

CHARTER COMMISSION
PUBLIC MEETING
JUNE 30, 1992

CENTRAL MAUI, 7TH FLOOR, KALANA O MAUI BUILDING, WAILUKU

PRESENT

James Cockett
Dolores Fabrao
Annette Mondoy
Robert Nakasone (Chairman)
Victor Reyes
Allan Sparks
Anne Takabuki
Lloyd Yonenaka
Susan Nakano-Ruidas (Staff)

EXCUSED

Sherrilee Dodson (Vice Chair)
Jamie Woodburn
Deborah Wright

GUESTS

Dave DeLeon
Brian Perry (The Maui News)

NOTE: Public Attendance - 10

I. CALL TO ORDER

Chairman Nakasone called the Central Maui Public Meeting to order at 7:03 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 turned the meeting over to Wailuku resident, Commission member Anne Takabuki.

Commissioner Takabuki explained that this was the last of the public hearings, and that the purpose of the meeting was to receive public testimony.

A. Lottie F. Hughes, individual and resident of Kula.

Hughes: I came to testify on changing our election of county council members. I feel we should vote for the member in our area only, except for the at-large members. I have never lived before where we voted on people from areas other than the one we lived in for local representation. And, I think it's confusing...you don't really know who you are voting for. I've lived here for a number of years; I love Maui, but that one thing really bothers me. That's all I have to say; if anyone wants to ask me a question, I'll try to answer it.

Reyes: Do you mean to say that you favor a true district representation, or you want the present system where there are residential requirements and then at-large...and you want to keep the residential requirements as true districts?

Hughes: I would like to keep the council area in which you live the one that you vote for your representative, instead of having it so that it is everybody in the county votes for everybody, regardless of where they live.

Reyes: So, you want true district...single member district voting?

Hughes: Single member voting districts for council. If we have at-large members, that would be the whole county.

Fabrao: What are your feelings about what we proposed with the area...with the one representative representing not the true district, but having residential requirements -- living in your area -- so that you could meet with them, or talk with them? And, still be at-large?

Hughes: I think a council member should be living in the area that they are representing. If we have a member who is considered at-large, then the whole county, I think, should vote for him. I don't know whether I'm making myself clear or not. This is my first time to try to talk to someone about anything like this. But, I am concerned, and I found out that you were having a meeting tonight, and I decided that although it's a long ways from Kula down here, it was worth making the trip.

Sparks: I think you're making yourself very clear. I'm assuming that you're suggesting possibly that we have several council people representing a part of the county as a district, and then making maybe some other council members elected at-large. Is that what you're saying?

Hughes: If you have at-large members, I don't know whether you would want to do both or not. But, I feel that I'm in the Kihei-Kula district...the new one -- across the street from us is the one that's the rest of upcountry.

Sparks: That's for the state legislature.

Hughes: Yes, but for our county council members...I think we should vote in our own district for the person we want to represent us.

Sparks: I got it.

B. Kenneth Barr, individual and resident of Kihei.

Barr: I spoke to you at the Kihei meeting, and I have to admit that since that night this has really kind of haunted me, and I thought it was worth it to come down and give it one last chance. Like the woman before me, I also believe and support that you really reconsider again this true district, single member voting...like the state system does for the legislators. I've had more time to think about this since then, and I don't see... You pointed out the Constitutional issue of why you didn't want to do this at first... about having equal districts. And, because of the way our county is set up, that it can't work that way...and you've come up with this map with the new redistricting, which is kind of halfway there. I mean, everybody seems to be satisfied with this except that it stops at the halfway point, because by the way it's laid out, you can't go to the true single member districting. So, what I'm suggesting is that if you can put Lanai and Molokai and East Maui together as one district, the canoe district, you're going to have over 11,000 people which is equal to your redistricting of the upcountry area which is also 11,000. So by doing that, you're coming out with a ratio of somewhat nine equal districts, where you could hopefully go to this one vote, one person thing. One question, of course I'm sure you've considered this, would be to the people of Lanai and Molokai -- they may not want to give up their so called representative. And yes, that person does live there, but it's still really is the people really are elected by the denser population districts of Maui island. But under the canoe district, the person they do choose will live in one of those three areas, and most importantly, that person will have the rural feeling, the rural living atmosphere of those three areas of Maui County...and as such, will be able to legitimately represent the values of those people. There would still be the same council operation where all members will vote on all issues when they're council members for all the districts, and council members will still have to be involved in all county

Barr: (Continued) issues, but the main thing is that the person that's representing that one area will live in the area besides, plus he will be there because he has been the choice of the majority of that specific area. And, if the Constitutional issue was that you've got to be within a certain amount of population framework with each district, then I think you can redistrict it to do that, if that was the problem.

And again, I'm mentioning South Maui again...we're getting our first seat... I realize it won't be for this election, but for years we had to be represented by people who lived mostly in Kahului and Wailuku. And, they were not attuned...I won't say they didn't care, but they seemed to not understand what was going on in Kihei, and we were having these meetings in Kihei and trying to plead with them about our being strangled over there...and to slow down...and these people were representing, I feel, other entities other than the people of Kihei. I think that's a perfect example of why this is the way it should be, and Kihei should have the right to pick their own person that they feel comfortable with in that area.

And, this is the last time I'm going to bring this up and say it. Thanks for this last meeting. Could I just ask...has that been discussed? Putting those three areas together to even out the Constitutional problem?

Yonenaka: We have probably discussed everything you can think of...

Sparks: Let me...since he brought it up... What you're suggesting makes sense numerically; the districts would come out about equal, like you said. But, we're concerned about how it would work in practice when you've got one person trying to represent those three disparate areas...and, it's actually a two canoe district. If we were going to go that way, and I was an advocate for true districts, I would much prefer to have Lanai with a piece of Maui, and Molokai with a piece of Maui -- it would be like Hana, attached to the rest of Maui...so that you have more representable districts for whoever ends up doing it. But even that, as reasonable as it was, was a minority position on this Commission.

Barr: Okay, why I picked those three areas was because of the population base, but also like I said, they were three rural areas. I mean, you don't want to hook it up with West Maui because you've got two different worlds there.

Sparks: Yeah, I would have hooked up Molokai and Lanai with more or less rural areas... not resort areas, at least, on Maui for that reason too.

Yonenaka: I was just going to ask Kenny real quick... If we go to districting, basically you're saying that currently you vote for nine members, and you want to trade that right in to just have one member...vote for one member in your area, and only the people in your area vote for this person. That's districting.

Barr: Right.

Yonenaka: And, you're comfortable with that trade...from going from where you can cast nine votes, and you can only cast one now.

Barr: I'm comfortable with it because I have to have faith in the system, that the people in the other areas as well are going to vote for the person in that area who has been most community involved and knows what's going on, and has common sense, and represents the way they are. So, although he's going to individually represent that area specifically, that common sense that that person has...and that political acumen...will carry over in his representing the whole county, basically, in all of the county things. But, like I said, the unions are very influential so they're calling the shots from

Barr: (Continued) Kahului/Wailuku, and they're calling the shots for all nine areas of this island.

Yonenaka: What is the population of Kahului and Wailuku?

Sparks: 32%.

Yonenaka: So basically, thirty-two percent, in your opinion, is controlling the election.

Barr: Yes.

Yonenaka: Why is that?

Barr: Because of the people who vote...they control people that they can get out to vote. I mean, thirty-two percent doesn't seem like a percentage when you're looking at fifty percent...or fifty-one percent is more than half...but, the reality of the people who vote...that's a very high percentage. And, I think they do...carry the elections with that. I'm saying that they may have other supporters in other areas, as well, so it's more than thirty-two percent when you count upcountry people, and so on. So what I'm saying is generally there's special interest that can carry the elections on Maui, and if it was done by districts they wouldn't have that power any more; only the people in that district would have the power to put the people they feel are in the best interests of not only their district, but in the best interests of the island as well. But, they only have to win their district.

Yonenaka: I was just thinking about...I realize...I mean, I've thought about this a lot. It's not like I've just decided this is the way I want it to be, but it's the way I think... I have thought about it a lot. Is it possible that an area, for instance such as South Maui, could be split in half? And, two distinct areas or sections can develop -- for instance Maalaea, or that part of Kihei versus Wailea -- that they are two different types of groups of people?

Barr: Maybe some day, but it seems for the purpose of 1992...that you guys have really come up with a good district map here, and all I'm saying is if we can do something to go that extra fifty percent... At these meetings, you know you've heard people come and testify on this item more than anything; and, I know you did your vote on it, but I think people really feel that this is a fair way to do it. And, we're only asking you if there is another way that you can do some swinging around in here to be able to recommend that. I think an overwhelming majority of the island would vote in favor of doing it this way; of course, it would have to be explained to them somehow...this is how it's fair...you're going to vote for your own people, but they are still going to represent the island...you'll have your own member there. I mean, it would take some explaining, but I think the key to it is to get it onto the ballot and let them see... let the people see if they would want to do that. But, like I said and you've heard at all the other meetings, this is a great map...you really did a great job on this.

Sparks: Since this hearing's interested in this topic, I'd like to bounce an idea off you and see how you respond to it. Even if suddenly the Commission turned around and decided they wanted to go to true districts, we're running out of time to do the true districting with all the care it needs, and so forth. But, suppose we put on the ballot -- along side of this plan for the next election -- the question to the voters "Do you want to have a special reapportionment commission to design true districts for a future election?" And, ask the voters yes or no on that. Would those two things on the same ballot be too confusing for the voters?

Barr: You mean first of all, the first thing on it would be that you would go along with something like this? And, the second question would be...wouldn't it be questioning it?

Sparks: Would you like to have or would you approve a commission to make true districts for a future election?

Barr: But, you would have done it already by allowing to...

Sparks: Those are not true districts. We've just adjusted the residency areas with that map, and kept the at-large system.

Barr: But, you would have had to adjust the population to get it onto the ballot, though, right? To have true districts...

Sparks: If we ever have true districts, they have to be equal in population, as you know.

Barr: Yes, right.

Sparks: And that takes some doing...and we're running out of time; I mean, even if the Commission had a sudden change of mind...but, we have discussed the notion of letting the voters decide whether they want true districts or not at some time in the future, by asking them to say do they want a commission or an apportionment commission to make those true districts.

Barr: Yes, and people will...

Sparks: But, the problem seemed to be that we're asking two things that deal with electing council people, and it might be too confusing to the voters to put them both on the same ballot.

Barr: Except that I think maybe the way I explained it -- that you've gone fifty percent of the way toward reaching the final goal -- I don't know how you would word it to them, but I mean, this is how I figured this out to myself...and that what you did here was really good, and it is fifty percent of the way there.

Sparks: So, in effect...in your terms, we'd be asking the voters "Do you want the Commission to make true districts and go the rest of the way?" as well as putting this on.

Barr: Right.

Sparks: You don't think that would be too confusing? Of course, I haven't laid out the way it would look on the ballot -- that would be a challenge -- but...

Yonenaka: One more question real quick... If you were a council member from Kihei, and it was a true district, and there was an issue that affected Kihei in a positive way... that it wasn't going to hurt Kihei... For instance, we had a rubbish dump we had to put in and it was going to be Kihei or Pukalani -- where would you vote, if in an overall picture it possibly would have been better in Kihei? [LAUGHTER]

Barr: I see what you're saying...

Yonenaka: It's an unfair question; I realize that, and you have to understand...part of

Yonenaka: (Continued) our feeling in looking at it, and one of the things we did come up with was where would that individual person's loyalty be. And, at some point, because we are one county we have to look at things as one county...as one entity. And there are times...I go back and forth on this...there are a lot of good -- there is no perfect way. But, there are times when some really hard decisions have to be made, and maybe, it may be best if the person not represent a section, but rather represent all of Maui.

Barr: I'll answer your question; as a person with integrity, I probably would stick with the Kihei because they elected me. But, there would still be eight other council members to override me... The same thing if it was an issue of Lahaina and Pukalani; the Lahaina person would go through the same thing, but then there's still eight of us to look at it objectively.

Fabrao: May I make a comment on that? I just wanted to...because there was an observation made during our discussions, that one of the concerns was that if there were only one member from one district...where they were true districts...that if I in your district could not speak with you for some reason or another, how would I then approach the other people? They'd say I don't belong in their district...and the system we have right now, I can go to any one of nine and express my concerns and get some kind of answer.

Barr: Well, I think that the human factor enters it, and maybe you'd feel more comfortable with somebody...but again, we're still nine votes on the council. And, maybe a different personality of another councilman would look at it differently; I wouldn't look at it as being slighted at all, I would feel that for some reason you might have felt more comfortable talking with Rick or Leinala -- I wouldn't mind at all. And then they would come to me and say "here's this problem and, you know, what can we do about it?" But, I see your point; you're right.

Fabrao: The other consideration that we did have to make was that because it was difficult at this stage of...because it requires a lot of study and a lot of work to get the true district on the ballot, or anything like that to really get it to work, that we came up with this so-called compromise that at least we'd have that at-large system and still have area representation. And, that was fifty percent, as you say, of the way -- almost -- but, not quite there; but I think that satisfied a lot of our concerns on the Commission.

Barr: Right; and you do have a big commission to reach a concensus...so, I can see there was a lot of compromising involved.

C. Foster Hull, individual and resident of Lahaina.

Hull: I'm a Lahaina businessman; last Thursday, Allan Barr stopped by my office with some petitions to put single member districts on the ballot in the upcoming election. And, knowing my sentiments in regards to this, he asked me to go out and lend a hand. My sentiments, of course, are that I would like to see single member districts; but going out in the field and asking the people...and I did this casually -- going to the restaurants where I had lunch, going to the golf course where I played golf, bumping into friends as I was walking down the street, in the grocery store... And, I approached sixty-nine people in total since last Thursday -- I should say seventy people, excuse me. Sixty-nine people have signed the petition in favor of single member districts. One lady in Bank of Hawaii this morning said she did not wish to sign it; and, asking her why, she said she wished to vote for Wayne Nishiki and she lived in Lahaina. And so, that was her only reason for not signing the petition. I think that's pretty conclusive, in my opinion, that

Hull: (Continued) sixty-nine people are in favor of single member districts out there, and one person is against that. And, I have the signatures here to prove that; I will have more signatures, which I will give to Allan Barr to hand to you on Thursday. My feelings are that single member districts are important because we need representation; representation means somebody actually representing you and your district. Now, in Lahaina, we need representation; and, I don't think ninety percent of the island should vote for Lahaina's representation. And, that's what happens the way it is now.

Sparks: I've got a couple of questions. Were all of your casual efforts in Lahaina?

Hull: They were all in Lahaina, but if you look at...there's Pukalani, Wailuku, Waihee...I went up to Hawaiian Airlines, and all the fellows up there in the baggage department signed it -- they're all from Wailuku and Kahului. There's a lot of Kula people on here...

Sparks: The other question is would you read what the top of the petition says? I want to know what people were looking at when they signed it.

Hull: Okay."We, the undersigned voters of the County of Maui, do hereby request and petition the Charter Commission of the County of Maui to put the question of whether to have single member council districts on the 1992 ballot for public referendum." Now, this is not self-explanatory to everybody; I had to explain what it meant, and my explanation was that at present when you vote for county councilmen, you vote for every county councilman no matter what district they're in...and, what we would like to do with this petition is to vote for the county councilmen only in your districts, so you will have true representation.

D. Leslie Skillings, individual and resident of Makawao.

Skillings: I teach at Baldwin High School, and have for the last twenty-four years. In 1980 I chaired the Citizens' Advisory Committee on Reapportionment for the state elected offices, and at that time, our committee looked at the issue which is being discussed here tonight, and came to the conclusion that single member districts were the only real choice for voters. We recommended that to the state and they ignored our recommendation, and continued with multi-member districts...at which time I joined, or became party to a suit...and a three judge panel -- 9th Circuit -- agreed with our position that multi-member districts are inherently unfair; it is a subtle form of gerrymandering, but very definitely a form of gerrymandering...and upheld the single member concept which we have today. The county council, when you talk about constitutional issues...I'm not a lawyer, but I would say if anybody ever sued over the issue, you would lose it because the issues are the same. Multi-member districts are inherently unfair and they disproportionately weigh the votes of some voters more heavily, while at the same time lessening the votes of others. The same block of voters elect all nine members of the county council. So, you could live anywhere you want, it doesn't make any difference because it is not representation as we mean constitutionally. The court record, if you look historically at the record, is very clear on its rulings on what it means by representation; and the only thing the court has ruled in favor of is single member districts...one man -- or should I say one person, one vote.

As far as this plan, you are participating or continuing a lie. And, I know some of you very well; this makes the situation worse. You are not representing territory; you are representing people. You people are trying to represent land, not people. The whole concept of representative government is the representative represents people, not geography. I just came from a meeting this week where people are talking about districts; they think they've got districts now. You are continuing the confusion in the electorate;

Skillings: (Continued) you are a party to a lie. You aren't representing the geography, you are representing people; and frankly, it is not the difficult, folks, to sit there and do the numbers. And, if you haven't done that, then you have failed at your job.

So, actually the thing that you're proposing muddies the water even further. I would disagree with Kenny Barr in the sense that this is a compromise -- it is in the wrong direction because you are giving the illusion of a district, and the voters' vote is watered down because of the blocks of voting. If you look back at the voting history, Lanai has on occasion not elected Goro Hokama; but Wailuku and Kahului has. The people of Lanai have spoken historically; guess what, folks? Goro's still in office. If you're so concerned with people getting their choice, this takes it away from them.

Yonenaka: What if we had more than nine members? Do you...for instance, if we had twenty districts?

Skillings: I think that's probably unworkable. On a council much larger than nine, it's probably not very manageable.

Yonenaka: In your opinion on the legal part about districting versus multi-member districts, what if everyone was at large with no residency requirements?

Skillings: That would at least be more honest; it's probably still not constitutional, but it's still more honest. Like Kauai, for instance, everybody runs at large. Because this is frankly a lie; this is dishonest. And you actually make it more difficult to get true districts by doing a residency requirement, because you go out and talk to human beings out there and they talk about districts; they already think they have districts, but they don't understand the impact of at large block voting because you have to structure your campaign totally differently, the whole thing works differently then it does in a single member district. You drive the cost of campaigning up; you eliminate lots of people from running for office, because frankly, to run for the county council is far more difficult than to run for any house seat. Look at the numbers; look at the number of voters that you have to reach; look at how many people you have to cover. When you do the numbers as a candidate, then you've just driven your cost up astronomically. You want representation, you want people to run for office; one of the ways you keep the status quo status quo is this. One of the reasons why Kihei is underrepresented is the fact that Kihei has flashed-- I mean there is more than fifty percent of the residents that are eligible in Kihei that aren't even bothering to register. Why? Because their vote doesn't matter. And, this isn't going to make any difference; this is going to make it worse.

Sparks: A comment or two, and then a question for Les. As you probably know, most of your argument I agree with; but, the way you make your argument, I don't exactly agree with and some of the comments in your argument I don't exactly agree with.

Skillings: Why, because I offended you, for example? I was trying to get your attention.

Sparks: When you say we haven't done our job...

Skillings: No, you haven't because you've actually muddied the waters.

Sparks: I will take exception to that because my colleagues, although they disagreed with me, did their job as conscientiously as they possibly could; and I kept them working on it probably longer than they thought they should. The other thing that I disagree with is that we thought we were representing somehow or other...or were somehow confused into thinking we were representing geography, is just not true. Everybody on here understood

Sparks: (Continued) we were talking about people, in particular, unique communities that are somewhat different across the county.

Skillings: That is not what it appears to be doing.

Sparks: The map is by necessity a geography map, but we know we're talking about people; I don't think anybody here was confused, so that part of your lecture was unnecessary completely. Now, a question: do you know of any court cases where a system similar to ours has been challenged, and what the outcome was? I am very interested in that because I know...

Skillings: I didn't come tonight prepared to do that, but if you run the legal record I think you'll find that the courts have ruled consistently against the multi-member districts.

Sparks: That's a little different than our particular situation, because I know....

Skillings: You still have a multi-member district.

Sparks: We have a multi-member district, but we have residency area requirements; and quite a few...and I haven't been able to find the exact statistics...across the country have those kinds of...have similar systems. I don't know exactly how these systems are structured, or whether they're as unequal in population as our system, but I'd be very interested in that data if you could drag it up.

Skillings: I think most of that is because of the time and expense of taking it to court. Hawaii, for many, many, many years, had multi-member state level districts; and when it was challenged it fell like a house of cards. The problem is that you've never been challenged.

Sparks: That leads to another question. What was the rationale for them falling?

Skillings: The court basically ruled, or agreed with the three judge panel in the ninth circuit agreed with the argument that there is a delusion of vote because of the multi-seat race...at large type races...so that some blocks within the voting population vote are actually increased -- in other words, greater than one -- while those of others are less than one. And so, that's unfair and the court basically said 'you can't do it.' They threw it back in the case of the State of Hawaii...they threw it back in the state's lap and gave them a period of time to come up with member districts; they failed, and the court actually districted the State of Hawaii, initially...and followed it then for the next election or two, until they felt that they had gotten it right...and gotten the message. And, I fully believe that if this was ever tested...a legal challenge was ever made, which would mean somebody would have to go through the expense of doing it, this would go down very quickly.

Sparks: The rationale that I'm familiar with why multi-member districts got broken up in a lot of places was because a block...a majority block tended to dominate every race, and certain minority blocks couldn't get any representation. I'm not as familiar with the court case in Hawaii as you are, and that's why I'm probing you a little bit. What were the majorities that were dominating, and what were the minorities that were not being adequately represented in Hawaii?

Skillings: I'm not sure...well, this has been over ten years ago; I'm not sure that I can tell you that specifically. What the court was concerned with, and what the court agreed

Skillings: (Continued) with was the fact that everyone's vote wasn't equal. And so, the only way to assure that there was equality, was to break it up into single seat races... because in some cases, there were as many as...on Oahu I think...something like five or so seats running it from the same district, which meant that the same block of voters elected all five representatives, and, it didn't matter who else ran. Very unfair.

E. Lori Joplin, individual and resident of Pukalani.

L. Joplin: I have attended two of your other upcountry meetings, and felt that I needed to come tonight and speak. I would very much like to have the single member district put on the ballot. Pukalani had a number of problems three or four years ago, and at that time, one of our solutions that was voted on at the Community Association was the limiting terms and single member districts. So that someone who was within our district was voted on by those in our district, who were familiar with our problems and had to live with those problems; not someone who had seldom perhaps come to Pukalani, except to go the the Haleakala Crater when they first arrived or take visitors there...otherwise, they weren't familiar, and yet they were voting on who should represent us and who should help us. I know we have petitions going in Pukalani also that will be turned in, but I hope that you will please consider it.

Yonenaka: Are you still in favor of term limitations?

L. Joplin: Yes.

Yonenaka: Any specific number?

L. Joplin: What you suggested is fine; I think you've done a great job all along the line except that one point, which was something we were hoping to get.

F. Richard Joplin, individual and resident of Pukalani.

R. Joplin: I am very much in favor of the single districts. I do believe that our state and our federal legislators have been on that for a good number of years, and it has seemed to work. The only problem that I can see is one that has been discussed at some length, and that is how you would work your districts out. If the people would like to have single district representation, then I think a committee could be formed to work on that specific issue. You have an awful lot of work, and for you to try to come up with something that's going to be receptive to everyone under your time frame is going to be very difficult; especially if it should turn out that they do not want single member districts, then you have put in all this work which comes to naught. So, I believe by just giving the people the choice in telling you what their desires are...and then if the vote should indicate that that is what they wish to have, then have a separate commission to go ahead and work out the problems.

Cockett: I'd like to make a comment. First, thanking all of you; I think we're hearing a unanimous cry from the public...you here, and we've heard it on our hearings throughout the community...about your one man, one vote request. It's a situation that I think we certainly would look at it very carefully. Thank you.

