

CHARTER COMMISSION
PUBLIC MEETING MINUTES
JUNE 16, 1992
KIHEI ELEMENTARY SCHOOL CAFETERIA, KIHEI

PRESENT

James Cockett
Sherrilee Dodson (Vice Chair)
Robert Nakasone (Chairman)
Allan Sparks
Anne Takabuki
Lloyd Yonenaka
Susan Nakano-Ruidas (Staff)

EXCUSED

Dolores Fabrao
Annette Mondoy
Victor Reyes
Jamie Woodburn
Deborah Wright

NOTE: Attendance - 12

I. CALL TO ORDER

Chair Nakasone call the South Maui Public Meeting to order at 7:09 p.m.

II. PRESENTATION OF PROPOSED AMENDMENTS TO THE MAUI COUNTY CHARTER

Proposed amendments and residency area detail map for election of council were made available to the public prior to the meeting.

III. PUBLIC TESTIMONY

Chair Nakasone noted that the commissioners were back in South Maui to get additional input from the public in regards to the Commission's proposed amendments, or any additional input that the community felt the Commission should consider.

Chair Nakasone turned the meeting over to Vice Chair Dodson, who is a resident of Kihei.

Vice Chair Dodson explained the evening's format as being open questions. She also noted that those not signed up to speak, would be able and encouraged to speak.

A. Kenneth J. Barr, speaking as individual and resident of Kihei.

Barr: I'd like to speak to two items, I like the idea of the council districts you've done...I think this is a really good idea, and the towns you lapped together with it -- I support this as a good idea; but I think you have already killed something that I feel is very important...I don't know which ones of you supported it or not...but the idea of the electing of the representatives from the specific districts... Why I think that's important is because people in a certain area know the people in their community who have been involved in their community and have made an effort to find out what's going on and to speak out. If you're going to have these districts now...and to have people from other areas of the island or other islands voting for these people, we're still kind of back the way we are now. For example, take Lanai; if Mr. Hokama was elected by the people of Lanai, who knows if he would be their representative. We've had a very strong Central Maui for so many years that it has carried many of the elections; it's really almost unfair that the people of Wailuku or Kahului are electing the person to represent Lanai or Molokai, or whatever. Specifically now in South Maui, the people in South Maui know who the people are in this area who are familiar with all the problems here; and, I just feel that it should be residential -- the people in the district voting for the people in their area.

The other thing is in Article 3, Section 3 relating to qualifications of council members...the ninety days; I would suggest that that's a year because what you're doing is right around election time allowing shuffling around of somebody say of upcountry to move into Kihei, or some area, right around the filing time to be able to qualify. This way if it's a year, unless somebody thinks really far ahead, there wouldn't be that kind

Barr: (Continued) of shuffling around; they'd be legitimate people from the area that they live in being qualified.

And, the other thing I wanted to speak to has to do with the Lanai Planning Commission. I'm in a unique position right now, being on our planning commission, and making decisions for Lanai. I'm speaking for myself, not the other planning commissioners, because they may and probably do feel a lot different. I love going to Lanai and spending the time there, but I have to admit that I feel frustrated that I do not get a feel for what the people of Lanai are feeling about what's happening to them and their destiny. I take the time to go down to the village square; I try to talk to people, they look at me like, you know, "what are you asking for?" And, if I tell them who I am, they think "well, maybe I'm going to get in trouble if I say something." And, like I said, the other planning commissioners may be able to get a better feel of it; but I'm telling you my personal feeling over there. I do feel that the people over there would be better attuned to knowing what their fellow Laniain's feel about this. I know you have been concerned also about well, how are they...even with 98% of the people working for Castle & Cooke... how are they going to come up with a planning commission that is representative. I don't know and I don't have the answer to that either, but at least if they had the opportunity -- there are people who work for the state, and so on...at the hospital -- that they should be able to come up with a representation of the community.

I wish you would consider those two items.

Sparks: Your comments on the ninety day residency being increased to a year... I think you may have misunderstood what we actually were doing there. We're keeping a ninety day residency requirement for living somewhere in the county for anybody who is running for office. What we're removing is any residency requirement to be in a certain residency area...only by the time of filing. Filing, as you know, is about middle of July...July 21st or something like that...so, by the time anybody was elected to serve, they would have had to live in that area from July 21st to approximately the first of the year -- five-plus months, at least. But, they would have had to live somewhere in the county for at least ninety days -- so they're only moving, perhaps, from one region of the county to another in order to be eligible for a certain area.

Barr: I know that for what I just said to take effect, it would be important for the people in the district to vote for them; but, what I'm saying is that I would like to see that the person that files...from whatever day they file to run for office...that they would have had to live in that district for a year previous, so that they didn't move down there specifically to do the filing in that area.

Sparks: Okay, right now the way the Charter reads and what we're not changing is you only have to live somewhere in the county for ninety days. Now, the lawyers have told us that you have to be a little careful with these residency requirements -- they have to make sense for governmental reasoning; so, if you make them too long it may not be something that will hold up in court -- that's another concern we had here.

Barr: But, you do see my point though, that somebody from upcountry could move into Kihei to run for this seat right now...

Sparks: And by the time they serve, they would have been there over five months; so, part of what we're trying to acquire here is that they would have to be neighbors of the people in that area for which they serve as a residency seat. Incidentally, we're not so far doing true districts, which is a great confusion in many people's minds. These are residency areas; so even if they move from one area to another, they are still really serving the entire county because there is really only one true district -- that's the

Sparks: (Continued) entire county.

Barr: Right, I understand that they'll do that, I'm just again saying that if it was voted by district...in other words, in South Maui there's 15,000 people...got to vote specifically for their South Maui representative, then even though their representative would represent the other eight regions, he would specifically be elected by the Kihei people because supposedly he would know that area and know their problems specifically.

Sparks: He would be elected by the entire county.

Barr: Well, that's the way it is now...

Sparks: That's the way it is now; you're recommending a true district scheme, I understand that, but I want to make sure we understand what we have recommended as a Commission is not a true district thing.

Barr: Right, and I wanted to give the reasons why I felt that was important.

Sparks: Yes, I appreciate that; I'm actually a minority on the Commission, so I do appreciate that.

Chair Nakasone: You did mention about the proposed Lanai Commission...planning commission...but I didn't quite understand whether you're supporting creating a new planning commission for Lanai, or speaking as an individual or being on the Maui Planning Commission at the present time.

Barr: Okay, I am supporting this because...and I'm speaking for myself...as a Maui Planning Commissioner that I feel that I'm making decisions in the dark, because I personally am not...I don't feel I'm getting a true reading from the people of Lanai. I feel because of their situation...unlike this area or this island, you know when you have a meeting here what people feel; but when you go to Lanai, because you have the knowledge that 98% of the people work for Dole, that I don't get a feeling -- they are all sitting there and they're afraid to come up and speak, or for some reason they won't come up and speak -- and I feel that I'm not giving them a true feeling with a vote because I'm not sure how they feel.

Chair Nakasone: I guess one of the concerns that the Commission members have in regards to a Lanai Planning Commission was the question of the island is owned by one person or one company, and the majority of the people living there work for that particular company. So, the question is how we...or whether the county, or the administration, or the council will appoint members to the commission, and yet there would be a question of conflict.

Barr: Well, I don't know how many more Ron Mc Omber's there are, but they do have an advisory committee.

Chair Nakasone: Right now, yes.

Barr: It seems to be...I mean, they seem to be able to say their piece; maybe if they had more authority for the island the people on the island may loosen up more to them.

Chair Nakasone: I guess we were concerned about this legal question of conflict...and how would we add members to a commission where you have 98%, or whatever, that works

Chair Nakasone: (Continued) for the company over there. That was one of the concerns I guess we had...as far as members...

Barr: Well, maybe it's better for us making the decisions over here then because we don't have any influence from them.

Chair Nakasone: I don't think the Charter at the present time, even with the Molokai Planning Commission, identifies that all members have to be from Molokai. I think by general provisions you have to have some geographical representation on the commission, but in the case of Molokai all the members are from Molokai. So, it's really a question of whether that's following the Charter requirements...

B. Nancy Kistler, individual and speaking as a resident of Kihei.

Kistler: I had three things that I wished to bring before you. I wanted first, regarding Article 3, I wanted to speak in favor of voting for county council members by residency rather than At-Large, because I felt -- elected by district, excuse me -- that it would be more responsive to the people's needs. Voting At-Large means that more densely populated areas end up electing officials that are not necessarily attuned, in my opinion, to the wishes of the voters in their respective districts.

The second was in regards to the terms of the council members themselves, I believe that four two year terms -- eight years -- is certainly sufficient. If it's good enough for the mayor, why isn't it good enough for the council? The other thing is, I think we need to be realistic budget-wise; there isn't any of us here, I don't believe, that don't realize that once you get your ten years in that you are eligible for a state pension. And, quite frankly, I don't know any place that you can work for simply ten years and end up with a nice paycheck for a long term. And, I think that is an extra burden on the taxpayers that shouldn't be there. So, I'd like to see that sidestepped by eliminating that and going with your eight years.

The third I'm not sure was even on your agenda, so correct me if I'm out of line, but I wanted to address the issue of the board of water supply. I really feel very strongly that this should return to the jurisdiction of the county. Any resource that is this finite, and this important for each and every one of us in every area throughout the county, I believe, should have more control than it does in its semi-autonomous state.

Yonenaka: Maybe just to clear up a little bit about why we went to the districting the way it's set up now where they still get elected At-Large... One of the problems we had, and taking into respect Kenny's (Barr) comments on the Lanai Planning Commission where he feels the Lanai people should decide for themselves...if we went to true districting, we would have to use one man, one vote rule, which basically says if we were going to keep a council member from Lanai, every district would have to be the size of Lanai's population... in this case, it's 2,426...which would make the number of council members in Maui County at something like forty, I think...would seem to be an unworkable number.

Kistler: I can appreciate that.

Yonenaka: And part of the problem also was if we did lump Lanai with somebody...or Molokai...or Hana, they would lose their representative in that area. From my personal point of view, it was really important that a council member lived in a certain area. I think everybody here would be honest with you...we couldn't find a perfect system, and we argued a lot...we talked about it a lot. And I think, from my point of view, this is as close right now. There are some other concerns I had, and I think part of the problem was the Big Island just went to districting, and we had some comments from a councilman

Yonenaka: (Continued) on the Big Island, who has noted...and he sent us an article...that candidates running for office now are running on a platform that they will "bring home more bacon." And, this is only on the Big Island. There could be an attitude that "I will work only for my district, and that's the only thing that matters; because these are the only people that vote for me." In my own personal feeling, I don't feel it is to everyone's interest that we divide the county up into pieces; and, it's us against the rest of the guys. I think it's very important that someone live in Hana, someone live on Molokai, someone live on Lanai...because all of these people will make decisions for all of us. And, we heard some comments from someone in Hana who felt very strongly that they shouldn't go to districting...that they should keep the At-Large system...because at least every year and a half all the candidates come down. Which is not really a great statement to say about our system, but I can see their point of view, and I just wanted to clear up part of the reason why we went to this system of residency requirement.

Vice Chair Dodson: Nancy, with regard to the board of water supply and pulling it back into the county...we did have extensive discussion about whether to go completely autonomous letting them set their own rates and rules, which is what the board of water supply wanted; also, staying status quo; and also bringing it back into the county. Some of the strong arguments for keeping it status quo were that they need a little bit more time...we've only had this system since '89, and Mr. Craddick was real adamant that given enough time, he would be able to work out all the kinks. There's always the chance that the people, during the next ten years, before the next Charter Commission can come back to the county and put a...you know, you people did it in South Maui to get a seat down here...and get the water board back under the county. There's absolutely no reason, in five years, if the board of water supply hasn't turned around...at least to the satisfaction of the public...that is an option that everybody can take.

Kistler: Okay, in other words, it's not something that you have to wait another ten years to do.

Vice Chair Dodson: Definitely not...that's how South Maui got their Kihei seat.

Kistler: I didn't know that...thank you.

C. Buck Joiner, individual.

Joiner: A nice little potpourri of comments and what have you... I'd like to mention once again...I think you had your first meeting down here and at that meeting I also made a suggestion that I believe certain portions of the duties and functions assigned to public works should be moved to the planning department. Specifically, the administration of the building and housing codes should be moved in there, and proposed subdivision plans... specifically, if you have your Charter book on page 13, items 1 and 2. To me, these are not functions of public works...reviewing building plans and setting building codes...that's not what public works is supposed to do -- and, the planning department is where it should be -- they could handle it more effectively, I believe.

Another item...page 37, Section 13-2. Boards and Commissions...I made this recommendation before also. You know, you have five year terms for all of your volunteer boards and commissions -- it seems to me when you have your elected officials at two years...for your county council...and four years for the mayor.-- to ask five years of a volunteer is too much. I would really, really like for you to consider three year terms. Most of the boards have nine members, and a three year term would give you a nice even roll-over on that. And, in addition to that if you so desire, you can put in a one time additional renewal...if you wanted to put a limit on it...say a six year maximum term.

Joiner: (Continued) But I would like for you to at least address that situation. I think we would get a lot more volunteers and a lot better quality, and ultimately, the boards and commissions would come up...for some of these it's really...I mean, to be on the planning commission for five years is an excruciating torture -- good luck, Kenny -- I don't know if you can make it or not. I would not want to do that job for five years; I definitely would not.

On to the stuff that you have on your agenda, the setting the districts for election of the council -- they look pretty decent, pretty reasonable. I commend you on a job very nicely done...on that, setting those areas up.

Five consecutive terms for a council -- that's reasonable.

Over on the executive branch, Section 6-2.3. -- every place you mentioned that the council should have sixty days to act on the mayor's nominee -- I think that that's overly generous. The council should be able to respond in thirty days. That's stringing it out -- sixty days is just much too long. The mayor, to find someone to go through the interview process...the selection process...sixty days is reasonable. For the council to say yes or no, thirty days is quite reasonable. So, there are three places in there where you can change that down to thirty days; I would think that the council would even be in favor of that. Considering the problem we ran into this last time out, where it just went on and on and on...it was interminable. Item 6 there, that any nominee shall not continue in the nominated position -- that I have a little bit of trouble with. The person may be fully qualified and able to sit there; they may be the best, but there may be some small reason that the council felt that they weren't...that maybe we could do better. The person who's in there...they have to put someone in as an acting head, and this person obviously had some significant qualifications -- actually the named person may or may not be operating in that position, you know -- it's possible that a nominee could be from completely outside...we had that with our prosecuting attorney, right? He came from the Big Island and wasn't even in the office. But, we might have a situation where it is an acting department head and he might be qualified; so, I'm not...I'd like for you to give some extra thought to that one.

Down to the Lanai Planning Commission...if you do that, and I suppose you are going to put that on the ballot, that will give Dole absolute carte blanche to do whatever they want. And, the planning commission can overrule the planning department -- the planning department can recommend that a project not be approved, and the planning commission can overrule that, and move it right along. So, I believe you would give absolute power to Dole...and absolute power corrupts absolutely. So, I think I'm in opposition to that.

Cockett: Mr. Joiner, you were mentioning in the department of public works...were you referring to Section 8-5.4. Board of Variances and Appeals?

Joiner: No, sir...8-5.3. Powers, Duties and Functions, under Department of Public Works.

Cockett: That is kind of an open situation; if you check on page 3 of our agenda -- we're kind of skirting around it a little bit -- it's number 12. Again, amend Section 8-5.4. relating to powers and duties, board of variances and appeals, under department of public works -- there's still a question on that. And, we will take your advice under advisement.

D. Gene Thompson, speaking as individual and resident of Kihei.

Thompson: I'm speaking for myself, by the way. I was very pleased with the At-Large map you drew up; it's really good -- I realize what the difficulties are, and that you can't always get the population balance and the like, but I feel it's very good. However, I was

Thompson: (Continued) disappointed that the district system did not go on the ballot -- not that I'm necessarily for it -- I would really be interested in the discussion that takes place if it did go on the ballot. I'm aware of your reasons for not putting it on, and I know that Maui, because it's a multi-island county, presents some special difficulties. The thing that impresses me -- I was talking with someone the other day and they mentioned that they were going to run for the State House -- and the reason was that they were more interested in the council, but it's so difficult for some people to run for something like the council because you've got to do the entire county; whereas, if you're in our state district that's all you have to cover. So for somebody, actually a newcomer to politics especially, it's much easier to actually run for state office than for county office. This county office is a real bear for anybody, especially for somebody starting in and it's this kind of talk that I'd like to have heard...and would have liked to have seen that go on the ballot. We had discussed that extensively, but I think that, above all, would have been the argument. As I say, my mind is certainly not made up on the subject, but I would have been interested in hearing some of the discussion. But, there are some difficulties with this At-Large system that I think are rather formidable -- that's one of them. However, I do like the mapping out that you did and certainly hope it passes; I don't like the present alignments at all...I don't consider them representative.

I was also disappointed that initiative/referendum didn't appear at all. In my own view...I realize I'm hashing over something that's not on the agenda, but...as I mentioned before, initiative is so difficult in Maui that we may as well not have it. Now, in my judgment it should be very difficult, but I would recommend a 15% requirement rather than the present 20% requirement -- I think we have to simply face the 20% thing as being an impossibility. To me, difficulty is good enough; impossibility is impossible. I think that's unfortunate; I think the Commission should have addressed this referendum situation in that we're the only county that has anything like this number, and have never been able to mount an initiative or deal in anyway like that...not that I think it should be done often...but it should at least be a possibility.

I had a question also on the starting on the first working day of December. I hadn't been following this -- what is the logic behind this? What is the reason for it? Having the council...I notice also having the mayor taking office on December 1st, instead of January 1st which is the way, I presume, they do it now. January 2nd, right.

Sparks: We're not breaking new ground, first of all; both the Big Island and Kauai, I believe, do it this way. And, as we looked at that and asked ourselves why and what the advantages and disadvantages might be...it just seemed like there would be some advantages after the new people are elected, or old people are reelected, to get things started approximately a month earlier. If it's a new team that's being put in -- let's say a new mayor and looking for a new team of administrators -- there could be some problems getting all that act together that soon. On the other hand, that kind of dead period around Christmas time, would be a time that they could get a lot of work done we figured and really be running full charge by January, so why wait, basically.

Thompson: I see. Is it possible to have a vote split on this and have the council come in on December, and then have the mayor come in on January -- would that make any difference? I mean, it's a possibility; I don't know that it would really matter in the long run.

Sparks: It just seemed tidier to get it all done at once and get it going.

Thompson: I saw it and I couldn't quite understand why it was done. The limitation on council terms...

Sparks: One more thing on that before we leave it completely...there is a shorter lame duck period for those who weren't reelected. They're sitting there for another two months the way it is now...a lot of them knowing they're out of offices January 1st... we might as well end their misery a month earlier and get on with it, right? [LAUGHTER]

Thompson: I'm not personally convinced...whether I favor term limitations or not; I found our meeting in Wailuku very interesting; I got a lot of insights on this. I probably would favor an eight year rather than a five...rather than a ten year term limitation. I suppose the reason being, as I've mentioned before, I'm interested in seeing if we can eventually get the council on a four year basis -- the same as the mayor; but that's just a personal thing with me. Since I see things that way, if there is going to be a limitation I would prefer to see it eight years and then there wouldn't have to be a change if this ever came about.

Takabuki: Gene, I just wanted to clarify something; you mentioned that you were disappointed that initiative had not appeared on this list. It is still very much alive. I think we talked about it in Kahului, and the suggestion that is before the Commission right now is to bring that 20% voter requirement to 15%...and also to eliminate the thirty day filing period, which were looked at as the two greatest obstacles to an initiative petition. Unfortunately, the Commission didn't get to all the different recommendations yet, and we still will have another meeting to discuss this; but I want you to know that it's very much alive.

Thompson: I'm very pleased to hear that; 15% is what I think it should be. It makes it unlikely this would very often happen, but in a very peculiar situation it could. Thank you very much.

E. Dr. Terry Walker, individual and as head of the Republican party.

Walker: The first issue I'd like to address is again an issue that is not on your agenda, but it's the board of water supply. And, I feel as though these people are out of control; I think we've seen two pieces of evidence of that. Number one, is when they actually wanted to have people install separate water meters in their ohana units; it wasn't until they were inundated in council chambers that they backed away from that. And secondly, we're talking about affordable housing in this county, and these people want to put a \$3000 to \$3500 price tag on putting a water meter in -- and impact fee. This is absurd.

Let me give you another piece of information that came from a person high up in the county administration -- I understand, although I do not have precise figures -- that the board of water supply has already sold something on the order of \$40 million worth of bonds in anticipation of future development. They sold that at something like 6½% interest and they have the money invested at 4½% interest -- so the county is losing 2% in interest on \$40 million. Okay, these people are not responsible, and I feel as though bringing it back into the political arena will bring responsibility back to the board of water. And, I have to tell you, I voted to give them semi-autonomy in 1988 -- wasn't that when it came up on the ballot? I said 'gee, this sounds like a great idea'...until we turned these turkey's loose...I mean, this is a mess. And, I think to wait five years to bring it under control will be a big mistake.

The second issue I'd like to address is the issue of term limitations. I agree with several of the other speakers, and feel as though an eight year term limit is more reasonable than ten. I think that Gene has a very good point, and I think I've heard it before at some of the other...this is the third one of your meetings that I've

Walker: (Continued) attended...and I think that looking at four year terms for council makes a lot of sense in the long run, even though you may not address it right now; and, this makes it easier to synchronize. Furthermore, I think that having term lengths comparable to the limitations on the mayor make a great deal of sense. So, I would advocate that.

The third area I'd like to address, and it has two parts to it, is the county council. As you know, I've testified twice before with regard to the concept of having individual districts where members do not run At-Large, but rather run by district. And, I still think this is sound. I was rather amazed that the only rationale that I read in The Maui News was -- of course we know that's not the fount of all that's good and true in terms of what happens in Maui County -- but that the only reasons that have been given by your Commission to the press, or that the press has published, is that what I believe is a labor organizer/lobbyist from Hana and several council members have been talked to, and think it's good to keep the At-Large system. To me, that's absurd, if that's the rationale -- I hope it goes deeper than that. But the bottom line is that it really -- I think you've heard a lot of testimony...the two sessions I was at there was testimony in favor of having district elective systems. I think to be out of sync with the rest of the state -- the other three counties have them -- and I don't think it necessarily has to be a matter of "bringing home the bacon." You know, there are all kinds of evil things that are projected as this is an evil of a particular system; I think the system we have today in which Kahului and Wailuku can have the influence they have on electing people that are going to represent other parts of the island, is equally evil.

The second area I'd like to address is in fact the map that you've drawn. I understand fully well the difficulties that you as a Commission, and members of the Commission, are faced with...with respect to pleasing or satisfying various people in the county; but, to think that Kihei, which probably 30 years ago had the population that was comparable to or lesser than Lanai has...and today has seven times the population -- and they're both going to have only one district, is absurd. In fact, I think it's patently unconstitutional; and believe, in fact, that the Charter could be brought down on that. And, in fact, if the Charter is passed in the current state, I personally will pursue a legal challenge to it -- because I don't believe it's sound. There's a one man, one vote concept in the United States of America; and, I think that will extend to districts. I'm sympathetic to the problems of the residents of Lanai and Hana and Molokai have. But, the people in Kihei are entitled to equal representation, and it shouldn't be a situation where 2000 people have the same residency possibility as 15,000 or 16,000 people here on the main island of Maui. The end of my testimony.

Vice Chair Dodson: Dr. Walker, we've heard two people now testify that they'd like to see four year terms with a limit of two terms for council members. One of the things that we discussed was how would we sell that to the public...the sentiment right now is not all great about the council; when we tell the public that now, instead of two years, we're going to set them in there for four years -- even if we tell them it's only for eight years total -- how do you suggest we go to the public and sell that?

Walker: A marketing problem or public relations problem.

Vice Chair Dodson: It would be useless to put something on the ballot that would... instead of taking the small steps...trying to get the...

Walker: Yeah; I understand the dilemma that you're faced with. I would sell it based as a package that we're limiting these people to two terms; and that we're not going to have the people that are entrenched for thirty years...or fifteen or twenty years any longer...because this system will not allow that or permit it. And, I think if you sell it as a package...we have term limits -- two terms -- but we're going to give them four...

Walker: (Continued) If you're up every two years, you're constantly running for office. We see that with the U.S. Congress...and I can tell you that the typical U.S. Congressman is doing nothing but raising money and running for reelection. And, that's part of what our problem is today in the problem that we have at the federal level of government. So, I don't have a magic elixir to sprinkle on the process or the concepts...but I think the two in tandem...I think that the term limitation of eight years would win it, or would at least reduce the criticism of four year terms. And, I think you just have to wrap a blanket around it...or, let's put a red ribbon around it.

Vice Chair Dodson: You don't see the whole package failing just because of the four year terms? What would happen...in your scenario...the possibility is that we continue to have two year terms extensively for another ten years.

Walker: That's a problem; one of the things that we don't know...and you don't know... is who's going to crawl out of the woodwork for one issue in this whole package that you're putting together. Because as I understand it, you're going to present it to the voters as a thing that you vote up or down. That's not been decided yet?

Vice Chair Dodson: That hasn't been decided yet.

Walker: Maybe some of the controversial ones, Sherrilee, you're going to want to split out and say chose A or B. It's tough.

Chair Nakasone: One concern I have regarding a four year term with a two term limitation is the concern about this lame duck situation; if we started with a four year term and if the trend is...what is going to happen where you have nine members starting with a four year term and going into a second term -- then you have nine members on a lame duck situation; which they cannot run again. So, I'm just concerned about the actions of the council on their second four year term, because they cannot run again for another term. So, that's my basic concern is that when you set a limit like that, you also set up a lame duck situation in the council.

Walker: Yeah, well presumably there wouldn't be a total synchronization...that is, that the council members, you know, would not be coming on at the same starting point. So, you'd have turnover but not full turnover every time. So, you wouldn't have nine lame ducks -- it might start off that way, but I think in time it would resolve itself. Ideally, from my perspective, if we look at the Jeffersonian principle upon which this country was founded, probably everyone should be a lame duck in their first term because they're only going to serve one...okay, because they're not a professional office holder. We've gotten away from that, as we well know, but hopefully these people are all people who are all principled people and they are working in good faith, and they're not going to suddenly act irresponsible. Because most of them will have to live in the community for many decades following their term of office. And after all, the mayor's a lame duck in his or her second term; as it stands now, most administrators are...and it seems to work all right, Bob.

Chair Nakasone: Well, I don't necessarily support limiting the mayor's term...[LAUGHTER]

Walker: So, we may have a fundamental difference of opinion.

Sparks: I actually was going to make basically the same point that Bob did about the lame duck thing. I agree it wouldn't...even at the first time around...it probably wouldn't be all nine lame, but it could be six or seven of them lame -- plus the mayor -- all at

Sparks: (Continued) the same time. And so you'd have ninety percent of your elected officials four years lame duck -- it seems like that's a super lame duck situation; I got a little nervous when I started contemplating that.

Walker: May I address that? If you take the current situation, and of course it depends on whether you grandfather or do not grandfather sitting council members when you start the clock, in other words. If this goes into effect for the '94 election, which it would, then in fact you have a mayor with only four years remaining eligibility. And so, she will go out in '98...assuming she's reelected...we don't know. You'd have nine council members coming up and, in fact depending again on whether you grandfather or how you phase it in, I think this problem could be easily addressed.

Sparks: Yes, it's difficult to retroactively limit them, so most of these situations you'd start fresh with the new election. Other ideas are staggering them, so you'd have four year terms for the council but they're staggered. The problem with that is it doesn't solve our problem of somebody running for office every two years, and council business shutting down -- because it's going to shut down as effectively if half of them are running for office, as if all of them are running for office. That one kind of doesn't sell either.

I wanted, while I have the mike, to make a point or two about our At-Large residency areas. It's fairly clear to me that this Commission is going to stick with the At-Large system, and with something like these residency areas as residency seats. All of your arguments and mine notwithstanding, right? But we have a...we're going into an era of a lot of confusion, and unfortunately, the map that came out on the front page the other day...the way it was worded...adds to the confusion. If I could have my druthers, I'd outlaw the word districts; every time we talk about what we have, unless we're going to talk about the entire county as one district, which is what we have -- one true district. And maybe replace the word district with seats, because we have residency seats. The reason for that is that every time we hear the word district, I think we automatically get into a frame of mind of somebody representing a particular area...and we start talking that way...even the best informed of us start thinking that way. The person that is representing the South Maui residency seat becomes their district representative; then everybody expects them to pay attention and take care of those people only. That's not the point of this At-Large system, because if they ignore the rest of the voters -- especially in the central area...where the voting power is -- they're not going to be in office very long; because it is an At-Large system. And, we have to repeat that -- I'm going to try to enlist you in helping me solve this confusion in the minds of the public, so that in the future when you talk about this -- make a point of this -- because over and over again...I think we're going to have to explain to some people 10,000 times. One of the worst problems with it is this confusion factor; for example, I don't think that the people who live in Kihei regularly think of Goro Hokama as their representative, but when it comes to thinking about voting power -- he is your representative -- you get to vote for him. That's the sort of confusion that we have. For example, on this map, they said the Commission eliminated the At-Large system by making all council members reside in a district -- we didn't do any such thing. What he's trying to explain is that we eliminated the no residency area requirement seat...and he got it all confused, right? We kept the At-Large system and we rearranged the residency seats.

Walker: But, the system begs for confusion.

Sparks: I agree.

Walker: If you want At-Large, you should go At-Large with no residency requirements. You know, you shouldn't have a mixed system and that's what you have.

Sparks: I agree it's confusing, but it's better than what you just suggested for this reason -- this way you have election contests, where people can run for a particular seat against somebody else who's running for that particular seat because they happen to reside in the same area; that makes it possible for people to challenge incumbent's records. If you have no division of races into seats, it's a big long laundry list where we all get nine votes and nobody can run against anybody else, and nobody can make any sense out of it in terms of competition...it's kind of mindless popularity election. That's why I think this is quite a significant step better than that old system; also, it guarantees every area a voice of somebody who's their neighbor. Not that they get to control whether or not that person gets reelected, but they are at least their neighbor.

Walker: The argument you've just presented is full of internal inconsistencies, and I think you understand what they are. You can't use it for and against; and I'm saying...I just can't agree with that and we could go into a long debate...you know, I believe I could show you the logical inconsistencies in the reasoning you've just presented.

F. Smokey Burgess, speaking as individual and resident of Kihei.

Burgess: First of all, I want to commend the Commission for the work that you've put into this. Personally, I'm really excited about the proposal that you've come up with here with this residency requirement. I do have a couple concerns though -- one, Allan, I would like to take exception to that suggestion you made as far as the residency requirement -- while I agree with you about that wording 'district'...I think that's important. I think most people, from the community perspective, look at that person that is in that area...that resident...as their kind of person, and that's the person they can look to and that was part of the reason for endeavoring for South Maui's seat... Not feeling that there was anyone else paying attention, at least there's the feeling that someone's in your community -- driving and living in your community -- that you can turn to that particular person. I do believe that once they are in there, the concept is for the Maui County as a whole; for whatever reasons that may be the need for encouraging people that get into office to think in terms like that, and to think in terms of the community as a whole and not so much on a partisan basis. But, I'm excited about this, and I think this is a historical thing -- and I want to commend you for this proposal here.

Two concerns I have is one, the water department and you have heard a lot about the water department. I feel like they've been given their opportunity...there's been a lot of changes...and I think that water really needs to be the issue this coming year with the candidates. I don't know what's going on in your conversations, but I would ask that you really look at that closely -- very closely, in fact. And personally, I would appreciate that.

The second thing would be in the department of public works, and I don't know if this has come up in your conversations -- the different departments under public works. Land Use, as you may know or may not know, there are some problems within the land use and whether even that department itself should be under public works, because of the work load that they have maybe it should be under planning. I would like to suggest if you haven't discussed this already, that land use be looked into as falling under the planning department.

Vice Chair Dodson: Smokey, on the water department, you didn't quite state what you would like us to do -- do you want it back under the county rule, or do you want it to stay status quo as semi-autonomous, or do you want it to go full autonomy?

Burgess: I think semi...

Vice Chair Dodson: So, stay status quo?

Burgess: Yes; the thing is...that I wrestle with, you know...the thing that keeps coming up is there's this argument about partisan or developers -- that's the difficulty part, when you get special interest group people involved with that water department -- and whether the decisions can be politically made or decisions that are unbiased made. And that's what I wrestle with...it's just that I'm not confident with the direction that they are going with right now; and I feel like we need to help them along. And, if you make the decision, and if we need to make the decision five years later -- my suggestion would be make that decision now -- and if they get on their feet, then make that decision five years later and let them be autonomous. But I think somehow, somehow we have to grab ahold of that bull a little bit. That's my suggestion...

G. Kelly Arbor, individual and resident of Wailuku.

Arbor: I like the residency system you've devised -- it really seems like it moves the focus of power away from Central Maui, and in that regard is somewhat of a radical shift, and I think it will work well. I have a few concerns...my main concern right now is in the executive branch -- the question that arose of the appointing of department heads; particularly the need to have the endorsement of council on the prosecutors and the corporation counsel. Maui is the only county that has an appointed prosecutor, and I don't know how much you've looked or examined that -- I think there's a lot of pros and cons with appointed prosecutor. But, my concern with the prosecutor's office is because of its nature of being appointed but not exclusively by the mayor, it is not under executive control...in other words, it's not responsive to any body -- the populous who elects it, or the mayor. And, it's not clear to me how if a situation arose in which the prosecutor was acting in a way that was not meeting with the approval of the mayor or the approval of the people in the community -- how that person can be removed. I don't really see it addressed, and I don't think it's really addressed in the current Charter, to my knowledge. I think it's wise to look at it because you know as we've seen with Police Chief Gates in L.A. -- if you have a person with this ambiguity of how they can be relieved of their office -- it can lead to problems, and the prosecutor has a great deal of power in cases he or she decides to prosecute -- it can be abused. So, I think you should look at how that person could be removed -- would it require the approval of council? To my knowledge, the mayor's office cannot give directives to the prosecutor -- maybe you want to examine that more closely. Those were my main concerns.

Yonenaka: Kelly, in regards to the prosecuting attorney -- according to the Charter right now, the prosecuting attorney shall be appointed by the mayor with the approval of the council and may be removed by the mayor with the approval of the council. So, there is a way that they can get out of their job.

Arbor: So that would be a majority vote? See? It's not clear to me how...

Yonenaka: You mean in terms of how you would remove a prosecutor?

Arbor: Yeah, and then would she or he have to have someone acting right away when the person would be removed... You know, there's a lot of problems with it and I know the prosecutor's office suffered greatly through this lack of leadership for awhile. There's a lot of problems when it's not very explicit -- the procedures, I think, because it is such a critical area. And, if there's a lack of morale, it really can affect a lot of people. I don't know...maybe it's there and maybe it should be tightened up; maybe it's just paranoia on my part, but I worry that the person is not...who they're responsive to...if they were truly responsive to the mayor and the council, I think it should be explicit how the person could be removed and what the procedures are for an acting prosecutor to step in in that

Arbor: (Continued) event. Just a little tightening up of the procedural aspect of it.

Sparks: Let me follow along... It seems like you're suggesting some tightening up, but I'm not specifically sure what you would want tightened. Would you like to have the mayor can remove without council approval?

Arbor: No, I think that makes sense, but...

Sparks: It makes sense for the council to approve?

Arbor: Yeah, it does. But, you see, you have a time line, too, because between the time the mayor communicates and it gets to council...it takes a few weeks to get to committee of the whole, and so forth. Putting in your sixty days was wise, because it does take sixty days usually for action of the council, the way they handle things now. But I think the removal...if there is a removal, it should be also explicitly delineated so that there could be an acting person in the event... I think you could have problems the other way, too, is what I'm saying. You know, you had problems this time with someone who they didn't think was effective, but what if... And also, maybe there should be a procedure by which a council person could move to have the corporation counsel or prosecutor removed; in other words, why should the mayor have to initiate it? I agree it should be a majority of the council and the mayor, but I don't know if it should have to be initiated by the mayor.

Sparks: It seems to me, now that you've got me thinking along these lines, it seems like there could be some really bad scenarios where the mayor wanted to remove, and the majority of the council didn't. And now, who's the prosecutor...

Arbor: Well, it's the prosecutor for the county, you know...

Sparks: But, it could work the other way if the council wanted to remove and the mayor didn't; it might be that we should look carefully at the idea of having it more simple... the mayor can remove and the council isn't in on the removal...just the approval...so that it's cleaner and then we don't have ambiguous situations.

Arbor: Yeah, I would rather... I don't know. Yeah, it's very tricky and I have a lot of mixed feelings about what happened last spring, because I think that Richard Priest was very qualified, and I think that they ignored that fact. So, it's a difficult call, you know, but I do think that the removal -- there should be some attention to removal procedures.

Vice Chair Dodson: Are there any more speakers tonight?

Thompson: I simply...I spoke for myself last time, and I would like to speak for the Kihei Community Association this time, of which I'm president, and thank you so much for coming, and the tremendous competence which I have seen on this Commission. I want to let you know that I appreciate it [applause] and I know my association does.

Walker: There are a number of your members who are absent tonight -- is the plan that at each of these community meetings that you only ask some of the members to attend, or are there just a number of members absent tonight?

Vice Chair Dodson: Actually, all of our meetings are recorded and the minutes are typed up verbatim, so if someone's not here it does not mean that they are not participating one way or another. As far as...we hope as many Commission members will come out to all the meetings as possible; when you get into evening meetings, you get into a little bit of

Vice Chair Dodson: (Continued) problem with the scheduling and stuff.

Walker: You've got one member, for example, that I know and I've been at three of your hearings now and she's not been at any of them. So, this concerns me; and I think we also know that people are so busy that they sometimes don't have time to follow through on all of the reading. So, I guess what I'm asking is to have some of the things that I said heard, do I need to keep showing up?

Vice Chair Dodson: No, I assure you that all meetings are verbatim and the minutes are typed up...

Walker: I said 'heard,' okay?

Vice Chair Dodson: It's almost essential for us to read through the minutes. In going over this stuff, there's a lot that goes on at our meetings...our meetings are extremely long -- sometimes by the end of the meeting, we forget what we did at the beginning of the meeting.

Walker: A second question...have you reached the stage of having a draft completed?

Vice Chair Dodson: Of the actual wording? That is in the hands of our attorney right now.

Walker: When will that be available to the public?

Vice Chair Dodson: After the public hearings. We're getting a feeling for the principles and the ideas...

Walker: Will that be another set of hearings?

Vice Chair Dodson: No...we don't have the time, unfortunately.

Walker: So, there'll be no additional opportunity for public input?

Vice Chair Dodson: No, not on the wording. Hopefully, the wording will be so technical...to the point where it has to be a lawyer who drafts it up...otherwise, we're going to get into constitutional questions and people challenging it, and so forth. So, if we get the gist and we keep that...we are always able to go back to our attorney and say this wording doesn't really fit what we intended to do. And in interpretation...that's one of the reasons why we take verbatim notes, is so that if we need to go back and interpret a section, we have a lot of information that somebody can go to.

Chair Nakasone: Just a point of interest...if you're concerned about the final draft, our meetings are open to the public and you can testify at any of our meetings in regards to the final draft...and how the amendments will be put on the final ballot. So, you have that opportunity to come in.

Walker: After the draft is done?

Vice Chair Dodson: Yeah, we're going to continue having meetings and those are always open to the public and we accept public testimony.

Kistler: I had a little question...I called a number of people this afternoon in an attempt to try to find out what the agenda was for tonight's meeting. It certainly wouldn't help

Kistler: (Continued) for tonight's meeting...we're about pau, but I wondered if there wasn't some way that we would be able to get the agenda into the individual communities -- whether it be to the community associations or libraries in the area, or whatever. For future, if you could do this... I was a little bit apprehensive in coming forth and testifying with my whole thing simply because I didn't have the agenda ahead of time. I did come early and read through it so I knew I had my act pretty well together here, but I just thought that might be a suggestion...

Vice Chair Dodson: Yeah, and I apologize for that; unfortunately, you guys in Kihei are our first public hearing, and quite frankly, this thing was just finished yesterday. Our last meeting was last week Thursday until 9:30 at night...our hardworking secretary was up two or three nights, I am sure, trying to type up those minutes as well as put together the proposed amendments for public hearings.

Kistler: One last thing on my testimony, and I'm not sure whether I made that entirely clear... I wanted to make it clear that I wasn't talking in terms of two four year terms -- I was talking in terms of four two year terms; I didn't make that specific before, but I wanted that known. I know that there's some problems with two year terms as well, but I just want to eliminate the ten year golden parachute. [LAUGHTER]

Vice Chair Dodson: For your information, after we...we're going through the entire month of June in public hearings throughout all the communities; in the month of July, we're reconvening in our regular meetings and our attorney will hopefully have some of the draft proposed language. We will start talking about that, and we will also continue our discussion on initiative and referendum -- we did not get that far -- it is certainly a proposal, but it has not died yet...it hasn't even been voted on...it hasn't even been discussed -- we just ran out of time, quite frankly...the 9:00 meetings were getting a little too absurd for us...so we just decided to put it off until after the public hearings. It doesn't mean that anybody at these public hearings can't bring it up.

After we go through the putting it all together, we're also going to go back to the public in the form of an informational-type portion where we do a heavy media blitz trying to get the...we're going to do a special pamphlet in The Maui News -- that type of thing -- to try to educate the public as much as possible on what these amendments mean, what they will mean to the public, how they will be framed on the ballots...so that they don't get the ballot and have no idea what they're voting on. How effective that is, you know, depends on how interested the public is -- so, I'm really happy to see so many people here tonight. It makes us feel a lot better about all the work we've put in prior to this. You'd be surprised -- this is a lot of people.

Thompson: How soon do you think the brochure will be ready for the public?

Vice Chair Dodson: As soon as possible, you know, as soon as we get all the proposed wording together. It depends on how many amendments we finally come up with. Once we go back to the drawing table, and if we find you folks aren't in favor...we can't get any of the public in favor of a couple things, we may drop the amendments; which would narrow it down, which means that we could start sooner. If we find out that people are really interested in districting again, we may have to hash it out again...we may have to go back to the drawing board. Nothing is dead; these are all...we've been calling these tentative amendments -- nothing is dead, nothing is a sure thing.

Is there anything else? If not, thank you very much for coming and giving us your views.

IV. ADJOURNMENT

There being no further public testimony, Vice Chair Dodson adjourned the South Maui public meeting at 8:20 p.m.

ACCEPTED:

Robert Nakasone, Chairman Date