be nice, ethical things for people to do...we urge you to do these nice ethical things.' We could have a whole article like that, maybe.

Takabuki: Ethical guidelines...

Wright: Utopia. [LAUGHTER]

Sparks: Number 8, page 8; I remember that one came out of Goro's case, where it was the court that said he's not, in fact, in a decision making position.

Vice Chair Dodson: Decision making? I can't think of any job where somebody doesn't make a decision one way or another; to me, it just leaves a lot open there. And not having decision making authority, decision making authority over what? Policy making? Discretionary?

Sparks: There's all those problems, but let's say your just...a janitor, and you get appointed to an important commission, and that company you work for has something at stake -- what's to keep them from saying, 'you like your janitor's job? You vote the way we want you to vote.' So, I guess I'm disagreeing with the court in this case, because they already decided it this way about Goro...

Dave DeLeon: No, it was a procedural thing; they didn't resolve this.

Sparks: They didn't decide it this way; what did they say?

Dave DeLeon: It was a procedural point that had nothing to do with this; it was the way the complaint was made. Sally Raisbeck brought it as a former county employee; she asked for a disclosure kind of thing.

Takabuki: She asked for an advisory opinion.

Sparks: I thought I read it somewhere that the court did decide that way, but I don't remember where I read it.

Dave DeLeon: Goro sometimes projects that.

Sparks: Maybe it was in an excerpt of his letter or something.

Dave DeLeon: I think it would have been better for everybody if it had been resolved.

Sparks: But by not recommending it, and leaving it the way it is, that leaves the board [of ethics], like in that fictional case I just spelled out, the board could decide that was inappropriate.

Vice Chair Dodson: Their [Committee C] recommendation is to leave it is.

Dave DeLeon: Think of what you guys are going to face when you get to the Lanai Planning Commission.

Vice Chair Dodson: Finding anybody on Lanai who doesn't work for Castle & Cooke...

Sparks: The board might be busy!

Vice Chair Dodson: It might be hard to get a quorum. [LAUGHTER]

Sparks: You know there is this stuff about the majority of ballots drawn instead of ballots cast, that I'll argue my pros and cons on later. [Referring to Section 11-7.]

Vice Chair Dodson: I'm a little confused about how this whole thing works; maybe I should try to find that out first.

Takabuki: What do you mean, how it works? You mean this example is not good here? It's not clear to you?

Vice Chair Dodson: 20,000 ballots drawn are the amount that are taken out and people are actually going to vote on; 10,000 votes are cast...

Takabuki: And the rest, they leave them blank.

Vice Chair Dodson: I see; so, the blanks go which way? The blanks go yes or no?

Sparks: No, under this recommendation.

Dave DeLeon: Neither one; they aren't counted.

Takabuki: Right now they count as yes, or whichever way...

Sparks: They don't count at all. It's the majority of votes cast.

Vice Chair Dodson: They don't count at all, so then what they do is take that 10,000 and the majority of that. And, what you guys want to do...I'm not sure what you guys want to do.

Sparks: This is the part of the committee report that I should have signed that I'm not in agreement with.

Takabuki: But you were in the minutes; I hope you saw that.

Sparks: Yes, and you gave a fair job of giving my position.

Vice Chair Dodson: You want to change it so that if 20,000 ballots are drawn, and they leave 10,000 blank, then the other 10,000...

Takabuki: Well, you have to have 10,001.

Sparks: It would be interesting to get some statistics from past elections, I didn't have time to look it up myself, but I remember, in general, back fifteen years ago and that commission that I was on made recommendations that were complicated...so, my guess was there's probably not more than twenty people in the county that fully understood everything they were voting on. There were about 11,000+ that voted yes, and 8,000+ that voted no. What I don't remember is what the total turnout at that election was, but it could have been such that the 11,000 under this rule would not have been a majority of the ballots drawn.

Like this presidential election coming up now, and a lot of council seats, so a lot of people will be going to the polls with definite ideas in mind about those races; and, confront our work, our complex ballot amendments when they get there...

Vice Chair Dodson: And you're afraid they're just going to leave them blank?

Sparks: I think it's rational for the voters to leave them blank under those situations...

Woodburn: I think they will.

Vice Chair Dodson: I think they will, too.

Sparks: And, I would just as soon they did if they don't know anything, rather than go eeny-meeny-miney-moe. In fact, it's surprising that so few of them are left blank, when you think about it; but those who do leave them blank, I think, are rationally voting. I'm arguing my case here, but it seems to me, you don't want to dismiss those as no votes automatically. And, there's a lot of other points I want to make when it comes up again.

Wright: I would agree with that; I think it's more responsible. I've done that sometimes if I didn't feel I had a clear understanding of the issue. I've known a lot

Wright: (Continued) of people who say, 'oh well, I just picked one,' or 'I just said no, because I decided if I don't know what it is, I'm going to say no.' I think it's more responsible just to abstain if you don't understand the issue, and let the people who do understand it vote on it. But, I don't think you should have it fail to pass because some of us, for some reason or other, just did not understand that issue. I think the ones who want to vote on it...fine; but the rest of us who may just say we want to vote on some things, but we're not going to vote on that issue -- it doesn't mean that we're rejecting it -- we could have voted no. We didn't vote no; we just abstained, and I don't think that means it didn't pass.

Sparks: Actually, I think initiative items are so rare, and they're single item issues anyway usually, that it's not a matter of a big concern for me there; and on recall, the same way. But what isn't rare, is the sort of thing we're going to be putting on the ballot; and, if you had that kind of a rule facing us, you know, after all this work we've gone through in educating ourselves, and coming up with the best possible thing we can, and then everybody out there in the county who decided it was rational not to vote on that because they didn't understand it... And, you can understand why they didn't understand it -- we have to overcome all of that? I think it's a way of frustrating an awful lot of good work by people who do know what's going on, and are attentive... We're not under that rule now, but I think your suggestion is later that it should be in the future. Think about how you would feel after all this exercise, being shot down because a certain block of voters were rational enough not to vote because they didn't understand it.

Reyes: And not only that, from our experience with public hearings...there are so very few people who attend, but that doesn't mean that the people or the feelings that are expressed doesn't represent the mainstream of the population. It's true that some are more vocal than others, but those who show interest are the ones who are thinking; and I think we should not discount that because only five people voiced that opinion... I tend to go along with Al's argument that...

Sparks: Well anyway, we're not voting on it and we're not supposed to be arguing it...

Takabuki: It says here why we decided that way; it was basically that these things shouldn't be easily amended and laws shouldn't be easily changed; and we're basically saying there should be a strong commitment; people should be educated. It's all should, should, should and maybe it doesn't happen, but that was just the feeling that there should be that commitment in order to make -- in this case -- a constitutional type change.

Sparks: We make changes in presidents and various other important things on a minority of eligible voters all the time, right?

Takabuki: Unfortunately.

Sparks: Or things just wouldn't keep going...

Yonenaka: That's on the next page... [LAUGHTER]

Wright: We're going to change the way we vote for president? It's on the next page? [LAUGHTER]

Woodburn: It's the roster for roll call. [LAUGHTER]

Sparks: Back on your recall, there's something about the number of voters [referring to page 10, number 3] '...amend to change the voting requirement to fifty percent (50%) of the voters "eligible to vote for the office"' instead of registered to vote in the last general election. Are you talking about all adults over age 18, that aren't in prison?

Takabuki: No; when I looked into that a little bit, apparently it was just put in there to provide for the possibility that there might be a district type of voting.

Sparks: And, we don't really need it right now because there's no districts. The term 'eligible to vote for the office' is probably not the way you wanted to do it anyway; registered to vote for the office in the last election, or something like that... But, it's unnecessary really, don't you think? We can leave it 'registered to vote in the last general election,' it seems to me.

Takabuki: [NON VERBAL AGREEMENT]

Sparks: Incidentally, do we have nine community plan districts?

Dave DeLeon: We do, but one of them is not occupied.

Sparks/Takabuki: One's Kahoolawe. [SIMULTANEOUSLY]

Sparks: When I was reading this, I thought we might use that as a guide on this residency area stuff, too. In fact, I made a call to my friend, Bill Medeiros, to see if he could give me what those boundaries are.

Woodburn: I don't think it will line up to that.

Takabuki: Can everybody think about the Special Charter Commission section? We just tossed out a number of ideas; it's something that we might want to talk about at the full...

Sparks: Special Commissions?

Takabuki: Whether we want to recommend any for the next...

Sparks: My first thought is we really don't need to. Oh, transitional provisions, the last thing you have here; I was thinking we're changing...what's to keep the effective date from being in December? [Reference is page 13, Article 15]

Vice Chair Dodson: December first?

Sparks: We're talking now about any changes that are approved by the voters, that we recommend, when should they go into effect? Why not in December? Immediately upon approval, as far as that goes...

Dave DeLeon: You need transition time.

Sparks: You're right there; there needs to be some kind of transition, I suppose.

Vice Chair Dodson: You need to get the Charter printed up.

Takabuki: What they'll do is just print it up on Xerox paper...

Vice Chair Dodson: I kind of agree that you need a transitional period.

Sparks: But, maybe you don't need that much time; you're talking about November 8 or something, there's all of November and December...

Takabuki: So that council could take office on December first...

Sparks: Well...how's that going to work now? Let's say they approve that recommendation, that councils and mayors that are elected take office the first working day in December; and we say that these recommendations take effect the first working day in December. Does that include the ones just elected then?

Yonenaka: No.

Sparks: Why wouldn't it?

Yonenaka: Doesn't it refer to the next election?

Sparks: It depends on when our transition date is, doesn't it? I mean, if the new rules that are recommended get passed by the voters, they go into effect -- maybe we could say the last day in November -- that means that people who have just been elected would have to go to work in their new term the first working day in December. Wouldn't it?

Takabuki: I wonder though; because the Charter right now does say they have two year terms, and those who were in office who didn't get reelected, couldn't they say 'well, I have one more month in my term, because when I was elected I had two years from January Second.'

Dave DeLeon: Good point, Anne.

Sparks: Darn lawyers...they'll get you! [LAUGHTER]

Dave DeLeon: It'll work funny for your next council because they'll run short.

Sparks: That's right, because if you wait till January and then it goes into effect the next time, they'll be one month short. So, it wasn't a good point; it was a good thought...

Dave DeLeon: It is; they're certified to be in office during that period.

Sparks: For two years.

Takabuki: For two years from January Second.

Sparks: See...if they get unelected next time, they're out the first working day in December. They started the first working day in December and they're out the first working day in December.

Takabuki: For the next term; for the next group, but not for the current group in office now. You're going to cut them one month short.

Sparks: We're going to catch somebody somewhere, anyway.

Dave DeLeon: Next term.

Vice Chair Dodson: But next term you can provide for it in their certification, saying your term is not going to be...

Takabuki: It's going to be twenty-three months, instead of two years.

Sparks: You know, we say back there that it's a two year term, so do we have to qualify that?

Woodburn: Plus or minus... [LAUGHTER]

Sparks: About...put in the word about...

Woodburn: Approximately...

Wright: Let's ask Paul Mancini; that's what we pay him for!

Yonenaka: So, conceivably we could have eighteen councilmembers for a couple months.

Vice Chair Dodson: Oh, that's a scary thought!

Dave DeLeon: You'll never get rid of nine and get nine, though.

Yonenaka: Okay, well we could have twelve...or ten...

Reyes: I think everyone who's been elected under the present terms should be allowed to exercise their term...their period.

Vice Chair Dodson: I don't think we may have a choice on that.

Wright: No, I think they're going to be allowed to exercise their term, probably.

Reyes: That's what I'm saying; if you force them to terminate because a new guy comes in...

Vice Chair Dodson: I don't think we can force them.

Sparks: But it does open a can of worms when you change all that; in the transition, somebody is going to get...

Woodburn: I think the easiest way is just to leave it alone with the other dates.

Sparks: But there were some good arguments for upping it, I think.

Dave DeLeon: Not this time. [LAUGHTER]

Sparks: But you're not on the Commission, so your thoughts don't matter!

VI. NEXT MEETING DATE

- A. June 10, 1992 Full Commission meeting (Due to June 11th holiday)-4:00 p.m.
- B. June 16, 1992 Public Meeting at Kihei School-7:00 p.m.
- C. June 18, 1992 Public Meeting at Upcountry Community Center-7:00 p.m.
- D. June 23, 1992 Public Meeting at Lahaina Civic Center-7:00 p.m.
- E. June 25, 1992 SKYBRIDGE at MCC Skybridge Studio-7:00 p.m.

[NOTE: Lloyd will be in Hana; Dolores on Lanai; and Annette on Molokai]

F. VACATION SCHEDULES

Debbie: Leaving May 22, 1992 - gone for one month (approximately)

Al: July 7, 1992 through July 28, 1992

Jamie: June 3, 1992 through June 14, 1992; last two weeks in July and first two weeks of August.

VII. ADJOURNMENT

There being no further business, the meeting was adjourned at 6:27 p.m.

ACCEPTED:

Sherrilee Dodson, Vice Chairman Date